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Northern Ireland Assembly

Tuesday 23 June 2015

The Assembly met at 10.30 am (Mr Speaker in the Chair).

Members observed two minutes' silence.

Assembly Business

Mr Campbell: On a point of order, Mr Speaker. I seek your guidance. Some time ago, I tabled a question for written answer to the Minister of Agriculture and received a reply in the past few days. It was in relation to an invite that she had extended to an event at the proposed DARD headquarters at Ballykelly camp. I had asked her whether invites were sent out to local community associations and local representatives. She said that they were. I indicated to her in a subsequent question that it appeared that an unelected representative from another constituency, who was a Westminster candidate a few weeks after the event, was present at the event and, in fact, was photographed beside her and the deputy First Minister. Yet her reply says that no such person was invited either by the Department or by her. I just wonder whether you, Mr Speaker, could investigate the accuracy of the reply and give advance notice to other Ministers to avoid such gatecrashing in the future.

Mr Speaker: The Member has got his point on the record. I suspect that he knows very well that it is not a point of order. Ministers take responsibility for the content of their own answers. It is not a matter for the Speaker. The circumstances of that particular event, as a result of you putting it on the record, permits the Minister and her departmental staff to consider the accuracy of the information that they transmitted. Let us move on.

Mr Nesbitt: On a point of order, Mr Speaker. I am going to crave your indulgence on this point of order. As you will be aware, Councillor John Hanna was killed in a very tragic accident yesterday on the north coast. I know that he is not directly associated with the House, but he served for 22 years as an elected representative, and I would just like Hansard to record the fact that we mourn his passing.

Mr Speaker: Again, it is technically an abuse of the point of order process, but I think that all Members will share the sorrow and extend condolences to the family. I never met the gentleman, but, by all accounts, he was an outstanding public representative and appears to have been a very well-loved figure in his community. The point has been very well made and is on the record.

Before we proceed to today's business, I would like to inform Members that the Business Committee has agreed to reduce the lunchtime suspension to one hour in order to reduce the lateness of today's sitting. It will commence half an hour later, at approximately 1.00 pm, and the sitting will resume at 2.00 pm, when the first business item will be Question Time.

Committee Membership

Mr Speaker: As with similar motions, this will be treated as a business motion, so there will be no debate.

Resolved:

That Mr Ross Hussey replace Mrs Sandra Overend as a member of the Committee for Education; and that Mr Robin Swann replace Mr Tom Elliott as a member of the Committee for Agriculture and Rural Development with effect from 30 June 2015. — [Mr Swann.]

Committee Business

Report on the Review of the Northern Ireland Assembly Code of Conduct and the Guide to the Rules Relating to the Conduct of Members

Mr Speaker: The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer will have 10 minutes to propose the motion and 10 minutes to make a winding-up speech. All other Members who wish to speak will have five minutes.

Mr Spratt (The Chairperson of the Committee on Standards and Privileges): I beg to move

That this Assembly notes the report of the Committee on Standards and Privileges on the Review of the Northern Ireland Assembly Code of Conduct and the Guide to the Rules Relating to the Conduct of Members [NIA 178/11-16]; agrees to the new code of conduct and guide to the rules set out in annex 1 of the report; and further agrees to the other recommendations contained within the report.

I join with what has been said in relation to the late Councillor John Hanna and offer the condolences of my party colleagues on his tragic death yesterday after an accident. I had the privilege of working with John for a number of years on the Northern Ireland Local Government Association, and he was an outstanding public representative.

Over the last year, the Committee on Standards and Privileges has carried out a review of the Assembly's code of conduct and guide to the rules. I thank everyone who contributed to the review, including those who offered us evidence, those who hosted our visits and those who provided us with answers, research and legal advice. I also thank the former members of the Committee who contributed to the review, particularly my colleague, the previous Chairman, Alastair Ross, who carried out most of the work in relation to this. I also put on record the Committee's gratitude to the Clerk and the other Committee staff for the outstanding support they gave during the review. The collected efforts of all those involved has allowed the Committee to bring forward a new and improved code today for the Assembly's approval.

Much of our time during the review was spent on the question of when and how the code should apply to Members. That question is not as straightforward as it might seem. There were some, including the Committee on Standards in Public Life, who told us that, in certain circumstances, private behaviour can affect the reputation and integrity of a public institution. They said that, where that happens, there can be a clear public interest in a proportionate intrusion into a Member's private life.

We disagreed. Of course, a Member's actions in their private life could affect public confidence in their ability to carry out their role, but that does not provide a rationale for extending the scope of the code, and its standards and rules, to their private life. That would be unfair and disproportionate, even in limited circumstances.

Having said that, it is not always easy to differentiate between a Member's private life and their wider public life and role as a Member. When we participate in media interviews, attend public events, and use social media, in what capacity are we doing so? The answer, depending on the situation, is not always obvious. The Committee therefore believes that the code should continue to apply in those circumstances, unless it is clear that a Member is acting exclusively in another capacity.

The Committee gave careful consideration to the issue of Members' comments. As a point of principle, the Committee believes, and has consistently stated, that it would be entirely inappropriate for the Assembly to seek to prevent or limit the lawful expression by a Member of any political opinion. That includes opinions on social or moral issues, even when such opinions should be regarded as offensive or inappropriate. The legal position on Members' right to freedom of expression supports that principle. The law gives enhanced protection to political expression and protects not only the substance of what is said but the form in which it is conveyed. Therefore, in the political context:

> *"a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated".*

I am sure that we can all think of some examples of Members making those types of comments. However, the right to freedom of expression should not be misunderstood as allowing Members to bully or harass others. Clearly, that sort of conduct is unacceptable. The new code therefore provides that Members should not subject others to unreasonable and excessive personal attack.

That rule is just one of 21 enforceable rules in the new code. Most of them replicate, clarify or amend existing rules. Others are completely new, so I will say a few words about them. The new code provides that Members must not accept any gift, benefit or hospitality that might reasonably be thought to influence their actions when acting as a Member. Up until now, it has been enough for Members simply to register the receipt of such benefits. Generally speaking, no difficulty arises when they do so, provided that they do not then advocate for the person

who provided the benefit. However, the Committee has agreed that, in certain circumstances, the receipt of particular benefits could reasonably be thought to influence Members' actions, even when they register them and comply with the Assembly rule. The Committee agrees that the receipt of such benefits in those circumstances would be unacceptable. Our new rule addresses that and brings us into line with the rules that apply to many other public-office holders.

The new code also provides that Members shall take reasonable care to ensure that their staff, when acting on their behalf, uphold the rules of conduct. That rule recognises, in the first instance, that Members' staff must not be able to act in a manner that improperly places personal interest above public interest. It also recognises, however, the primacy of Members as the employer in ensuring that their staff behave appropriately. Members should ensure that staff working for them are aware of the provisions of the code through appropriate induction, training, management and oversight and through requiring staff to adhere to their own code of conduct. The Committee shall liaise with the Assembly Commission and others to ensure that, if possible, a code of conduct for Members' staff is agreed and introduced to have effect from the start of the next mandate.

In his poem 'Choruses from "The Rock"', T S Eliot decries those who constantly dream of:

> *"systems so perfect that no one will need to be good."*

The Committee understands that. It does not assume that, if Members mechanically follow the 21 rules, all will be well and that standards at the Assembly will be unquestionable.

Members must also take personal responsibility for their behaviour. No matter how comprehensive our rules, adherence to them does not absolve Members of their own personal integrity. Members must want to behave ethically and should base their behaviour not just on rules but on sound values and principles.

10.45 am

For that reason, in addition to rules, the code contains a number of principles. Those principles are aspirational rather than enforceable, but are just as important. The principles reflect the fact that Members should at all times conduct themselves in a manner that will tend to maintain and strengthen the public's trust and confidence, and integrity in the Assembly.

We must not forget that Members of the Assembly can be influential leaders to whom the public often look to provide an example. We know from research that the ethical behaviour of elected representatives can have an impact on the ethical standards and norms displayed across society more generally. The Assembly should therefore encourage and expect Members to observe those aspirational principles of conduct. As the guardian of the principles of conduct at the Assembly, the Committee will consider how best to promote them and will draw attention to practices and conduct that are incompatible with them.

The Committee is confident that the new code and guide will increase the public's confidence in the probity of the Assembly and the accountability of its Members. On behalf of the Committee, I commend the report to the House.

Mr F McCann: Go raibh míle maith agat, a Cheann Comhairle. I would just like to echo the thoughts and prayers that have been offered this morning for John Hanna. As a long-term councillor before I came into this place, I know about the difficult and hard work that is put in by councillors. I know that John had been an active member of NILGA and had worked to establish that organisation. From Sinn Féin, I would like to pass on our prayers and thoughts to the family of John.

My colleague Cathal Boylan was to lead the Sinn Féin position on the code of conduct but, unfortunately, Cathal is in hospital for an operation. We send our best wishes to him for a speedy recovery.

On 14 March 2015, the Committee on Standards and Privileges announced that it would carry out a review of the Assembly code of conduct. Its purpose was to establish the principles of conduct of all Members, to set rules for all Members to adhere to and to provide openness and accountability, thus ensuring public confidence in the standards regime in the Assembly. That wholesale review was agreed with the aim of clarifying what the purpose of a new code of conduct should be. It would define the scope of the code, determine where it does and does not apply and, ultimately, come up with a new draft that is comprehensive, clear and enforceable.

The Committee wrote to key stakeholders, including all Assembly Members, all political parties in the Assembly, the Speaker and the

Equality Commission. The Committee published issue papers on the Assembly website, released press statements and took out adverts in the main local papers. In the end, the Committee was satisfied that all relevant stakeholders were approached to secure the widest possible participation. A total of 22 written submissions were received. I understand that Sinn Féin and the Ulster Unionist Party were the only two political parties to submit written submissions, which included recommendations that the Assembly approves the new code of conduct and guide.

The new code and guide include managing conflicts of interest; upholding the law; registering a declaration of interest; prohibition of the receipt of certain gifts; paid advocacy; misuse of payments; guidance and instructions; treatment of confidential information; interference with the performance by the Assembly of its functions; the abuse of position by a Member; and subjecting others to personal attack.

We also discussed Standing Order 69, which should be reviewed to determine whether it should be amended to reflect provisions of the new code and guide. The new code and guide should not come into effect until after the review of Standing Order 69 is complete.

The Assembly welcomes the independent financial review panel's intention to include in this determination for the fifth Assembly a provision for reducing the salary of a Member by 90% for any period during which that Member is imprisoned. The Committee on Procedures should review whether Standing Order 70 is necessary. It should liaise with the Assembly Commission to ensure that a code of conduct for Members' staff is agreed and introduced, to have effect from the start of the next Assembly. The seven principles of public life fulfil the purposes of promoting good behaviour in public life: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership.

The new code includes 21 enforceable rules of conduct. These are clear and concise in spelling out what Members must do and what they must avoid. One new rule requires Members not to accept any gifts or benefits that might influence their actions. This brings us into line with many other public office holders. Some include avoiding conflict between personal interest and public interest; upholding the criminal law; upholding the law in relation to equality; and the Assembly's register of interests and all relevant issues. Members will not misuse any payment, allowance or resources that are available to them for public purposes. These include a new rule that requires Members not to accept any gift, benefit or hospitality that might reasonably be thought to influence their actions as a Member. This brings us into line with many other public office holders. Members will cooperate at all times with any investigation and will not disclose details about such an investigation except when authorised by law or an investigatory authority.

To conclude, the Committee agreed that specific training and education should be made available to Members in a range of areas. The Committee believes that this work would be complemented by Politics Plus and recommends its approach to seek to put in place appropriate training for this range of standards. Overall, we are satisfied that the work that has been carried out will instil public confidence.

Mr Rogers: I also add my condolences to the Hanna family on the death of John. I knew John for many years. He was a councillor on the neighbouring Banbridge District Council. I always found him to be a gentleman. To his wife, Joan, the Hanna family and, indeed, the wider unionist family, I send my sympathies.

I welcome the opportunity to take part in the debate on the review of the code of conduct. As was the case with the last Member who spoke, I am the first sub in place of Committee member Colum Eastwood, who is unable to be here today.

From reading the report, it is clear that the Committee has undertaken significant work to review the Assembly's code of conduct and guide to the rules relating to the conduct of Members and to create a new updated version that draws on the opinions of a wide range of stakeholders from within the Assembly and beyond. This work includes a redefinition of the purpose of the code; a clarified scope; 11 aspirational principles of conduct; 21 enforceable rules of conduct; and a clear and more concise guide to the rules.

Mr Eastwood asked me to thank, on his behalf, the Committee staff, who worked tirelessly throughout the year in the operation of the Committee and the creation of the report that we are considering today.

The Committee's work is prompt. We have seen recent publications from the Council of Europe's Group of States against Corruption and the Committee on Standards in Public Life on best practice in promoting good behaviour in public life. The Committee on Standards and

Privileges here is to be commended for its timely response to reports of this nature and the publication of today's report.

I do not intend to give an exhaustive analysis on all issues in the report, but I will highlight a few key areas of work that have been undertaken. The House and its Members should always strive to operate within an established level of conduct that is befitting of elected representatives. A code of conduct should not be a loose guide to defining how Members should conduct their business in public life but should instead be a mechanism for adherence to an established set of principles. It is for this reason that the ombudsman and the commissioner, when considering the Committee's work on the report, welcomed a change in the language in relation to the code of conduct. The word "expected", for example, has been used before in the code. The ombudsman suggested that the word "required" be used instead. This reflects a key theme that has been highlighted by the ombudsman, the commissioner and others, namely that the code of conduct should extend beyond assistance or guidance for Members and have a greater purpose in compelling Members to behave in a certain way.

The Committee examined the scope of the code of conduct in relation to the private and family lives of Members. The Ulster Unionists were particularly strong in their representation on this. The Committee was not convinced that it was responsible or proportionate to extend the code of conduct beyond situations to which Standing Order 65 applies.

That said, there have been incidents, as acknowledged by the ombudsman, when an MLA might have been acting outside the Chamber in his capacity as an elected Member. It is there that the distinction between public duty and private life may become slightly blurred. I believe, having read the report, that the Committee was diligent in considering this issue, and the code has been updated to reflect that.

The Committee's review also considered lobbying. It is clear that lobbying takes place on a much lesser scale here than in other parts of the world: in the United States, for example, lobbying is a highly regulated, multibillion dollar industry. The Committee broadly agreed that lobbying is a legitimate practice that helps democracy and aids policymaking in the Assembly. However, the possibility that undue weight is given to lobbyists who wield the power of money is always there, and the Committee was cognisant of that.

There was a separate discussion about a possible statutory register of lobbyists, as exists in different jurisdictions. That is an interesting idea. However, the Committee was not convinced that the absence of any such register has created problems here. Furthermore, the Committee was wary of creating extra administrative burden and bureaucracy where they were simply not needed.

Having received legal advice, the Committee's view was that Standing Order 69 be reviewed to determine whether it should be amended to reflect the provisions of the new code and guide. Standing Order 69, of course, concerns Members' interests. It is my understanding that the consideration of Standing Order 69 has been passed to the Committee on Procedures and that the code would need to be amended to reflect the considerations of that Committee and any legal advice given. That is a prudent course of action.

I commend the work of Committee members and staff in the creation of this report. I hope that it goes some way to ensuring high standards of behaviour and personal responsibility in the House and beyond.

Mrs Overend: I, too, would like to record my sympathies for Councillor Joan Hanna on the passing of her husband John. He will be sadly missed indeed by so many. My thoughts and prayers are with them all.

I speak on behalf of the Ulster Unionist Party to commend the Committee report, which followed a thorough and lengthy review of the code of conduct. I add my thanks to the Clerk and staff of the Committee for pulling together a vast amount of information.

The review began in March 2014, and I am glad that it reached its conclusion before the end of this mandate. The new code, if agreed today, will be introduced in the new Assembly mandate — I might have added "in May 2016" but the ways things are going around here, you just never know when that might be.

When a complaint against a Member is made, the process is meant to proceed in closed session and behind closed doors. However, many make it into the public domain due to the strong feelings of complainants and the view that they must be seen to have lodged a complaint. In my experience on the Committee, however, it has often been the case throughout this mandate that complaints turn out to be inadmissible as they are outside the scope of the code of conduct. That conclusion is reached following investigations — through

written correspondence, oral interviewing or both — by the Commissioner for Standards, who is, currently, Douglas Bain.

A number of difficulties have been experienced with regard to complaints about Members, their conduct and how that has been perceived by the public at large. That is inevitable, considering the political dynamic in Northern Ireland, the history of the Troubles and the fact that we have such vastly differing views of what is acceptable, what is normal and, sometimes, what is the truth.

One of our main concerns about the existing code of conduct was that it was too ambiguous in parts, leading to unrealistic expectations of what it was supposed to do. A major difficulty throughout our evidence sessions and discussions was how to define when an MLA was acting as an MLA. While a Member is certainly entitled to a private and family life, there are occasions when it is difficult to define where that line lies.

The Committee has, therefore, taken the view that the code of conduct should continue to apply in circumstances where a Member only partly accounts for the Member's actions, except when it is clear that a Member is acting exclusively in another capacity. Of course, it shall not be enough for a Member to state that they are not acting as a Member. The commissioner is expected to take into consideration all relevant evidence etc before concluding if a Member is acting exclusively in another capacity. It is extremely important that there is increased clarity in this area.

11.00 am

For these and many other reasons, it is crucial that Members have a clear set of rules and standards. The new code of conduct includes both 11 aspirational principles of conduct and 21 enforceable rules, supplemented by a guide to explain the application of how to comply with the code. The principles are largely similar to what we had before, but the 21 rules are much more clearly defined. Therefore, Members and the public should find it easier to define if the code has been broken without having to process a complaint, which is often a complicated procedure. I have looked to summarise the 21 rules into the following categories: interest and influence; upholding the law; improper use of your position; respect; cooperation with any investigation; not urging other Members to contravene the code; and staff conduct.

I agree with the Committee recommendations that it would be useful if Members and staff were provided with some training on adhering to the code of conduct and in dealing with areas such as social media to ensure that Members know their limitations and act with respect and in an appropriate manner befitting of an MLA.

I must have talked much faster than I anticipated when I wrote this speech. I will draw my remarks to a close by commending the report to the House. It is important that Members act appropriately and avoid bringing the Assembly into disrepute. As one of our witnesses, Dr Tom Walker from Queen's University, said, we are the guardians of its integrity.

Ms Lo: First, I want to thank the Committee staff, particularly the Clerk, Paul Gill, who has ably assisted the Committee in reviewing the code of conduct and the guide to the rules. I joined the Standards and Privileges Committee as its vice-chair in September 2013. In recent months, it has become apparent that the majority of complaints received were inadmissible. While parliamentary privilege in the Chamber is reasonably well known to MLAs and the public, behaviours in Committees and elsewhere are not so clear. On several occasions, breaches of our code determined by the Commissioner for Standards were challenged as being not compatible with human rights convention articles such as the right to life or freedom of expression.

The Committee spent considerable time and effort conducting the review with a widespread consultation and consideration of best practice in other jurisdictions. We have also taken into account the Council of Europe's Group of States against Corruption reports and the UK Committee on Standards in Public Life's review, 'Standards Matter'. I therefore welcome the publication of the Committee report and believe that the revised code and guidance will give us an opportunity to increase public confidence in the integrity of the Assembly and accountability of MLAs, particularly at a time when the institution's rating is at an all-time low.

The new code will provide clarity to aspirational principles and set out enforceable rules that spell out clearly things that Members must and must not do in order to act in a manner consistent with the principles of conduct. When Members and the public know what standards of behaviour are expected of MLAs, this should result in fewer inadmissible complaints. However, it is important to reflect on the Assembly commissioner's remarks that the standards set out in the code are the minimum

expected of Members. The Alliance Party endorses the updated 11 principles of conduct, the 21 enforceable rules of conduct, and the guide to the rules.

We welcome in particular the rules that deal with registering interests and prohibiting the receipt of gifts that might reasonably be thought to influence a Member's actions, as they are important to ensure that MLAs act in an impartial way. In terms of receiving payment to advocate for any outside body or individual, the Alliance Party feels very strongly that Members should be prohibited from providing paid advice for lobbyists. If we are to improve the levels of trust and confidence in the political system, we need to be as transparent and open as is possible.

As someone who has received a racist slur on social media, albeit unintentionally, from an MLA's assistant, I personally endorse rule 19, which states that Members:

> *"shall take reasonable care to ensure that your staff, when acting on your behalf, upholds these rules of conduct."*

Finally, the Department of the Environment implemented the 'Northern Ireland Local Government Code of Conduct for Local Councillors' in April 2015. That is based largely on the Assembly's old codes, so there is now a discrepancy between the codes for central and local government. DOE may need to review that in the future to ensure a consistent approach for all public representatives in Northern Ireland. I support the motion.

Mr Ross: I want to record my gratitude to the Chairman of the Committee for acknowledging the work that I did in my time as Chair. I had the privilege of chairing the Committee from 2011 until December 2014, but I have also sat on the Committee since first entering the House in 2007. I approached the inquiry with some knowledge of the difficulties that there were with the old code of conduct and the opportunities that were presented to make a better code of conduct. The review of the code that was undertaken by the Committee was, as other Members have said, incredibly comprehensive. I want to record my thanks to Tom Walker from Queen's University, who, I think, focused the minds of Members on how we could get a code that is both practical and enforceable.

We obviously spoke to our colleagues in the House of Commons, in the Scottish Parliament and the Welsh Assembly, but of course clerks talk to each other all the time, and any changes that happen are usually quite incremental and will follow suit across these isles. However, I think that it is also important that we look beyond the British Isles. I gave evidence to the European Union for the GRECO report and we also engaged with the US House of Representatives Committee on Ethics, the Senate Ethics Committee and the State of Maryland legislature. Those areas deal with different difficulties to those that we face. The rest of Great Britain does not experience the political nature of complaints that we have here in Northern Ireland. In the United States, the debate tends to be around the ethics surrounding financial donations, because of the amount of money that they spend in their election campaigns. I listened to Mr Rogers make that point around lobbying. Because there is so much regulation around lobbying in the States, because Senators and Congressmen and -women are spending millions and millions of dollars on a campaign, that is just not applicable here in Northern Ireland.

We have ended up with a new approach in the code of conduct. As other Members have said, it is a simplified code, boiling everything down to 21 rules, but I think that the most important aspect of this new code of conduct is the fact that there is a separation between the aspirational and enforceable elements of the code. Look at the Nolan principles on public life, which are well known and used in nearly every jurisdiction around the United Kingdom: who could disagree with selflessness, integrity, objectivity, accountability, openness, honesty and leadership? The difficulty for the Committee and indeed for the Commissioner for Standards is how to decide when a Member is being open or honest or objective. How do you know whether a Member is showing leadership? It is very difficult for Committee members or the commissioner to judge whether a Member has breached the code of conduct based on those principles. That is why I think that it is so important that the separation between the aspirational element and the enforceable element has been reinforced in this code. That will make it much easier for Committee members and the commissioner when determining whether Members have breached the code. As Mr McCann said, greater sanctions are now available. The opportunity to dock a Member's salary is something that we called for and has been delivered. It is also incredibly important.

Other aspects of the code are worth highlighting. The right to a private life has been mentioned. It is important that Members are enabled to have a private life. In most cases, the code would not apply to it, nor would that be

in the public interest. Freedom of speech is also hugely important. When we talked to politicians in the US, they laughed at some of the complaints we receive here in Northern Ireland on comments that Members have made. Indeed, as the Chairman of the Committee highlighted in his opening comments, article 10 of the European Convention on Human Rights, the law governing freedom of speech, protects Members when using:

> *"a degree of immoderate, offensive, shocking, disturbing, exaggerated, provocative, colourful, emotive"*

language. That may be a challenge to some of us at times, particularly when Members say something that we do not like; but we have to recognise that they have the right to say it, and as long as their comments are lawful, they should be able to make them.

I conclude on two points. One of the difficulties we have faced in Northern Ireland is politically motivated complaints. We have far more complaints by MLAs against other MLAs than anywhere else in these islands. The most unfortunate thing is that a complaint by one MLA against another is nearly always accompanied by a press release. That is an abuse of the system and something we really need to get to grips with.

Finally, Ms Lo made reference to the councillors' code of conduct. It was unfortunate that the Environment Minister went on ahead with his code of conduct, rather than talking to the Committee on Standards and Privileges and trying to develop codes in parallel, which might have delivered much more clarity and a better system of conduct regulation at both council and Assembly level.

I recommend the code to the House.

Mr Newton: I too rise in support of the code. I open my remarks by paying tribute to the Committee staff, who have, in my short time on the Committee, done an excellent job. They have been diligent in their work; they have been excellent in their communication; and they have offered excellent advice to the Committee. I also thank Jimmy Spratt, who has been Chair since I joined the Committee and, indeed, Alastair Ross for the work he has done.

I would like to take a slightly different tack. Rather than delve into aspects of the work that has been done, I will talk about the need, or the perceived need, for the work to be done. Let us remember that this is a review of the code of conduct and that the Assembly already had a code of conduct in operation, which it willingly undertook to review. One might see that as moving towards what is regarded in other areas of work as professional standards. That is to be welcomed. We all use the word — a very important, very small, but very significant word — "trust". People put their trust in politicians at election time, and they look to politicians and this House for good conduct and, indeed, to set an example, both in the Chamber and in the environs of the House, not forgetting that MLAs and politicians from all backgrounds have a private life. Indeed, good guidance has been given in the code on how that should be separated out.

The code offers greater clarity to MLAs and provides for a greater ability to scrutinise the openness and transparency of the work of MLAs. It also recognises that freedom of expression is absolutely necessary in public life, but it does not allow MLAs to step across a boundary.

They have to be, within the code of conduct, more accountable for their behaviour or actions. Indeed, within the 21 points and 11 principles, stronger action can be taken against an MLA who is adjudged to have broken the rules.

11.15 am

In two particular areas, there is use of the word "gifts". I have to say that I do not think that anybody has ever offered me a gift, but, anyway, where there are gifts, the public expect a standard. It is quite obvious, particularly in your role, Mr Speaker, where gifts are given to the Assembly —

Mr Speaker: Robin, I am getting sensitive about this.

Mr Newton: I am going to welcome the fact that there are two display cabinets where gifts that are given to the Assembly are put on display and are recorded as such. Those are not gifts to the individual post holder but to the Assembly itself. That principle needs to be included in all aspects of life.

I will end with these few remarks. The public expect integrity from their politicians and expect politicians to behave in a manner that is perceived to be professional, whether in the Chamber, in Committees, in the public domain or through the conduct of office staff. They expect that professional standard. What we have got in the review of the code of conduct helps us to move in that direction.

Mr Allister: At the outset, I associate myself with the condolences expressed upon the passing of Mr Hanna. He is the husband of a much-valued and very effective councillor in my constituency, Councillor Joan Baird, and my thoughts are very much with her at this very difficult time.

I wish to focus on a certain part of the report, but, before I do that, I want to make a couple of comments.

It is all very good, but part of the issue that can subvert and circumvent the work of the Standards and Privileges Committee and the commissioner is the misuse of the petition of concern. That further drags down the credibility of the situation. When there is a complaint, and a finding by the commissioner or the Committee that is adverse to the Member and perhaps a recommendation for censure, his or her friends and colleagues, if he is from one of the big parties with the capacity to do it, gather round as a human shield to protect him from the censure. That totally undermines the independence and effectiveness of the supposed system of protecting the standards and privileges of the House. We have seen it in the past, and we may well see it again in the not-too-distant future, maybe even next week. It is an abuse of the petition of concern.

When the Procedures Committee, upon which I serve, comes to look at some of these matters, it could do well to make a move to exempt the use of petitions of concern on matters of conduct in the Standards and Privileges Committee. That needs to be looked at, because it really makes a mockery of the system.

The main point I want to make relates to paragraphs 69 to 80, which point out that, in contrast to the holding of Members to account, there is a total lacuna in the ability to hold Ministers to account. Although there is a ministerial code, there is no methodology to enforce that code. The report rightly, though a little timidly, draws attention to that and suggests:

> *"the Executive should agree to introduce an independent process to investigate complaints which allege that a Minister has failed to observe the Pledge of Office".*

Mr Ross: I thank the Member for giving way. He will, of course, acknowledge some of the difficulties with enforcing a ministerial code of conduct because of the composition of our Government. The mechanism for ensuring that the ministerial code of conduct is adhered to is the court system, and we have seen Ministers who have breached the ministerial code of conduct being sanctioned by the courts. There is therefore a mechanism in place to enforce the code of conduct, but it happens to be the court system rather than within government.

Mr Speaker: The Member has an extra minute.

Mr Allister: Thank you. The point that I was making is that there is no mechanism and no compulsion to investigate a breach of the ministerial code. That is made very clear in some answers that I received from the First Ministers, to the effect that no mechanism exists and that they have no plans to bring in such a mechanism, whereas in paragraph 77, the report quite rightly suggests that there should be an "independent process to investigate complaints".

That seems to me to be quite incongruous. When there is a complaint made against a Member, as a Member, the Commissioner for Standards will investigate, bring forward his report and interview whomever. There is a proper, due process of investigation. When, however, you have an abuse of the process, such as we had by Minister McCausland as found in the Red Sky case, there is no mechanism to investigate and therefore no path to censure. It is an obvious gap in credibility for the operation of the Assembly that there is no means by which to investigate the alleged actions of Ministers if they fall foul of the ministerial code of conduct.

That is a gaping flaw in the system, which adds to the downward spiral in the credibility of the institutions. Although I welcome the fact that the Committee put its finger on that, the burden is now on the Executive, and the Office of the First Minister and deputy First Minister in particular, to do something about it and to instigate a proper procedure. At the moment, Mr Ross says, "The courts, yes. You can go to the court and ask for a declaration if there has been a breach of the ministerial code". The only other mechanism is that it be brought to the Assembly, either by the First Ministers jointly moving it, which, when most of our Ministers come from their parties, is unlikely to happen —

Mr Speaker: The Member's time is almost up.

Mr Allister: — or by 30 Members of the House. The opportunity to investigate properly before you get to that point does not exist, and that is a fatal flaw in the procedures.

Mr Agnew: At the outset, I thank the Chair and the Committee staff for their diligent work on this, as well as the former Chair, Alastair Ross, who I know approached the review with a genuine commitment and desire to improve the working of the code and the standards of Members. I believe that the outcome is that we have a better, clearer code.

An issue that I raised about a number of investigations is the need for help for complainants to understand the code better. I often felt that the complainant was required to be an expert to make a complaint, and that should not be the case. A clearer code can only assist the public and, indeed, those politicians who are bound by it. Hopefully, this clearer code, with its guide, can discourage some of the erroneous complaints that other Members referred to, and, hopefully, we can reduce the number of inadmissible complaints. Sometimes, genuine complaints are made that are inadmissible, but I feel that, too often, complaints are made for political purposes, and I hope that we will move away from that.

The one issue on which I will place on record my discontent is the scope of the code. We have heard about the importance of the separation between our role as an MLA and our private life, which is a proper distinction to make. In our discussions, we talked about being out for a family meal etc, which should be treated as private time and should not be covered by the scope of the code. However, there is a third category, which I urged the Committee to include; it is referred to in the report as "reasonably presumed". I would be even more explicit and say that it should apply when a Member is acting in a political capacity. In our discussions, I used the example of attending or speaking at a political rally. I think it is reasonable that the public can expect the high standards that we have placed in the code of any MLA who speaks in public in a political capacity. It might be as a party representative, but I believe that those are areas that should be covered by the scope of the code.

Mr McCallister: I am grateful to the Member for giving way. Does he accept that, in acting in such a capacity, you are unlikely, if you are not an MLA, to be asked to speak? Therefore, the code should, of course, cover your actions at such an event.

Mr Speaker: The Member has an extra minute.

Mr Agnew: I thank the Member for his intervention. That is a point that I make sometimes when I am being interviewed. If I am asked what I personally think, I reply that, if I was not speaking as a representative of a party or as an MLA, the interviewer would not be asking for my views. The views that I give are my political ones. It is important that Members who attend political events should conduct themselves with the levels of integrity and respect that are outlined in the code.

Mr Allister mentioned the ministerial code. The Committee was limited in what it could do. We have written to the First Minister and the deputy First Minister and included in our report the recommendation that there should be a process of investigation. That is right, because the line is often used that there is one rule for some and another rule for others. We have a situation where there are 21 rules for Members and none for Ministers because the ministerial code could be perceived to have been breached on a number of occasions without an independent investigation or a process.

Members of the public and, indeed, some MLAs have written to the Committee about breaches of the ministerial code, but we have had to write back to say that we cannot act and can only treat them as inadmissible complaints. In many cases, there are good reasons behind the complaints but we cannot refer them to another process. We have heard mixed views as to whether writing to the First Minister or the deputy First Minister is, in itself, a process. It appears that they take no responsibility for upholding the ministerial code or for its oversight. As has been pointed out, it has been left to the courts. It is a less than ideal situation that that is the only recourse. We should have a form of self-governance but, of course, the courts should be there as a final resort. As we do with the code for Members, we should have an independent investigation and a process that is clear and coherent to the public.

Mr Speaker: The Member's time is up.

Mr Agnew: It is unfortunate that that is not in place.

Mr McCallister: I will be very brief. At the outset, I associate myself with the remarks about the late Councillor John Hanna. I knew John very well. I fought my first election campaign in the Knockiveagh ward alongside John so I have many fond memories of him. He will be greatly missed by his party colleagues and his wife, Joan, and I extend to Joan my sincere sympathies at this very difficult time.

11.30 am

I am grateful to the current Chair, the previous Chair and the Committee for bringing the report forward. I have concerns about the issue of respect, mentioned in paragraphs 214 to 225. I feel that there is a gap in that that section does not include Members' staff or, indeed, party staff. That is one of the difficulties that we have here. It applies particularly to staff members of independent Members like me or of smaller parties that maybe do not have the capacity, structure or HR experience to deal with complaints and in which, effectively, there is nowhere for a staff member to go. I would like that to be looked at. Mr Speaker, I wrote to your predecessor about this to see whether we could extend the scope, make sure that the Carecall process is looked at as an option and whether there could be some point of redress for members of staff of small parties or independent Members. Working for a Member is like working for a small business: you are effectively on your own. As a corporate body, we should have an overall responsibility. That needs to be looked at and grappled with.

It is worth supporting Mr Agnew's point about making a complaint and how difficult it is for a Member, a member of the public or a member of staff to make a complaint. It is important that it is not made unnecessarily difficult to have exactly the right language and to meet the standard, because we want this to be of value in upholding this institution and in ensuring that Members are rightly held up by the public as maintaining a high standard in public life. We also question how well equipped any individual commissioner is — not just the current commissioner — to deal with a very sensitive complaint.

Mr Allister made a point about breaching the ministerial code. I accept Mr Ross's point that it is up to a court, but the ministerial code can sometimes be viewed in the same way as ASBOs used to be viewed. It is almost a badge of honour to be accused of breaching the ministerial code when it should be seen as being slightly more serious. Nearly all Ministers seem to have breached the code at some point, regardless of whether they were taken to court. We must have a code that actually means something. That was Mr Allister's driving point, and I concur with it.

Mr Spratt: I thank those who took part in the debate, which has largely been positive. That reflects the constructive and consensual manner in which the Committee carried out the review. The Committee has asked the Assembly to agree the new code. I welcome the apparent support for it across the Chamber. However, the Committee has also made further recommendations, so, before I reflect on the points made during the debate, I will address some of those other issues.

I want to mention the guide to the rules. The Committee has agreed that some of the rules of conduct should be supported by more detailed requirements, revisions and guidance. The new guide to the rules, therefore, sets out such details for rules 4 to 8 of the code. Should it appear to the Committee in the future that any of the other rules in the new code would benefit from more provisions, it will table amendments to the guide for the Assembly's approval.

Secondly, the Committee recommended that Standing Order 69, on Members' interests, be reviewed in light of the provisions of the new code and guide. The Committee has recommended that the new code and guide not come into effect until after such a review is complete.

The third issue that I want to mention is lobbying, which has caused significant concerns at other legislatures where some Members have clearly acted improperly when making representations on behalf of lobbyists. The Committee is satisfied that lobbying is a legitimate practice that is important for democracy and policymaking. However, it should be managed well to ensure transparency to the public, who need to be assured that undue weight is not given to the power of money behind the scenes. No one should be under the impression that it is necessary to employ the services of a lobbyist to make their views known or gain access to Members.

The Committee is satisfied that the provisions of the new code and guide are sufficient to ensure that misconduct in relation to lobbying does not occur. However, we recognise the argument for, in addition to the mandatory requirements of the code and guide, good practice guidance for Members and their staff when dealing with lobbyists. The Committee has, therefore, agreed 'Guidance for Members on Dealing with Lobbyists', which is included at annex 2 of our report. The Committee also recommended that OFMDFM give consideration to whether a register of lobbyists in Northern Ireland would be appropriate or beneficial.

I now turn to some of the comments made by Members during the debate. Fra McCann pointed out that we welcomed the Independent Financial Review Panel's intention to include in its determination for the fifth Assembly mandate a provision for reducing the salary of a Member

by 90% for a period during which that Member is imprisoned. Seán Rogers referred to the GRECO report on preventing corruption in legislatures, and our report takes full account of its recommendations.

Anna Lo and Sandra Overend referred to the number of inadmissible complaints received, and we hope that the new clearer code will reduce the number of those complaints in future. The greater clarity in the code is for Members and the public.

The former Chair, Alastair Ross, spoke about some of the problems that we had with the current code, problems that arose from ambiguities in drafting and the lack of separation of aspirational principles and enforceable rules. The new code clearly addresses that and spells it out that, while the principles are important, they are not enforceable.

My colleague Robin Newton spoke about the trust that is key to the integrity of this institution, and we believe that the new code will enhance trust in standards at the Assembly.

Mr Allister raised two issues, both of which have nothing to do with the conduct of Members. He spoke about petitions of concern, Mr Speaker, but that is not a matter that the Committee could or should address as part of the review. That is, of course, a matter for the Assembly and you as Speaker to decide on. He also raised the ministerial code. Today, we are debating the code of conduct for Members, not the ministerial code.

Mr Allister: Will the Member give way?

Mr Spratt: I am not sure. I have really heard enough from you, but I will give way just this once.

Mr Allister: I am a little puzzled, because 12 paragraphs of the report deal with the very subject that I raised: the application of codes to Ministers. It is rather disingenuous to suggest that I raised something that had nothing to do with the report when the report itself has a recommendation in paragraph 77 touching on that very issue.

Mr Spratt: Of course it is not disingenuous, Mr Speaker. The Member could have raised those issues, but he did not provide any feedback to the Committee at an earlier stage in relation to any it. He was obviously asleep at the steering wheel at the time the Committee sent out.

Mr Allister: At least I know what is in the report.

Mr Speaker: Order.

Mr Spratt: Yes, it is in the report, but it also very clearly points out that it is a matter for the Executive in relation to the ministerial code, and that is where the issue lies. It is for the First Minister and the deputy First Minister to make any changes necessary; it is not within the power of the Committee to do that in the code.

Steven Agnew spoke about the application of the code to circumstances where it was unclear in what capacity a Member was acting. However, the code will apply in such circumstances, unless it is clear that a Member was acting exclusively in another capacity.

Mr McCallister raised the issues of Members acting with respect and Members' treatment of their staff. That is more complicated because, ultimately, such behaviour could become the subject of an employment tribunal. The Committee has therefore agreed that it will amend its direction to the commissioner so that he will not investigate complaints that should be properly resolved in another statutory or official forum. However, Mr McCallister may wish to read the Hansard report of the Committee's session with the Clerk to the Assembly/Director General of the Assembly, when it was briefed on the extension of the Carecall welfare service to Members and their staff and the potential for grievance procedures and employment tribunals.

When the Committee on Standards and Privileges commenced the review, it said that it ultimately wanted to produce a new draft code of conduct that was

> *"relevant, appropriate, comprehensive, well-structured, clear and enforceable";*

gives

> *"confidence to the public about the probity of the Assembly and the accountability of its Members";*

and which is

> *"proportionate and reasonable in the requirements it places upon Members".*

The Committee has done that unanimously and in cooperation with the commissioner, having undertaken a careful, detailed consideration of a wide range of issues. The new code

establishes the principles of conduct expected from all Members, sets the rules of conduct that flow from these standards and provides openness and accountability to ensure public confidence in the standards of the Assembly. On behalf of the Committee on Standards and Privileges, I ask the Assembly to agree the new code and guide.

Question put and agreed to.

Resolved:

That this Assembly notes the report of the Committee on Standards and Privileges on the Review of the Northern Ireland Assembly Code of Conduct and the Guide to the Rules Relating to the Conduct of Members [NIA 178/11-16]; agrees to the new code of conduct and guide to the rules set out in annex 1 of the report; and further agrees to the other recommendations contained within the report.

Executive Committee Business

Credit Unions and Co-operative and Community Benefit Societies Bill: First Stage

Mr Speaker: Minister, this is my first opportunity to congratulate you on your appointment, so congratulations.

Mr Bell (The Minister of Enterprise, Trade and Investment): Thank you, Mr Speaker, for those congratulations. I beg your indulgence to be associated with the sympathy that has been expressed in the House for Councillor John Hanna. I was with him on Thursday evening in Scarva. He had a love for the area that he had represented for over two decades and the people of the area had a love for him. He was a fine Christian man, and our deepest sympathy goes out to his family circle.

I beg to introduce the Credit Unions and Co-operative and Community Benefit Societies Bill [NIA 56/11-16], which is a Bill to make provision about credit unions and cooperative and community benefit societies and for connected purposes.

Bill passed First Stage and ordered to be printed.

Budget (No. 2) Bill: Consideration Stage

Mr Speaker: This item may not proceed, as the Second Stage of the Bill has not yet been agreed. A revised Order Paper will issue for a sitting tomorrow which will include the Second Stage of the Bill, and the Consideration Stage will be scheduled by the Business Committee following notification from the Executive.

Insolvency (Amendment) Bill: Consideration Stage

Mr Speaker: I call the Minister of Enterprise, Trade and Investment, Mr Jonathan Bell, to move the Consideration Stage of the Insolvency (Amendment) Bill.

Moved. — [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Mr Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There are two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 11, 13 to 35, and 47 to 50, which are technical amendments.

The second debate will be on amendment Nos 12 and 36 to 46, which deal with recognised professional bodies and authorisation of insolvency practitioners. I remind Members intending to speak during the debates on the two groups of amendments that they should address all the amendments in each group on which they wish to comment. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If all that is clear, we shall proceed.

No amendments have been tabled to clauses 1 and 2. I propose, by leave of the Assembly, to group these clauses for the Question on stand part.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3 (Requirements relating to meetings)

Mr Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 11, 13 to 35 and 47 to 50, which are technical amendments, including an amendment to modify Assembly control of subordinate legislation.

Mr Bell (The Minister of Enterprise, Trade and Investment): I beg to move amendment No 1: In page 5, line 30, leave out "at year's end".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

The following amendments stood on the Marshalled List:

No 2: In page 5, line 31, leave out from "in" to "year," on line 32.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 3: In page 6, line 5, leave out "at year's end".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 4: In page 6, line 6, leave out from "If" to "year," on line 7.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 5: In page 6, line 20, leave out "at year's end".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 6: In page 6, line 23, leave out "at".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 7: In page 6, leave out line 24.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 8: In clause 11, page 9, line 38, leave out subsection (3) and insert

"(3) No order may be made under subsection (2) containing provision which amends or repeals a provision of an Act of Parliament or Northern Ireland legislation unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) Any other orders under subsection (2) are subject to negative resolution.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 9: In clause 13, page 10, line 9, at end insert*"(za) in the words before sub-paragraph (a), after "service" insert "on the bankrupt";".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 10: In clause 13, page 10, line 15, leave out the first "the".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 11: In clause 13, page 10, line 16, after "Article" insert

"(and whether before or after service on the bankrupt of a notice under this Article)".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 13: In clause 14, page 11, line 15, after "authorised" insert

"to act as an insolvency practitioner in relation to companies".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 14: In clause 14, page 11, line 15, after "may" insert "nonetheless".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 15: In clause 14, page 11, line 16, leave out "as an insolvency practitioner".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 16: In clause 14, page 11, line 17, leave out "or an individual".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 17: In clause 14, page 11, line 18, leave out "or individual".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 18: In clause 14, page 11, line 20, at end insert

"(1A) A person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not accept an appointment to act in relation to an individual if at the time of the appointment the person is aware that the individual—

(a) is or was a member of a partnership other than a Scottish partnership, and

(b) has outstanding liabilities in relation to the partnership.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 19: In clause 14, page 11, line 21, after "authorised" insert

"to act as an insolvency practitioner in relation to companies".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 20: In clause 14, page 11, line 21, after "may" insert "nonetheless".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 21: In clause 14, page 11, line 22, leave out "as an insolvency practitioner".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 22: In clause 14, page 11, line 23, leave out "or an individual".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 23: In clause 14, page 11, line 23, leave out from second "or" to "individual" on line 24.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 24: In clause 14, page 11, line 28, at end insert

"(2A) Subject to paragraph (7), a person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not continue to act in relation to an individual if the person becomes aware that the individual—

(a) is or was a member of a partnership other than a Scottish partnership, and

(b) has outstanding liabilities in relation to the partnership,

unless the person is granted permission to continue to act by the High Court.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 25: In clause 14, page 11, line 29, leave out "the" and insert "a".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 26: In clause 14, page 11, line 29, after "act" insert

"for the purposes of paragraph (2) or (2A)".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 27: In clause 14, page 11, line 32, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 28: In clause 14, page 11, line 38, after "company," insert "this Article or, if it applies,".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 29: In clause 14, page 11, line 38, leave out from "or" to "Article" on line 39.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 30: In clause 14, page 11, line 40, after "individual," insert "this Article or, if it applies,".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 31: In clause 14, page 11, line 40, leave out from "or" to "Article" on line 41.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 32: In clause 14, page 11, line 43, leave out "paragraph (1) or (2)" and insert "any of paragraphs (1) to (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 33: In clause 14, page 12, line 1, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 34: In clause 14, page 12, line 4, leave out "paragraph (2)" and insert "the paragraph".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 35: In clause 14, page 12, line 13, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

No 47: In schedule 2, page 18, line 15, at end insert

"3A. In Article 14(2), omit "or authorised to act as nominee,".

3B. In Article 15(4), omit ", or authorised to act as nominee,".

3C. In Article 17(2), omit "or authorised to act as nominee,".

3D. In Article 20(5), omit "or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 48: In schedule 2, page 18, line 28, at end insert

"12A. In Schedule A1—

(a) in paragraph 38(1), omit ", or authorised to act as nominee,";

(b) in paragraph 41(2), omit ", or authorised to act as nominee,";

(c) in paragraph 43(1), omit ", or authorised to act as nominee,";

(d) in paragraph 49(6), omit ", or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 49: In schedule 3, page 19, line 42, in second column, at end insert

"In Article 14(2), the words "or authorised to act as nominee,".

In Article 15(4), the words ", or authorised to act as nominee,".

In Article 17(2), the words "or authorised to act as nominee,".

In Article 20(5), the words "or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 50: In schedule 3, page 20, line 29, in second column, at end insert

"In Schedule A1—

(a) in paragraph 38(1), the words ", or authorised to act as nominee,";

(b) in paragraph 41(2), the words ", or authorised to act as nominee,";

(c) in paragraph 43(1), the words ", or authorised to act as nominee,";

(d) in paragraph 49(6), the words ", or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Mr Bell: First, I will explain that there are an unusually large number of Government amendments — 50 in all — which extend over several pages. There are two main reasons for that. The first is that some of the Bill's provisions replicate provisions in the Deregulation Act 2015, made at Westminster in March. Amendments to those provisions are required as they were drafted using early versions of the Bill which became the Deregulation Act 2015, not the Act itself, and there are minor differences between the two.

The second reason is the request made during the Second Stage debate to have provision for more stringent regulation of insolvency practitioners included in this Bill. There is provision for that in the Westminster Small Business, Enterprise and Employment Act 2015, and it had originally been intended to include corresponding provision for Northern Ireland in a further Bill to amend insolvency law, to be made during the lifetime of the next Assembly. In view of the Member's request, an amendment has been provided to provide for its inclusion in the current Bill instead.

The amendments to clauses 11, 13 and 15 and the amendments that insert new clauses 14A to 14H and schedule A1 have all been agreed by the Enterprise, Trade and Investment Committee. The other proposed amendments were considered by the Committee on 19 May 2015; the Committee had no comments on those. I thank the Committee Chair and members for their helpful and very thorough scrutiny of the Bill.
As some of the amendments involve policy changes, Executive approval was sought to all 50. The Executive agreed them when they met on 28 May 2015. I will try to explain each of the amendments as briefly as possible.

Each of the 50 amendments amends the Insolvency (Northern Ireland) Order 1989, which I will hereafter refer to as "the Insolvency Order". There are a total of 27 amendments in group 1. There are seven amendments to clause 3, which, in turn, amends articles 79 and 91 of the Insolvency Order.

Amendments Nos 1 and 3 remove the words "at year's end" from the title to each article. Amendments Nos 2 and 4 remove references in each article to the winding-up of a company continuing for more than one year. Amendment Nos 5, 6 and 7 remove the words "at year's end" from the description of offences relating to the failure of a liquidator to send progress reports.

The combined effect of those seven amendments is to remove any stipulation for when progress reports have to be issued in members' and creditors' voluntary liquidations, leaving it as a matter to be prescribed solely in subordinate legislation.

Amendment No 8 is to clause 11. The amendment changes the type of Assembly control required for orders made under this provision, which amend or repeal provisions in subordinate legislation to negative resolution. I have agreed to that amendment as a consequence of a recommendation made to the Enterprise, Trade and Investment Committee by the Examiner of Statutory Rules. I thank the Committee for drawing the matter to the Department's attention, and I also thank the

Examiner of Statutory Rules for his suggestion, which I am happy to accept.

Amendment Nos 9, 10 and 11 are to clause 13. All three are required as a result of the minor differences that I mentioned between initial drafts of the Westminster Deregulation Bill and the resulting Act.

Amendment No 9 relates to the service of a notice on a bankrupt claiming property. It clarifies that a trustee in bankruptcy does not have any rights against a third party who has bought the property for a fair price if they did not know about the bankruptcy.

Amendment No 10 corrects a minor error by removing the word "the" where it had been incorrectly used in a new paragraph inserted into article 280.

Amendment No 11 clarifies that a trustee in bankruptcy is not to have any recourse against a bank that has made a payment out of a bankrupt's account unless he had served notice on the bank, claiming the money before the bank paid it out.

Amendments Nos 13 to 36 are all to clause 14. They relate to restrictions on partially authorised insolvency practitioners acting for members of a partnership. They are required as a result of differences in the way they are set out between the initial drafts of the Westminster Bill, which became the Deregulation Act 2015, and in the Act itself. No changes to policy are involved.

Partially authorised insolvency practitioners are authorised to act in either corporate or individual insolvencies but not in both. Clause 14, as introduced, included a ban on a partially authorised insolvency practitioner acting in relation to members of a partnership. The amendments break the application of this ban down in terms of whether the practitioner is authorised to deal with company or individual cases.

Amendment Nos 13 to 24 bring provision restricting partially authorised insolvency practitioners from acting for individual or corporate members of a partnership into line with equivalent provisions applying in Great Britain. Amendment No 25 corrects a minor grammatical error in clause 14. Amendment Nos 26 and 27 are consequential on amendment Nos 13 to 24. Amendment Nos 28 to 31 correct errors in clause 14 by recognising that article 143(5B) and article 276(2C) of the Insolvency Order do not apply in all cases where a company or an individual is a member of a partnership.

Amendment Nos 32 to 35 are consequential on amendment Nos 13 to 24. Amendment Nos 47 to 50 remove references in the Insolvency Order to being authorised to act as nominee or supervisor. These references need to be removed because article 348A of the Order, which provided for authorisation to act as a nominee or supervisor in relation to voluntary arrangements, is repealed by the Bill.

Mr Speaker, I am sure that you are glad to hear that this concludes what I have to say about the amendments in group 1.

Mr Speaker: I could not possibly comment on that.

Mr McGlone (The Chairperson of the Committee for Enterprise, Trade and Investment): Go raibh maith agat, a Cheann Comhairle. Agus mo bhuíochas leis an Aire chomh maith. I thank the Minister. I will speak on the 36 technical and consequential amendments in group 1.

The Committee welcomes the Insolvency (Amendment) Bill, which is intended to update insolvency legislation that was made before the advent of modern methods of electronic communication. The Bill was referred to the Committee on 10 November 2014. The Committee sought an extension to the Committee Stage to 13 March 2015 to ensure sufficient time to effectively scrutinise the Bill. The Committee reported on the Bill on 3 March 2015.

I would like to record the Committee's thanks to those who provided written submissions and oral evidence during the Committee Stage. I would also like to thank the new Minister and, I am sure he will forgive me for saying so, his predecessor for her involvement. I especially thank the officials, and I put on the record that, for me, coming into an area that I did not know an awful lot about, they were very informative. They kept us right and did keep us well-briefed on all aspects of the Bill and the legislation that we were dealing with. It was a very positive engagement throughout, both in pre-legislative scrutiny and in the course of the Committee Stage.

Clause 3 provides for the removal of the requirement for annual meetings in a members' voluntary and a creditors' voluntary winding up. The Bill introduces provisions at clause 3 for the requirement to hold a meeting to present progress reports in voluntary winding-up

procedures to be replaced by a requirement to issue a report on progress. This is intended to reduce the cost of holding meetings that are poorly attended or not of any benefit.

If the resolution for voluntary winding up was passed before the day on which the law comes into place, the old rule applies. If it is after that, the new rule applies. This raised issues for some stakeholders in that all open members' voluntary liquidations (MVLs) and creditors' voluntary liquidations (CVLs) will continue to require annual meetings to be held. In practice, this will mean that insolvency practitioners will need to operate the legacy legislation and the amended legislation concurrently on their portfolios of cases. It was felt that it would be more cost-effective for the insolvency profession generally, and therefore result in improved returns to creditors, if the requirement for annual meetings were to be abolished for all MVLs and CVLs rather than only those commencing after the date on which the legislation comes into operation.

The Committee explored that option, but, following consideration, agreed that, where procedure is already under way, those involved would expect the case to be conducted in accordance with the existing law. The Committee agreed that it would be bad practice for any party to be confronted by a different procedure from the one that they had expected and started off with at the outset of the case. The Committee was therefore content with clause 3 as drafted.

12.00 noon

Following Committee Stage, the Department informed the Committee of additional amendments to clause 3, which remove unnecessary and misleading references to progress reports in voluntary liquidations. The Committee had not been given time to consider and agree the amendments at Committee Stage, so they were noted by the Committee.

Clause 11 deals with deeds of arrangement. The Examiner of Statutory Rules advised the Committee that the Department may wish to amend the clause — indeed, the Minister referred to the Examiner earlier — so that orders making consequential amendments to and repeals of primary legislation would be subject to draft affirmative resolution, while consequential amendments to and revocations of subordinate legislation would be subject to the negative resolution. The Department agreed and brought the amended clause 11 to the Committee during Committee Stage. The Committee was content with clause 11 as amended and with the wording of the proposed amendment.

Clause 13, concerning the after-acquired property of a bankrupt, provides protection to banks around property that comes into the ownership of bankrupts before they are discharged; that is, after-acquired property. That will encourage banks to offer basic banking services to undischarged bankrupts, as it removes any reason for them not to do so.

In his response to the Committee's call for evidence, the chairperson of the Chancery and Probate Liaison Committee raised a number of drafting issues. In its response to the Committee on the matter, the Department acknowledged the issues raised and outlined how they would be addressed at Consideration Stage. Having had sight of the proposed amendments during Committee Stage, the Committee was content with clause 13 as amended and with the wording of the proposed amendment.

Clause 14, on authorisation of insolvency practitioners (IPs), includes provisions for the option for an insolvency practitioner to be authorised solely in a personal or corporate capacity, whereas, under current legislation, it is only possible to be authorised for both. Departmental officials informed the Committee that the proposed changes will make it easier for people to become insolvency practitioners. They will not have to study both areas. For example, a debt adviser may wish to qualify as an IP and work for individuals but may not be interested in acting as an IP for companies. There would be no point in such a person studying and taking examinations in how to deal with company affairs.

Concern was raised, however, in the industry that the proposals would have a negative impact on businesses and individuals seeking financial advice, as lines might be blurred, resulting in a negative impact on the quality of advice from insolvency practitioners, leading to increased costs and delays. Reservations were also expressed about dealing with partnerships under a partial authorisation regime. The Department assured the Committee that the Bill will require IPs to be authorised fully to act when it comes to partnerships.

The Department assured the Committee that IPs would be free to become authorised in either personal or company cases, or both. If there is any doubt about whether a particular case fits into one or other category, a short interview with the person concerned should

establish the facts of the case and whether there is a partnership involved or potential company issues.

In answer to concerns expressed about the introduction of partial authorisation, the Department informed the Committee that, having taken legal advice on the matter, it has no alternative except to go along with what is being done in GB. Officials informed the Committee that Northern Ireland cannot opt out of bringing in partial authorisation, because the advice that they got was that there is a requirement to comply with the EU services directive. The UK would be in breach of that directive if the North did not bring in partial authorisation. Someone who is partially authorised in GB under the Westminster Deregulation Act 2015 is entitled to practise on the same basis in Northern Ireland. On that basis, the Committee was content with clause 14 as drafted.

The Minister subsequently wrote on 15 May to inform the Committee that the Insolvency Service in GB has advised that it does not now intend to bring the provision forward in that way but will instead make the case that the present system is sufficient to comply with the requirements of the EU services directive. As this and other amendments to clause 14 were not considered by the Committee until after Committee Stage, the amendments were noted by the Committee.

Following Committee Stage, the Department informed the Committee of amendments to schedules 2 and 3 that would be brought at Consideration Stage to repeal references to being authorised to act as a nominee or supervisor. As the Committee had not been given time to consider and agree the amendments at Committee Stage, those amendments were also noted by the Committee. That concludes my comments on this group, a Cheann Comhairle.

Mr Dunne: I welcome the opportunity to speak on the Consideration Stage of the Insolvency (Amendment) Bill. Insolvency is a very complex and technical issue, as we all appreciate. I commend all who have been involved in the Bill for their substantial work to date, the staff of the Committee for Enterprise, Trade and Investment and DETI officials.

Unfortunately, insolvency has affected quite a number of businesses and organisations. Therefore, it is important that measures be put in place to make the process as simple and effective as possible to ensure that we have a modern, fit-for-purpose system in Northern Ireland and that the most efficient and effective system is in place for all those who are affected by insolvency either directly or indirectly. Many similar measures have already been introduced in England and Wales through the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010.

One of the Bill's main purposes is to allow for the electronic transfer of documents, which is a welcome step forward. The development that electronic documents will now have the same standing as hard-copy documents is a positive step that will, hopefully, help to improve insolvency processes. Other developments that authorise the use of websites to communicate reports electronically and the use of video conferencing and other types of remote meetings are further steps in the right direction.

The introduction of those measures should allow for more efficient communication and help to reduce delays in the completion of transactions involving insolvency cases. However, I feel that it is important that those without access to IT equipment are not put at a disadvantage by this process. Obviously, IT is the way forward and the vast majority of people now use it, but we cannot forget those who do not have the same level of access to it. I understand that provisions are in place to ensure that those who do not have electronic forms will not be disadvantaged at any stage of the process. I believe that those measures will help to streamline what is a difficult and technical process.

The Committee held a number of evidence sessions and a wide range of stakeholders were involved. There was general recognition that this was a progressive way to move forward. There are a number of issues that I wish to mention. Clause 3 deals with the removal of the requirement for annual meetings in a members' voluntary and a creditors' voluntary winding-up arrangement. Clause 13 provides protection to banks in relation to the property that comes under the ownership of a bankrupt organisation before it is discharged. Clause 14, which was mentioned by the Chair, includes changes that will make it easier for people to become insolvency practitioners, which should have a positive knock-on impact on the level of service that is provided. I welcome the progress at this stage of the Bill.

Mrs Overend: At the outset, I apologise for having to deputise for Danny Kinahan MP MLA, who was party to the deliberations at the Committee Stage of the Bill. We make no apology, however, for implementing our manifesto pledge to end double-jobbing, which

we are in the process of doing at this stage. I can inform the Assembly that the Member for South Antrim is at Westminster, doing the job that he was elected exclusively to do. I have spoken to Danny Kinahan and can confirm that he is content with both groups of amendments that have been put forward by the Department at Consideration Stage.

Clearly, it is a technical Bill about a highly technical subject. As such, it is unlikely to grab the attention of the media or the general public today, except, maybe, chartered accountants. Nevertheless, it is important legislation.

The Bill has progressed from public consultation through Second Reading, Committee Stage up to today's Consideration Stage, and it looks like it is a law that the legislative Assembly is shaping in a sensible and proper fashion, proving that, at times, the Assembly can do what it is meant to do: legislate.

On reviewing the Committee report on the Bill, I note that it was introduced to the Assembly on 7 October 2014. The Assembly debated the principles at Second Stage on 10 November, when the Bill was passed to the Committee for Enterprise, Trade and Investment. The Committee sought and received the approval of the Assembly in plenary session to extend its consideration and scrutiny of the Bill until 13 March this year. The Bill has 21 clauses and three schedules.

During Committee Stage, the Department informed the Committee that amendments would be needed, mainly as a consequence to changes to legislation under way at Westminster. That is why we have so many amendments today tabled by the Department. It is clear from the Chair's comments that the Committee is content with those amendments.

It is important that insolvency legislation in Northern Ireland is kept as far as possible in parity with that in England and Wales. Undoubtedly, insolvency legislation in both jurisdictions needed to be updated to allow for the use of modern means of electronic communication and to do away with certain procedures and requirements that had outlived their usefulness. We can all agree with the objective of making the administration of insolvencies faster, more efficient and less expensive by legitimising the use of up-to-date methods of communication and doing away with burdensome and unnecessary procedural requirements.

The guidance notes published with the Bill point out that there is no financial cost to the Government. In these cash-strapped times, that is important. In addition, it has been calculated that the Bill proposals could result in net savings of £2,275,000 for insolvency practitioners over the period it takes to deal with all insolvency procedures entered into in one year. It has been calculated that, over the same period, there would be savings of £19,000 for the Official Receiver, £2,800 for business and £23,740 for HMRC and the Northern Ireland Courts and Tribunals Service.

The Ulster Unionist Party is supportive of both groups of amendments.

Mr Bell: I am grateful to the Members who contributed to the debate on the group 1 amendments.

My Department operates on the principle that insolvency legislation should, as far as possible, be kept in parity with that in England and Wales. That ensures that those affected by insolvency are treated the same as they would be in England and Wales. It simplifies matters for creditors from outside Northern Ireland taking action over unpaid debt and saves insolvency practitioners in both jurisdictions from having to deal with different legislative codes.

To ensure that parity is maintained, it is normal practice to wait until after legislation for England and Wales is finalised before attempting to replicate it for Northern Ireland. On this occasion, there were measures in the Deregulation Bill, in progress at Westminster, that could not wait, such as those relating to partial authorisation of insolvency practitioners. The fact that that Bill has become an Act gives us the opportunity to see those provisions in their final form. That enabled us to draft amendments to the corresponding provisions in our Bill to ensure that they are fully in accord with the Westminster Act.

I want to thank some of the Members who spoke. I appreciate the Chair's welcome and the quite distinguished work undertaken by my predecessor, the Finance and Personnel Minister, Arlene Foster. I join him in thanking officials for the work that they have done. I thank the Chair and the Deputy Chair of the Committee for their competence, their attention to detail and the time that they gave to this series of pieces of work.

12.15 pm

The Member for North Down Gordon Dunne was right to say that insolvency is an unfortunate act. We have to deal with the consequences, and we want this to be as fair and efficient as possible.

In conclusion, I thank Sandra Overend. She is right that there are a number of technicalities in the Bill, but the work is no less important because of the technicalities involved.

Amendment No 1 agreed to.

Mr Speaker: Amendment Nos 2 to 7 have already been debated and are technical amendments to clause 3. I, therefore, propose, by leave of the Assembly, to group these amendments for the Question.

Amendment No 2 made:

In page 5, line 31, leave out from "in" to "year," on line 32.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 3 made:

In page 6, line 5, leave out "at year's end".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 4 made:

In page 6, line 6, leave out from "If" to "year," on line 7.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 5 made:

In page 6, line 20, leave out "at year's end".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 6 made:

In page 6, line 23, leave out "at".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 7 made:

In page 6, leave out line 24.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Clause 3, as amended, ordered to stand part of the Bill.

Mr Speaker: No amendments have been tabled to clauses 4 to 10. I propose, by leave of the Assembly, to group these clauses for the Question on stand part.

Clauses 4 to 10 ordered to stand part of the Bill.

Clause 11 (Deeds of arrangement)

Amendment No 8 made:

In page 9, line 38, leave out subsection (3) and insert

"(3) No order may be made under subsection (2) containing provision which amends or repeals a provision of an Act of Parliament or Northern Ireland legislation unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) Any other orders under subsection (2) are subject to negative resolution.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Clause 11, as amended, ordered to stand part of the Bill.

Clause 12 ordered to stand part of the Bill.

Clause 13 (After-acquired property of bankrupt)

Mr Speaker: Amendment Nos 9 to 11 have already been debated and are technical amendments to clause 13. I therefore propose, by leave of the Assembly, to group these amendments for the Question.

Amendment No 9 made:

In page 10, line 9, at end insert*"(za) in the words before sub-paragraph (a), after "service" insert "on the bankrupt";".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 10 made:

In page 10, line 15, leave out the first "the".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 11 made:

In page 10, line 16, after "Article" insert

"(and whether before or after service on the bankrupt of a notice under this Article)".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Clause 13, as amended, ordered to stand part of the Bill.

Mr Speaker: We now come to the second group of amendments for debate. With amendment No 12, it will be convenient to debate amendment Nos 36 to 46, which deal with recognised professional bodies and the authorisation of insolvency practitioners. Members will note that amendment Nos 44 and 46 are consequential to amendment No 43 and that amendment No 45 is consequential to amendment No 37.

Clause 14 (Authorisation of insolvency practitioners)

Mr Bell: I beg to move amendment No 12: In page 10, line 28, leave out

"or section 390A of the Insolvency Act 1986 (authorisation)".

The following amendments stood on the Marshalled List:

No 36: In page 12, leave out from line 23 to line 21 on page 13 and insert

"350.—(1) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.

(2) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (as to which, see Article 349A(1)).

(3) Article 350A makes provision about the making by a body of an application to the Department for an order under this Article.

(4) The requirements are that—

(a) the body regulates (or is going to regulate) the practice of a profession;

(b) the body has rules which it is going to maintain and enforce for securing that its insolvency specialist members—

(i) are fit and proper persons to act as insolvency practitioners; and

(ii) meet acceptable requirements as to education and practical training and experience; and

(c) the body's rules and practices for or in connection with authorising persons to act as insolvency practitioners, and its rules and practices for or in connection with regulating persons acting as such, are designed to ensure that the regulatory objectives are met (as to which, see Article 350C).

(5) An order of the Department under this Article has effect from such date as is specified in the order.

(6) An order under this Article may be revoked by an order under Article 350L or 350N (and see Article 361A(1)(b)).

(7) In this Part—

(a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question;

(b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.

(8) A reference in this Part to a recognised professional body is to a body recognised under this Article (and see Articles 350L(6) and 350N(5)).

Application for recognition as recognised professional body

350A.—(1) An application for an order under Article 350(1) or (2) must—

(a) be made to the Department in such form and manner as the Department may require;

(b) be accompanied by such information as the Department may require;

(c) be supplemented by such additional information as the Department may require at any time between receiving the application and determining it.

(2) The requirements which may be imposed under paragraph (1) may differ as between different applications.

(3) The Department may require information provided under this Article to be in such form, and verified in such manner, as the Department may specify.

(4) An application for an order under Article 350(1) or (2) must be accompanied by—

(a) a copy of the applicant's rules;

(b) a copy of the applicant's policies and practices; and

(c) a copy of any guidance issued by the applicant in writing.

(5) The reference in paragraph (4)(c) to guidance issued by the applicant is a reference to guidance or recommendations which are—

(a) issued or made by it which will apply to its insolvency specialist members or to persons seeking to become such members;

(b) relevant for the purposes of this Part; and

(c) intended to have continuing effect,

including guidance or recommendations relating to the admission or expulsion of members.

(6) The Department may refuse an application for an order under Article 350(1) or (2) if the Department considers that recognition of the body concerned is unnecessary having regard to the existence of one or more other bodies which have been or are likely to be recognised under Article 350.

(7) Paragraph (8) applies where the Department refuses an application for an order under Article 350(1) or (2); and it applies regardless of whether the application is refused on the ground mentioned in paragraph (6), because the Department is not satisfied as mentioned in Article 350(1) or (2) or because a fee has not been paid (see Article 361A(1)(b)).

(8) The Department must give the applicant a written notice of the Department's decision; and the notice must set out the reasons for refusing the application.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 37: After clause 14 insert

*"**Regulatory objectives***

***14A.**—(1) After Article 350A of the Insolvency Order (inserted by section 14) insert—*

"Regulatory objectives

Application of regulatory objectives

350B.—(1) In discharging regulatory functions, a recognised professional body must, so far as is reasonably practicable, act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(2) In discharging functions under this Part, the Department must have regard to the regulatory objectives.

***Meaning of "regulatory functions" and "regulatory objectives**"*

350C.—(1) This Article has effect for the purposes of this Part.

(2) "Regulatory functions", in relation to a recognised professional body, means any functions the body has—

(a) under or in relation to its arrangements for or in connection with—

(i) authorising persons to act as insolvency practitioners; or

(ii) regulating persons acting as insolvency practitioners; or

(b) in connection with the making or alteration of those arrangements.

(3) "Regulatory objectives" means the objectives of—

(a) having a system of regulating persons acting as insolvency practitioners that—

(i) secures fair treatment for persons affected by their acts and omissions;

(ii) reflects the regulatory principles; and

(iii) ensures consistent outcomes;

(b) encouraging an independent and competitive insolvency-practitioner profession whose members—

(i) provide high quality services at a cost to the recipient which is fair and reasonable;

(ii) act transparently and with integrity; and

(iii) consider the interests of all creditors in any particular case;

(c) promoting the maximisation of the value of returns to creditors and promptness in making those returns; and

(d) protecting and promoting the public interest.

(4) In paragraph (3)(a), "regulatory principles" means—

(a) the principles that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and

(b) any other principle appearing to the body concerned (in the case of the duty under Article 350B(1)), or to the Department (in the case of the duty under Article 350B(2)), to lead to best regulatory practice.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

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(ii) act transparently and with integrity; and

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(4) In paragraph (3)(a), "regulatory principles" means—

(a) the principles that regulatory activities should be transparent, accountable,

proportionate, consistent and targeted only at cases in which action is needed; and

(b) any other principle appearing to the body concerned (in the case of the duty under Article 350B(1)), or to the Department (in the case of the duty under Article 350B(2)), to lead to best regulatory practice.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 38: After clause 14 insert

*"**Oversight of recognised professional bodies***

***14B.**—(1) After Article 350C of the Insolvency Order (inserted by section 14A) insert—*

"Oversight of recognised professional bodies

Directions

350D.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, direct the body to take such steps as the Department considers will counter the adverse impact, mitigate its effect or prevent its occurrence or recurrence.

(3) A direction under this Article may require a recognised professional body—

(a) to take only such steps as it has power to take under its regulatory arrangements;

(b) to take steps with a view to the modification of any part of its regulatory arrangements.

(4) A direction under this Article may require a recognised professional body—

(a) to take steps with a view to the institution of, or otherwise in respect of, specific regulatory proceedings;

(b) to take steps in respect of all, or a specified class of, such proceedings.

(5) For the purposes of this Article, a direction to take steps includes a direction which requires a recognised professional body to refrain from taking a particular course of action.

(6) In this Article "regulatory arrangements", in relation to a recognised professional body, means the arrangements that the body has for or in connection with—

(a) authorising persons to act as insolvency practitioners; or

(b) regulating persons acting as insolvency practitioners.

Directions: procedure

350E.—(1) Before giving a recognised professional body a direction under Article 350D, the Department must give the body a notice accompanied by a draft of the proposed direction.

(2) The notice under paragraph (1) must—

(a) state that the Department proposes to give the body a direction in the form of the accompanying draft;

(b) specify why the Department has reached the conclusions mentioned in Article 350D(1) and (2); and

(c) specify a period within which the body may make written representations with respect to the proposal.

(3) The period specified under paragraph (2)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to give the body the proposed direction.

(5) The Department must give notice of that decision to the body.

(6) Where the Department decides to give the proposed direction, the notice under paragraph (5) must—

(a) contain the direction;

(b) state the time at which the direction is to take effect; and

(c) specify the Department's reasons for the decision to give the direction.

(7) Where the Department decides to give the proposed direction, the Department must publish the notice under paragraph (5); but this paragraph does not apply to a direction to take any step with a view to the institution of, or otherwise in respect of, regulatory proceedings against an individual.

(8) The Department may revoke a direction under Article 350D; and, where doing so, the Department—

(a) must give the body to which the direction was given notice of the revocation; and

(b) must publish the notice and, if the notice under paragraph (5) was published under paragraph (7), must do so (if possible) in the same manner as that in which that notice was published.

Financial penalty

350F.—(1) This Article applies if the Department is satisfied—

(a) that a recognised professional body has failed to comply with a requirement to which this Article applies; and

(b) that, in all the circumstances of the case, it is appropriate to impose a financial penalty on the body.

(2) This Article applies to a requirement imposed on the recognised professional body—

(a) by a direction given under Article 350D; or

(b) by a provision of this Order or of subordinate legislation under this Order.

(3) The Department may impose a financial penalty, in respect of the failure, of such amount as the Department considers appropriate.

(4) In deciding what amount is appropriate, the Department—

(a) must have regard to the nature of the requirement which has not been complied with; and

(b) must not take into account the Department's costs in discharging functions under this Part.

(5) A financial penalty under this Article is payable to the Department; and sums received by the Department in respect of a financial penalty under this Article (including by way of interest) are to be paid into the Consolidated Fund.

(6) In Articles 350G to 350I, "penalty" means a financial penalty under this Article.

Financial penalty: procedure

350G.—(1) Before imposing a penalty on a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to impose a penalty and the amount of the proposed penalty;

(b) specifying the requirement in question;

(c) stating why the Department is satisfied as mentioned in Article 350F(1); and

(d) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(d)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide—

(a) whether to impose a penalty; and

(b) whether the penalty should be the amount stated in the notice or a reduced amount.

(4) The Department must give notice of the decision to the body.

(5) Where the Department decides to impose a penalty, the notice under paragraph (4) must—

(a) state that the Department has imposed a penalty on the body and its amount;

(b) specify the requirement in question and state—

(i) why it appears to the Department that the requirement has not been complied with; or

(ii) where, by that time, the requirement has been complied with, why it appeared to the Department when giving the notice under paragraph (1) that the requirement had not been complied with; and

(c) specify a time by which the penalty is required to be paid.

(6) The time specified under paragraph (5)(c) must be at least three months after the date on which the notice under paragraph (4) is given to the body.

(7) Where the Department decides to impose a penalty, the Department must publish the notice under paragraph (4).

(8) The Department may rescind or reduce a penalty imposed on a recognised professional body; and, where doing so, the Department—

(a) must give the body notice that the penalty has been rescinded or reduced to the amount stated in the notice; and

(b) must publish the notice; and it must (if possible) be published in the same manner as that in which the notice under paragraph (4) was published.

Appeal against financial penalty

350H.—(1) A recognised professional body on which a penalty is imposed may appeal to the High Court on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty was not within the Department's power under Article 350F;

(b) that the requirement in respect of which the penalty was imposed had been complied with before the notice under Article 350G(1) was given;

(c) that the requirements of Article 350G have not been complied with in relation to the imposition of the penalty and the interests of the body have been substantially prejudiced as a result;

(d) that the amount of the penalty is unreasonable;

(e) that it was unreasonable of the Department to require the penalty imposed to be paid by the time specified in the notice under Article 350G(5)(c).

(3) An appeal under this Article must be made within the period of three months beginning with the day on which the notice under Article 350G(4) in respect of the penalty is given to the body.

(4) On an appeal under this Article the Court may—

(a) quash the penalty;

(b) substitute a penalty of such lesser amount as the Court considers appropriate; or

(c) in the case of the appeal ground in paragraph (2)(e), substitute for the time imposed by the Department a different time.

(5) Where the Court substitutes a penalty of a lesser amount, it may require the payment of interest on the substituted penalty from such time, and at such rate, as it considers just and equitable.

(6) Where the Court substitutes a later time for the time specified in the notice under Article 350G(5)(c), it may require the payment of interest on the penalty from the substituted time at such rate as it considers just and equitable.

(7) Where the Court dismisses the appeal, it may require the payment of interest on the penalty from the time specified in the notice under Article 350G(5)(c) at such rate as it considers just and equitable.

Recovery of financial penalties

350I.—(1) If the whole or part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being applicable to a money judgment of the High Court (but this is subject to any requirement imposed by the Court under Article 350H(5), (6) or (7)).

(2) If an appeal is made under Article 350H in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) Paragraph (4) applies where the whole or part of a penalty has not been paid by the time it is required to be paid and—

(a) no appeal relating to the penalty has been made under Article 350H during the period within which an appeal may be made under that Article; or

(b) an appeal has been made under that Article and determined or withdrawn.

(4) The Department may recover from the recognised professional body in question, as a debt due to the Department, any of the penalty and any interest which has not been paid.

Reprimand

350J.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, publish a statement reprimanding the body for the act or omission (or series of acts or omissions).

Reprimand: procedure

350K.—(1) If the Department proposes to publish a statement under Article 350J in respect of a recognised professional body, it must give the body a notice—

(a) stating that the Department proposes to publish such a statement and setting out the terms of the proposed statement;

(b) specifying the acts or omissions to which the proposed statement relates; and

(c) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide whether to publish the statement.

(4) The Department may vary the proposed statement; but before doing so, the Department must give the body notice—

(a) setting out the proposed variation and the reasons for it; and

(b) specifying a period within which the body may make written representations with respect to the proposed variation.

(5) The period specified under paragraph (4)(b)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(6) On the expiry of that period, the Department must decide whether to publish the statement as varied.".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (1A) (inserted by section 14(6)(b)) insert—

"(1B) In setting under paragraph (1) the amount of a fee in connection with maintenance of recognition, the matters to which the Department may have regard include, in particular, the costs of the Department in connection with any functions under Articles 350D, 350E, 350J, 350K and 350N.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 38: After clause 14 insert

*"**Oversight of recognised professional bodies***

***14B.**—(1) After Article 350C of the Insolvency Order (inserted by section 14A) insert—*

"Oversight of recognised professional bodies

Directions

350D.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the

achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, direct the body to take such steps as the Department considers will counter the adverse impact, mitigate its effect or prevent its occurrence or recurrence.

(3) A direction under this Article may require a recognised professional body—

(a) to take only such steps as it has power to take under its regulatory arrangements;

(b) to take steps with a view to the modification of any part of its regulatory arrangements.

(4) A direction under this Article may require a recognised professional body—

(a) to take steps with a view to the institution of, or otherwise in respect of, specific regulatory proceedings;

(b) to take steps in respect of all, or a specified class of, such proceedings.

(5) For the purposes of this Article, a direction to take steps includes a direction which requires a recognised professional body to refrain from taking a particular course of action.

(6) In this Article "regulatory arrangements", in relation to a recognised professional body, means the arrangements that the body has for or in connection with—

(a) authorising persons to act as insolvency practitioners; or

(b) regulating persons acting as insolvency practitioners.

Directions: procedure

350E.—(1) Before giving a recognised professional body a direction under Article 350D, the Department must give the body a notice accompanied by a draft of the proposed direction.

(2) The notice under paragraph (1) must—

(a) state that the Department proposes to give the body a direction in the form of the accompanying draft;

(b) specify why the Department has reached the conclusions mentioned in Article 350D(1) and (2); and

(c) specify a period within which the body may make written representations with respect to the proposal.

(3) The period specified under paragraph (2)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to give the body the proposed direction.

(5) The Department must give notice of that decision to the body.

(6) Where the Department decides to give the proposed direction, the notice under paragraph (5) must—

(a) contain the direction;

(b) state the time at which the direction is to take effect; and

(c) specify the Department's reasons for the decision to give the direction.

(7) Where the Department decides to give the proposed direction, the Department must publish the notice under paragraph (5); but this paragraph does not apply to a direction to take any step with a view to the institution of, or otherwise in respect of, regulatory proceedings against an individual.

(8) The Department may revoke a direction under Article 350D; and, where doing so, the Department—

(a) must give the body to which the direction was given notice of the revocation; and

(b) must publish the notice and, if the notice under paragraph (5) was published under paragraph (7), must do so (if possible) in the same manner as that in which that notice was published.

Financial penalty

350F.—(1) This Article applies if the Department is satisfied—

(a) that a recognised professional body has failed to comply with a requirement to which this Article applies; and

(b) that, in all the circumstances of the case, it is appropriate to impose a financial penalty on the body.

(2) This Article applies to a requirement imposed on the recognised professional body—

(a) by a direction given under Article 350D; or

(b) by a provision of this Order or of subordinate legislation under this Order.

(3) The Department may impose a financial penalty, in respect of the failure, of such amount as the Department considers appropriate.

(4) In deciding what amount is appropriate, the Department—

(a) must have regard to the nature of the requirement which has not been complied with; and

(b) must not take into account the Department's costs in discharging functions under this Part.

(5) A financial penalty under this Article is payable to the Department; and sums received by the Department in respect of a financial penalty under this Article (including by way of interest) are to be paid into the Consolidated Fund.

(6) In Articles 350G to 350I, "penalty" means a financial penalty under this Article.

Financial penalty: procedure

350G.—(1) Before imposing a penalty on a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to impose a penalty and the amount of the proposed penalty;

(b) specifying the requirement in question;

(c) stating why the Department is satisfied as mentioned in Article 350F(1); and

(d) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(d)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide—

(a) whether to impose a penalty; and

(b) whether the penalty should be the amount stated in the notice or a reduced amount.

(4) The Department must give notice of the decision to the body.

(5) Where the Department decides to impose a penalty, the notice under paragraph (4) must—

(a) state that the Department has imposed a penalty on the body and its amount;

(b) specify the requirement in question and state—

(i) why it appears to the Department that the requirement has not been complied with; or

(ii) where, by that time, the requirement has been complied with, why it appeared to the Department when giving the notice under paragraph (1) that the requirement had not been complied with; and

(c) specify a time by which the penalty is required to be paid.

(6) The time specified under paragraph (5)(c) must be at least three months after the date on which the notice under paragraph (4) is given to the body.

(7) Where the Department decides to impose a penalty, the Department must publish the notice under paragraph (4).

(8) The Department may rescind or reduce a penalty imposed on a recognised professional body; and, where doing so, the Department—

(a) must give the body notice that the penalty has been rescinded or reduced to the amount stated in the notice; and

(b) must publish the notice; and it must (if possible) be published in the same manner as that in which the notice under paragraph (4) was published.

Appeal against financial penalty

350H.—(1) A recognised professional body on which a penalty is imposed may appeal to the High Court on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty was not within the Department's power under Article 350F;

(b) that the requirement in respect of which the penalty was imposed had been complied with before the notice under Article 350G(1) was given;

(c) that the requirements of Article 350G have not been complied with in relation to the imposition of the penalty and the interests of the body have been substantially prejudiced as a result;

(d) that the amount of the penalty is unreasonable;

(e) that it was unreasonable of the Department to require the penalty imposed to be paid by the time specified in the notice under Article 350G(5)(c).

(3) An appeal under this Article must be made within the period of three months beginning with the day on which the notice under Article 350G(4) in respect of the penalty is given to the body.

(4) On an appeal under this Article the Court may—

(a) quash the penalty;

(b) substitute a penalty of such lesser amount as the Court considers appropriate; or

(c) in the case of the appeal ground in paragraph (2)(e), substitute for the time imposed by the Department a different time.

(5) Where the Court substitutes a penalty of a lesser amount, it may require the payment of interest on the substituted penalty from such time, and at such rate, as it considers just and equitable.

(6) Where the Court substitutes a later time for the time specified in the notice under Article 350G(5)(c), it may require the payment of interest on the penalty from the substituted time at such rate as it considers just and equitable.

(7) Where the Court dismisses the appeal, it may require the payment of interest on the penalty from the time specified in the notice under Article 350G(5)(c) at such rate as it considers just and equitable.

Recovery of financial penalties

350I.—(1) If the whole or part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being applicable to a money judgment of the High Court (but this is subject to any requirement imposed by the Court under Article 350H(5), (6) or (7)).

(2) If an appeal is made under Article 350H in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) Paragraph (4) applies where the whole or part of a penalty has not been paid by the time it is required to be paid and—

(a) no appeal relating to the penalty has been made under Article 350H during the period within which an appeal may be made under that Article; or

(b) an appeal has been made under that Article and determined or withdrawn.

(4) The Department may recover from the recognised professional body in question, as a debt due to the Department, any of the penalty and any interest which has not been paid.

Reprimand

350J.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the

achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, publish a statement reprimanding the body for the act or omission (or series of acts or omissions).

Reprimand: procedure

350K.—(1) If the Department proposes to publish a statement under Article 350J in respect of a recognised professional body, it must give the body a notice—

(a) stating that the Department proposes to publish such a statement and setting out the terms of the proposed statement;

(b) specifying the acts or omissions to which the proposed statement relates; and

(c) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide whether to publish the statement.

(4) The Department may vary the proposed statement; but before doing so, the Department must give the body notice—

(a) setting out the proposed variation and the reasons for it; and

(b) specifying a period within which the body may make written representations with respect to the proposed variation.

(5) The period specified under paragraph (4)(b)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(6) On the expiry of that period, the Department must decide whether to publish the statement as varied.".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (1A) (inserted by section 14(6)(b)) insert—

"(1B) In setting under paragraph (1) the amount of a fee in connection with maintenance of recognition, the matters to which the Department may have regard include, in particular, the costs of the Department in connection with any functions under Articles 350D, 350E, 350J, 350K and 350N.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 39: After clause 14 insert

*"**Recognised professional bodies: revocation of recognition***

***14C.**—(1) After Article 350K of the Insolvency Order (inserted by section 14B) insert—*

"Revocation etc. of recognition

Revocation of recognition at instigation of Department

350L.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if the Department is satisfied that—

(a) an act or omission of the body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives; and

(b) it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) If the condition set out in paragraph (3) is met, an order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)).

(3) The condition is that the Department is satisfied—

(a) as mentioned in paragraph (1)(a); and

(b) that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(4) In this Part—

(a) an order under paragraph (1) is referred to as a "revocation order";

(b) an order under paragraph (2) is referred to as a "partial revocation order".

(5) A revocation order or partial revocation order—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(6) A partial revocation order has effect as if it were an order made under Article 350(2).

Orders under Article 350L: procedure

350M.—(1) Before making a revocation order or partial revocation order in relation to a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to make the order and the terms of the proposed order;

(b) specifying the Department's reasons for proposing to make the order; and

(c) specifying a period within which the body, members of the body or other persons likely to be affected by the proposal may make written representations with respect to it.

(2) Where the Department gives a notice under paragraph (1), the Department must publish the notice on the same day.

(3) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to make the revocation order or (as the case may be) partial revocation order in relation to the body.

(5) The Department must give notice of the decision to the body.

(6) Where the Department decides to make the order, the notice under paragraph (5) must specify—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(7) A notice under paragraph (5) must be published; and it must (if possible) be published in the same manner as that in which the notice under paragraph (1) was published.

Revocation of recognition at request of body

350N.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) An order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)) if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing

its insolvency specialist members with partial authorisation only of the kind specified in the order.

(3) Where the Department decides to make an order under this Article the Department must publish a notice specifying—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(4) An order under this Article—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(5) An order under paragraph (2) has effect as if it were an order made under Article 350(2).".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (5) insert—

"(5A) Article 350M applies for the purposes of an order under paragraph (1)(b) as it applies for the purposes of a revocation order made under Article 350L."."— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 39: After clause 14 insert

*"**Recognised professional bodies: revocation of recognition***

***14C.**—(1) After Article 350K of the Insolvency Order (inserted by section 14B) insert—*

"Revocation etc. of recognition

Revocation of recognition at instigation of Department

350L.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if the Department is satisfied that—

(a) an act or omission of the body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives; and

(b) it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) If the condition set out in paragraph (3) is met, an order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)).

(3) The condition is that the Department is satisfied—

(a) as mentioned in paragraph (1)(a); and

(b) that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(4) In this Part—

(a) an order under paragraph (1) is referred to as a "revocation order";

(b) an order under paragraph (2) is referred to as a "partial revocation order".

(5) A revocation order or partial revocation order—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(6) A partial revocation order has effect as if it were an order made under Article 350(2).

Orders under Article 350L: procedure

350M.—(1) Before making a revocation order or partial revocation order in relation to a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to make the order and the terms of the proposed order;

(b) specifying the Department's reasons for proposing to make the order; and

(c) specifying a period within which the body, members of the body or other persons likely to be affected by the proposal may make written representations with respect to it.

(2) Where the Department gives a notice under paragraph (1), the Department must publish the notice on the same day.

(3) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to make the revocation order or (as the case may be) partial revocation order in relation to the body.

(5) The Department must give notice of the decision to the body.

(6) Where the Department decides to make the order, the notice under paragraph (5) must specify—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(7) A notice under paragraph (5) must be published; and it must (if possible) be published in the same manner as that in which the notice under paragraph (1) was published.

Revocation of recognition at request of body

350N.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) An order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)) if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(3) Where the Department decides to make an order under this Article the Department must publish a notice specifying—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(4) An order under this Article—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(5) An order under paragraph (2) has effect as if it were an order made under Article 350(2).".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (5) insert—

"(5A) Article 350M applies for the purposes of an order under paragraph (1)(b) as it applies for the purposes of a revocation order made under Article 350L.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 39: After clause 14 insert

*"**Recognised professional bodies: revocation of recognition***

***14C.**—(1) After Article 350K of the Insolvency Order (inserted by section 14B) insert—*

"Revocation etc. of recognition

Revocation of recognition at instigation of Department

350L.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if the Department is satisfied that—

(a) an act or omission of the body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives; and

(b) it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) If the condition set out in paragraph (3) is met, an order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)).

(3) The condition is that the Department is satisfied—

(a) as mentioned in paragraph (1)(a); and

(b) that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(4) In this Part—

(a) an order under paragraph (1) is referred to as a "revocation order";

(b) an order under paragraph (2) is referred to as a "partial revocation order".

(5) A revocation order or partial revocation order—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(6) A partial revocation order has effect as if it were an order made under Article 350(2).

Orders under Article 350L: procedure

350M.—(1) Before making a revocation order or partial revocation order in relation to a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to make the order and the terms of the proposed order;

(b) specifying the Department's reasons for proposing to make the order; and

(c) specifying a period within which the body, members of the body or other persons likely to be affected by the proposal may make written representations with respect to it.

(2) Where the Department gives a notice under paragraph (1), the Department must publish the notice on the same day.

(3) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to make the revocation order or (as the case may be) partial revocation order in relation to the body.

(5) The Department must give notice of the decision to the body.

(6) Where the Department decides to make the order, the notice under paragraph (5) must specify—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(7) A notice under paragraph (5) must be published; and it must (if possible) be published in the same manner as that in which the notice under paragraph (1) was published.

Revocation of recognition at request of body

350N.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) An order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)) if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(3) Where the Department decides to make an order under this Article the Department must publish a notice specifying—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(4) An order under this Article—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(5) An order under paragraph (2) has effect as if it were an order made under Article 350(2).".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (5) insert—

"(5A) Article 350M applies for the purposes of an order under paragraph (1)(b) as it applies for the purposes of a revocation order made under Article 350L.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 40: After clause 14 insert

*"**Court sanction of insolvency practitioners in public interest cases***

14D. After Article 350N of the Insolvency Order (inserted by section 14C) insert—

"Court sanction of insolvency practitioners in public interest cases

Direct sanction orders

***350O.**—(1) For the purposes of this Part a "direct sanctions order" is an order made by the High Court against a person who is acting as an insolvency practitioner which—*

(a) declares that the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) declares that the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the order;

(c) declares that the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the order or until such time as the requirements so specified are complied with;

(d) requires the person to comply with such other requirements as may be specified in the order while acting as an insolvency practitioner;

(e) requires the person to make such contribution as may be specified in the order to one or more creditors of a company, individual or insolvent partnership in relation to which the

person is acting or has acted as an insolvency practitioner.

(2) Where the Court makes a direct sanctions order, the relevant recognised professional body must take all necessary steps to give effect to the order.

(3) A direct sanctions order must not specify a contribution as mentioned in paragraph (1)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(4) In this Article and Article 350P, "relevant recognised professional body", in relation to a person who is acting as an insolvency practitioner, means the recognised professional body by virtue of which the person is authorised so to act.

Application for, and power to make, direct sanctions order

350P.—(1) The Department may apply to the High Court for a direct sanctions order to be made against a person if it appears to the Department that it would be in the public interest for the order to be made.

(2) The Department must send a copy of the application to the relevant recognised professional body.

(3) The Court may make a direct sanctions order against a person where, on an application under this Article, the Court is satisfied that condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person.

(4) The conditions are set out in Article 350Q.

(5) In deciding whether to make a direct sanctions order against a person the Court must have regard to the extent to which—

(a) the relevant recognised professional body has taken action against the person in respect of the failure mentioned in condition 1; and

(b) that action is sufficient to address the failure.

Direct sanctions order: conditions

350Q.—(1) Condition 1 is that the person, in acting as an insolvency practitioner or in connection with any appointment as such, has failed to comply with—

(a) a requirement imposed by the rules of the relevant recognised professional body;

(b) any standards, or code of ethics, for the insolvency-practitioner profession adopted from time to time by the relevant recognised professional body.

(2) Condition 2 is that the person—

(a) is not a fit and proper person to act as an insolvency practitioner;

(b) is a fit and proper person to act as an insolvency practitioner only in relation to companies, but the person's authorisation is not so limited; or

(c) is a fit and proper person to act as an insolvency practitioner only in relation to individuals, but the person's authorisation is not so limited.

(3) Condition 3 is that it is appropriate for the person's authorisation to act as an insolvency practitioner to be suspended for a period or until one or more requirements are complied with.

(4) Condition 4 is that it is appropriate to impose other restrictions on the person acting as an insolvency practitioner.

(5) Condition 5 is that loss has been suffered as a result of the failure mentioned in condition 1 by one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(6) In this Article "relevant recognised professional body" has the same meaning as in Article 350O.

Direct sanctions direction instead of order

350R.—(1) The Department may give a direction (a "direct sanctions direction") in relation to a person acting as an insolvency practitioner to the relevant recognised professional body (instead of applying, or continuing with an application, for a direct sanctions order against the person) if the Department is satisfied that—

(a) condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person (see Article 350Q); and

(b) it is in the public interest for the direction to be given.

(2) But the Department may not give a direct sanctions direction in relation to a person without that person's consent.

(3) A direct sanctions direction may require the relevant recognised professional body to take all necessary steps to secure that—

(a) the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the direction;

(c) the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the direction or until such time as the requirements so specified are complied with;

(d) the person must comply with such other requirements as may be specified in the direction while acting as an insolvency practitioner;

(e) the person makes such contribution as may be specified in the direction to one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(4) A direct sanctions direction must not specify a contribution as mentioned in paragraph (3)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(5) In this Article "relevant recognised professional body" has the same meaning as in Article 350O.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 41: After clause 14 insert

*"**Power for Department to obtain information***

***14E.**After Article 350R of the Insolvency Order (inserted by section 14D) insert—*

"General

Power for Department to obtain information

350S.—(1) A person mentioned in paragraph (2) must give the Department such information as the Department may by notice in writing require for the exercise of the Department's functions under this Part.

(2) Those persons are—

(a) a recognised professional body;

(b) any individual who is or has been authorised under Article 349A to act as an insolvency practitioner;

(c) any person who is connected to such an individual.

(3) A person is connected to an individual who is or has been authorised to act as an insolvency practitioner if, at any time during the authorisation—

(a) the person was an employee of the individual;

(b) the person acted on behalf of the individual in any other way;

(c) the person employed the individual;

(d) the person was a fellow employee of the individual's employer;

(e) in a case where the individual was employed by a firm, partnership or company, the person was a member of the firm or partnership or (as the case may be) a director of the company.

(4) In imposing a requirement under paragraph (1) the Department may specify—

(a) the time period within which the information in question is to be given; and

(b) the manner in which it is to be verified.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 42: After clause 14 insert

*"**Compliance orders***

***14F.**After Article 350S of the Insolvency Order (inserted by section 14E) insert—*

"Compliance orders

350T.—(1) If at any time it appears to the Department that—

(a) a recognised professional body has failed to comply with a requirement imposed on it by or by virtue of this Part; or

(b) any other person has failed to comply with a requirement imposed on the person by virtue of Article 350S,

the Department may make an application to the High Court.

(2) If, on an application under this Article, the Court decides that the body or other person has failed to comply with the requirement in question, it may order the body or person to take such steps as the Court considers will secure that the requirement is complied with.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 43: After clause 14 insert

"Power to establish single regulator of insolvency practitioners

Power to establish single regulator of insolvency practitioners

***14G.**—(1) The Department may by regulations designate a body for the purposes of—*

(a) authorising persons to act as insolvency practitioners; and

(b) regulating persons acting as such.

(2) The designated body may be either—

(a) a body corporate established by the regulations; or

(b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an "existing body").

(3) The regulations may, in particular, confer the following functions on the designated body—

(a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;

(b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;

(c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;

(d) imposing technical standards for persons so authorised and enforcing compliance with those standards;

(e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;

(f) monitoring the performance and conduct of persons so authorised;

(g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.

(4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.

(6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350 of the Insolvency Order immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.

(7) Expressions used in this section which are defined for the purposes of Part 12 of the Insolvency Order have the same meaning in this section as in that Part.

(8) Regulations under this section shall not be made unless a draft of the regulations has been

laid before and approved by resolution of the Assembly.

(9) Section 14H makes further provision about regulations under this section which designate an existing body.

(10) Schedule A1 makes supplementary provision in relation to the designation of a body by regulations under this section.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 43: After clause 14 insert

"Power to establish single regulator of insolvency practitioners

Power to establish single regulator of insolvency practitioners

***14G.**—(1) The Department may by regulations designate a body for the purposes of—*

(a) authorising persons to act as insolvency practitioners; and

(b) regulating persons acting as such.

(2) The designated body may be either—

(a) a body corporate established by the regulations; or

(b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an "existing body").

(3) The regulations may, in particular, confer the following functions on the designated body—

(a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;

(b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;

(c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;

(d) imposing technical standards for persons so authorised and enforcing compliance with those standards;

(e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;

(f) monitoring the performance and conduct of persons so authorised;

(g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.

(4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.

(6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350 of the Insolvency Order immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.

(7) Expressions used in this section which are defined for the purposes of Part 12 of the Insolvency Order have the same meaning in this section as in that Part.

(8) Regulations under this section shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.

(9) Section 14H makes further provision about regulations under this section which designate an existing body.

(10) Schedule A1 makes supplementary provision in relation to the designation of a body by regulations under this section.".— [Mr Bell

(The Minister of Enterprise, Trade and Investment).]

No 43: After clause 14 insert

"Power to establish single regulator of insolvency practitioners

Power to establish single regulator of insolvency practitioners

***14G.**—(1) The Department may by regulations designate a body for the purposes of—*

(a) authorising persons to act as insolvency practitioners; and

(b) regulating persons acting as such.

(2) The designated body may be either—

(a) a body corporate established by the regulations; or

(b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an "existing body").

(3) The regulations may, in particular, confer the following functions on the designated body—

(a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;

(b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;

(c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;

(d) imposing technical standards for persons so authorised and enforcing compliance with those standards;

(e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;

(f) monitoring the performance and conduct of persons so authorised;

(g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.

(4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.

(6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350 of the Insolvency Order immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.

(7) Expressions used in this section which are defined for the purposes of Part 12 of the Insolvency Order have the same meaning in this section as in that Part.

(8) Regulations under this section shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.

(9) Section 14H makes further provision about regulations under this section which designate an existing body.

(10) Schedule A1 makes supplementary provision in relation to the designation of a body by regulations under this section.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 44: After clause 14 insert

*"**Regulations under section 14G: designation of existing body***

***14H.**—(1) The Department may make regulations under section 14G designating an existing body only if it appears to the Department that—*

(a) the body is able and willing to exercise the functions that would be conferred by the regulations; and

(b) the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in subsection (2) are met.

(2) The conditions are—

(a) that the functions in question will be exercised effectively; and

(b) where the regulations are to contain any requirements or other provisions prescribed under subsection (3), that those functions will be exercised in accordance with any such requirements or provisions.

(3) Regulations which designate an existing body may contain such requirements or other provisions relating to the exercise of the functions by the designated body as appear to the Department to be appropriate.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 45: In clause 15, page 14, line 2, at end insert

"(5) After that paragraph insert—

"(3) In making regulations under this Article, the Department must have regard to the regulatory objectives (as defined by Article 350C(3)).".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

No 46: Before schedule 1 insert

"SCHEDULE A1

SECTION 14G(10).

SINGLE REGULATOR OF INSOLVENCY PRACTITIONERS: SUPPLEMENTARY PROVISION

OPERATION OF THIS SCHEDULE

1.—(1) This Schedule has effect in relation to regulations under section 14G designating a body (referred to in this Schedule as "the Regulations") as follows—

(a) paragraphs 2 to 13 have effect where the Regulations establish the body;

(b) paragraphs 6, 7 and 9 to 13 have effect where the Regulations designate an existing body (see section 14G(2)(b));

(c) paragraph 14 also has effect where the Regulations designate an existing body that is an unincorporated association.

(2) Provision made in the Regulations by virtue of paragraph 6 or 12, where that paragraph has effect as mentioned in sub-paragraph (1)(b), may only apply in relation to—

(a) things done by or in relation to the body in or in connection with the exercise of functions conferred on it by the Regulations; and

(b) functions of the body which are functions so conferred.

NAME, MEMBERS AND CHAIR

2.—(1) The Regulations must prescribe the name by which the body is to be known.

(2) The Regulations must provide that the members of the body must be appointed by the Department after such consultation as the Department thinks appropriate.

(3) The Regulations must provide that the Department must appoint one of the members as the chair of the body.

(4) The Regulations may include provision about—

(a) the terms on which the members of the body hold and vacate office;

(b) the terms on which the person appointed as the chair holds and vacates that office.

REMUNERATION ETC.

3.—(1) The Regulations must provide that the body must pay to its chair and members such remuneration and allowances in respect of expenses properly incurred by them in the exercise of their functions as the Department may determine.

(2) The Regulations must provide that, as regards any member (including the chair) in whose case the Department so determines, the body must pay or make provision for the payment of—

(a) such pension, allowance or gratuity to or in respect of that person on retirement or death as the Department may determine; or

(b) such contributions or other payment towards the provision of such a pension, allowance or gratuity as the Department may determine.

(3) The Regulations must provide that where—

(a) a person ceases to be a member of the body otherwise than on the expiry of the term of office; and

(b) it appears to the Department that there are special circumstances which make it right for that person to be compensated,

the body must make a payment to the person by way of compensation of such amount as the Department may determine.

STAFF

4. The Regulations must provide that—

(a) the body may appoint such persons to be its employees as the body considers appropriate; and

(b) the employees are to be appointed on such terms and conditions as the body may determine.

PROCEEDINGS

5.—(1) The Regulations may make provision about the proceedings of the body.

(2) The Regulations may, in particular—

(a) authorise the body to exercise any function by means of committees consisting wholly or partly of members of the body;

(b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of a member.

FEES

6.—(1) The Regulations may make provision—

(a) about the setting and charging of fees by the body in connection with the exercise of its functions;

(b) for the retention by the body of any such fees payable to it;

(c) about the application by the body of such fees.

(2) The Regulations may, in particular, make provision—

(a) for the body to be able to set such fees as appear to it to be sufficient to defray the expenses of the body exercising its functions, taking one year with another;

(b) for the setting of fees by the body to be subject to the approval of the Department.

(3) The expenses referred to in sub-paragraph (2)(a) include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper exercise of its functions.

CONSULTATION

7. The Regulations may make provision as to the circumstances and manner in which the body must consult others before exercising any function conferred on it by the Regulations.

TRAINING AND OTHER SERVICES

8.—(1) The Regulations may make provision authorising the body to provide training or other services to any person.

(2) The Regulations may make provision authorising the body—

(a) to charge for the provision of any such training or other services; and

(b) to calculate any such charge on the basis that it considers to be the appropriate commercial basis.

REPORT AND ACCOUNTS

9.—(1) The Regulations must require the body, at least once in each 12 month period, to report to the Department on—

(a) the exercise of the functions conferred on it by the Regulations; and

(b) such other matters as may be prescribed in the Regulations.

(2) The Regulations must require the Department to lay before the Assembly a copy of each report received under this paragraph.

(3) Unless section 394 of the Companies Act 2006 applies to the body (duty on every company to prepare individual accounts), the Regulations must provide that the Department may give directions to the body with respect to the preparation of its accounts.

(4) Unless the body falls within sub-paragraph (5), the Regulations must provide that the Department may give directions to the body with respect to the audit of its accounts.

(5) The body falls within this sub-paragraph if it is a company whose accounts—

(a) are required to be audited in accordance with Part 16 of the Companies Act 2006 (see section 475 of that Act); or

(b) are exempt from the requirements of that Part under section 482 of that Act (non-profit making companies subject to public sector audit).

(6) The Regulations may provide that, whether or not section 394 of the Companies Act 2006 applies to the body, the Department may direct that any provisions of that Act specified in the directions are to apply to the body with or without modifications.

FUNDING

10. The Regulations may provide that the Department may make grants to the body.

FINANCIAL PENALTIES

11.—(1) This paragraph applies where the Regulations include provision enabling the body to impose a financial penalty on a person who is, or has been, authorised to act as an insolvency practitioner (see section 14G(5)).

(2) The Regulations—

(a) must include provision about how the body is to determine the amount of a penalty; and

(b) may, in particular, prescribe a minimum or maximum amount.

(3) The Regulations must provide that, unless the Department (with the consent of the Department of Finance and Personnel) otherwise directs, income from penalties imposed by the body is to be paid into the Consolidated Fund.

(4) The Regulations may also, in particular—

(a) include provision for a penalty imposed by the body to be enforced as a debt;

(b) prescribe conditions that must be met before any action to enforce a penalty may be taken.

STATUS ETC.

12. The Regulations must provide that—

(a) the body is not to be regarded as acting on behalf of the Crown; and

(b) its members, officers and employees are not to be regarded as Crown servants.

TRANSFER SCHEMES

13.—(1) This paragraph applies if the Regulations make provision designating a body (whether one established by the Regulations or one already in existence) in place of a body designated by earlier regulations under section 14G; and those bodies are referred to as the "new body" and the "former body" respectively.

(2) The Regulations may make provision authorising the Department to make a scheme (a "transfer scheme") for the transfer of property, rights and liabilities from the former body to the new body.

(3) The Regulations may provide that a transfer scheme may include provision—

(a) about the transfer of property, rights and liabilities that could not otherwise be transferred;

(b) about the transfer of property acquired, and rights and liabilities arising, after the making of the scheme.

(4) The Regulations may provide that a transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the former body in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the former body in respect of anything transferred;

(d) make provision for references to the former body in an instrument or other document in respect of anything transferred to be treated as references to the new body;

(e) make provision for the shared ownership or use of property;

(f) if the TUPE regulations do not apply to in relation to the transfer, make provision which is the same or similar.

(5) The Regulations must provide that, where the former body is an existing body, a transfer scheme may only make provision in relation to—

(a) things done by or in relation to the former body in or in connection with the exercise of functions conferred on it by previous regulations under section 14G; and

(b) functions of the body which are functions so conferred.

(6) In sub-paragraph (4)(f), "TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

(7) In this paragraph—

(a) references to rights and liabilities include rights and liabilities relating to a contract of employment;

(b) references to the transfer of property include the grant of a lease.

ADDITIONAL PROVISION WHERE BODY IS UNINCORPORATED ASSOCIATION

14.—(1) This paragraph applies where the body is an unincorporated association.

(2) The Regulations must provide that any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.

(3) In sub-paragraph (2) "relevant proceedings" means proceedings brought in or in connection with the exercise of any function conferred on the body by the Regulations.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Mr Bell: Amendment No 12 represents a change in policy. It removes from subsection (2) of clause 14 the reference to section 390A of the Insolvency Act 1986. This reference would have given insolvency practitioners authorised in Great Britain the automatic right to practise in Northern Ireland. It would have been appropriate for them to have had this right only if it had been reciprocated in Great Britain. The Insolvency Service in London has now advised that this will not happen.

Amendment No 36 is also a significant change, as it replaces article 350 of the Insolvency Order, as substituted by clause 14, with a new version. The new version makes having rules and procedures to meet regulatory objectives a requirement for being recognised as a professional body capable of authorising insolvency practitioners.

Amendment No 36 also inserts new article 350A, which establishes a procedure for applying to my Department to become a recognised professional body. Amendment No 37, which takes the form of new clause14A, inserts two new articles into the Insolvency Order. New article 350B provides that bodies recognised for the purposes of authorising insolvency practitioners will have to discharge their regulatory functions in accordance with regulatory objectives. New article 350C sets out what is meant by regulatory functions and objectives.

Amendment No 38, which takes the form of new clause 14B, inserts new articles 350D to 350K into the Insolvency Order. These give the Department power to impose penalties on recognised professional bodies for regulatory failures. Amendment No 39, which takes the form of new clause 14C, inserts new articles 350L to 350N into the Insolvency Order. Articles 350L and 350M give my Department power to revoke a professional body's recognition to authorise insolvency practitioners. It also gives my Department the power to downgrade recognition to being able to provide only partial authorisation if the body is failing to meet its regulatory objectives. Partial authorisation is authorisation to act as an insolvency practitioner either in relation to corporate or individual insolvencies, but not

both. Article 350N gives my Department similar powers to revoke or downgrade recognition at the request of a recognised professional body.

Amendment No 40, which takes the form of new clause 14D, inserts new articles 350O to 350R into the Insolvency Order. Articles 350O and 350Q give my Department power to apply to the High Court for a direct sanctions order against an insolvency practitioner. Article 350R gives my Department power to give a direct sanctions direction to a recognised professional body in relation to an insolvency practitioner as an alternative to seeking a court order.

Amendment No 41, which takes the form of new clause 14E, inserts new article 350S into the Insolvency Order. This article gives my Department power to obtain information needed in connection with its oversight and disciplinary functions in relation to recognised professional bodies. Amendment No. 42, which takes the form of new clause 14F, inserts new article 350T into the Insolvency Order. This gives the Department the right to seek a High Court order in cases where a recognised professional body is failing to comply with a requirement that it is under or where someone is failing to comply with a requirement to provide information.

Amendment No 43, which takes the form of new clause 14G, gives my Department power to either designate an existing body or establish a new one for the purpose of authorising and regulating insolvency practitioners. Amendment No 44, which takes the form of new clause 14H, sets out the circumstances in which an existing body may be designated for the purpose of authorising and regulating insolvency practitioners.

Mr Allister: Will the Minister give way?

Mr Bell: Yes, I will give way.

Mr Allister: Just before the Minister moves away from the new clauses, can he explain to the House why, given the history of difficulties with the conduct of some insolvency practitioners, the opportunity was not taken in the Bill to insert a statutory code of conduct to control and set the parameters and guidelines for insolvency practitioners?

Mr Bell: The Member makes an interesting point. What I intend to do is to hear the perspectives of all Members and then address them collectively when I conclude.

Amendment No 45 is to clause 15. It requires my Department to have regard to the regulatory objectives set for the recognised professional bodies when making regulations dealing with insolvency practitioners and their qualification. Amendment No 46, which takes the form of a new schedule, sets out matters to be dealt with in regulations designating a single regulatory body to authorise and regulate insolvency practitioners.

Mr Speaker, that concludes what I have to say about the amendments.

Mr McGlone (The Chairperson of the Committee for Enterprise, Trade and Investment): Go raibh maith agat, a Cheann Comhairle, agus mo bhuíochas leis an Aire. Thank you very much, Mr Speaker, and I thank the Minister. This group is concerned with recognised professional bodies and insolvency practitioners. There are 12 amendments to clause 14, in particular, new clauses 14A to 14H, clause 15 and schedule 3.

The group 2 amendments relate to the regulation of insolvency practitioners. The Committee raised the issue of a statutory code of conduct with the Department during the Committee Stage of the Bill. Officials responded that there is no provision in the Bill for a code of conduct. However, in GB, provision is included in the Small Business, Enterprise and Employment Bill going through Westminster. Officials informed the Committee that they intended to recommend to the Minister that, in future legislation, a regulatory objective be put in place. That would require the regulated professional bodies to ensure that objectives and principles are put in place to regulate insolvency professionals. I would like at this stage to pay tribute to Mr Allister for his correspondence to the Committee, which highlighted in a very real and human manner the regulatory deficiencies in the system and in the legislation until now around this regulatory aspect.

(Mr Principal Deputy Speaker [Mr Newton] in the Chair)

This would include requirements for appropriate training; ensuring consistent outcomes; providing high-quality services; acting transparently and with integrity; considering the interests of all creditors in a case; promoting the maximisation of the value of returns; and protecting and promoting the public interest. Officials stated that those issues will be enshrined in legislation through the Westminster Bill, and it is the Department's

intention to include similar provisions in a future insolvency Bill. The Committee was broadly content with that approach. However, the Minister subsequently wrote to the Committee confirming that provisions for an effective route to policing and controlling the conduct of insolvency practitioners would be included in the current Bill by way of an amendment at Consideration Stage. This includes penalties that will apply to recognised professional bodies if they do not maintain a satisfactory standard of regulation. It also gives the Department the power to intervene directly by applying to the court, as the Minister outlined, for action to be taken against an IP. Having had sight of the proposed amendments during Committee Stage, the Committee was content that they be made to the Bill at Consideration Stage.

That concludes my comments on behalf of the Committee, Mr Principal Deputy Speaker.

12.30 pm

Mr Dunne: The amendments in group 2 relate to the regulation of professional bodies and insolvency practitioners. There was a concern raised that there seemed to be a deficit of supervision, control, accountability and regulation in how insolvency practitioners conduct themselves. The Committee subsequently raised that with the Department and officials, who responded by saying that there was no provision in the Bill for a code of conduct but said that they would recommend to the Minister that, in future legislation, a regulatory objective be put in place. In December 2014, the Minister wrote to the Committee stating that provisions for a statutory code of conduct for IPs would be included in the Bill by way of an amendment at Consideration Stage. I believe that all other measures will help to improve the processes for all those involved in the sector. I am content to support this stage.

Mr Allister: As the House knows, at the Second Stage of the Bill, I raised concerns about the lack of control over insolvency practitioners arising from a particular case with which the Committee then became acquainted. It demonstrated a great gap in the capacity to control and effectively to discipline insolvency practitioners who do not conduct themselves in the manner in which they ought to. In that case, some of the things that were done were quite audacious, including the dispersal of the assets in a wholly inappropriate way, leaving the young person whose business had been put into insolvency in a much worse position than they ought to have been. I was grateful that, after raising that, the previous Minister advised me in correspondence of the intention to stiffen some of the provisions in the Bill from how it was originally drafted and that we now have this slate of amendments.

As I said in the intervention, the one area that stills puzzles me somewhat is why the opportunity was not taken in the Bill to introduce a statutory code of conduct. The explanation seems to be that there is parallel legislation at Westminster, which effectively such a thing will be, and at some point in the future we may well do the same. The same argument applied to doing nothing at all at this stage of the Bill, yet something is being done. Why not address the entirety of the issue by embracing a code of conduct at this point? That is my one reservation and my one question that has not been answered in a satisfactory way. Why was that not done at this stage? Given that there seems to be willingness to do it at some point, why not do it now?

Mr Bell: I am grateful to Members who contributed to the debate on the group 2 amendments. The amendments are based on similar provisions in the GB Deregulation Bill and the Small Business, Enterprise and Employment Bill. We are in the fortunate position that both pieces of legislation have completed their passage through Westminster and are now Acts, as that has allowed us to ensure that the corresponding provisions in our Bill are fully up to date.

The amendments will ensure that insolvency practitioners in Northern Ireland are authorised in the same manner and to the same standard as their counterparts in GB. The inclusion of the amendments to provide for a more rigorous regulatory regime for the bodies responsible for overseeing insolvency practitioners will be of benefit to those who rely on the services of that profession.

I will address some of the points that have been raised. I have already thanked the Chair, and I think that he has again demonstrated the competence that he, the Deputy Chair and the Committee have shown in these matters. I reiterate my attention to their detail and the support that they and Gordon Dunne, the Member for North Down, have given. I also put on record my thanks to the Member for North Antrim, Jim Allister. I have reviewed some of the correspondence that has been sent. I thank him for his involvement in applying his legal intelligence to the matter. He has queried me on a couple of points that I will try to address, although this will be an interesting experience

as a psychologist attempts to address points of law to a learned QC.

I refer to amendment No 37. As I understand it, the mechanisms put in place will have the same effect as a code of conduct and will require the bodies responsible for regulating the insolvency practitioners to do so in accordance with regulatory objectives designed to ensure that insolvency practitioners adhere to professional standards. Those are the same provisions as in the Westminster Small Business, Enterprise and Employment Act 2015.

Amendment No 12 agreed to.

Amendment No 13 made:

In page 11, line 15, after "authorised" insert

"to act as an insolvency practitioner in relation to companies".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 14 made:

In page 11, line 15, after "may" insert "nonetheless".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 15 made:

In page 11, line 16, leave out "as an insolvency practitioner".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 16 made:

In page 11, line 17, leave out "or an individual".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 17 made:

In page 11, line 18, leave out "or individual".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 18 made:

In page 11, line 20, at end insert

"(1A) A person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not accept an appointment to act in relation to an individual if at the time of the appointment the person is aware that the individual—

(a) is or was a member of a partnership other than a Scottish partnership, and

(b) has outstanding liabilities in relation to the partnership.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 19 made:

In page 11, line 21, after "authorised" insert

"to act as an insolvency practitioner in relation to companies".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 20 made:

In page 11, line 21, after "may" insert "nonetheless".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 21 made:

In page 11, line 22, leave out "as an insolvency practitioner".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 22 made:

In page 11, line 23, leave out "or an individual".*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 23 made:

In page 11, line 23, leave out from second "or" to "individual" on line 24.*— [Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 24 made:

In page 11, line 28, at end insert

"(2A) Subject to paragraph (7), a person who is partially authorised to act as an insolvency practitioner in relation to individuals may nonetheless not continue to act in relation to an individual if the person becomes aware that the individual—

(a) is or was a member of a partnership other than a Scottish partnership, and

(b) has outstanding liabilities in relation to the partnership,

unless the person is granted permission to continue to act by the High Court.".— [Mr Bell

(The Minister of Enterprise, Trade and Investment).]

Amendment No 25 made:

In page 11, line 29, leave out "the" and insert "a".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 26 made:

In page 11, line 29, after "act" insert

"for the purposes of paragraph (2) or (2A)".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 27 made:

In page 11, line 32, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 28 made:

In page 11, line 38, after "company," insert "this Article or, if it applies,".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 29 made:

In page 11, line 38, leave out from "or" to "Article" on line 39.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 30 made:

In page 11, line 40, after "individual," insert "this Article or, if it applies,".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 31 made:

In page 11, line 40, leave out from "or" to "Article" on line 41.— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 32 made:

In page 11, line 43, leave out "paragraph (1) or (2)" and insert "any of paragraphs (1) to (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 33 made:

In page 12, line 1, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 34 made:

In page 12, line 4, leave out "paragraph (2)" and insert "the paragraph".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 35 made:

In page 12, line 13, after "(2)" insert "or (2A)".— *[Mr Bell (The Minister of Enterprise, Trade and Investment).]*

Amendment No 36 made:

In page 12, leave out from line 23 to line 21 on page 13 and insert

"350.—(1) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with full authorisation or partial authorisation.

(2) The Department may by order, if satisfied that a body meets the requirements of paragraph (4), declare the body to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (as to which, see Article 349A(1)).

(3) Article 350A makes provision about the making by a body of an application to the Department for an order under this Article.

(4) The requirements are that—

(a) the body regulates (or is going to regulate) the practice of a profession;

(b) the body has rules which it is going to maintain and enforce for securing that its insolvency specialist members—

(i) are fit and proper persons to act as insolvency practitioners; and

(ii) meet acceptable requirements as to education and practical training and experience; and

(c) the body's rules and practices for or in connection with authorising persons to act as

insolvency practitioners, and its rules and practices for or in connection with regulating persons acting as such, are designed to ensure that the regulatory objectives are met (as to which, see Article 350C).

(5) An order of the Department under this Article has effect from such date as is specified in the order.

(6) An order under this Article may be revoked by an order under Article 350L or 350N (and see Article 361A(1)(b)).

(7) In this Part—

(a) references to members of a recognised professional body are to persons who, whether members of that body or not, are subject to its rules in the practice of the profession in question;

(b) references to insolvency specialist members of a professional body are to members who are permitted by or under the rules of the body to act as insolvency practitioners.

(8) A reference in this Part to a recognised professional body is to a body recognised under this Article (and see Articles 350L(6) and 350N(5)).

Application for recognition as recognised professional body

350A.—(1) An application for an order under Article 350(1) or (2) must—

(a) be made to the Department in such form and manner as the Department may require;

(b) be accompanied by such information as the Department may require;

(c) be supplemented by such additional information as the Department may require at any time between receiving the application and determining it.

(2) The requirements which may be imposed under paragraph (1) may differ as between different applications.

(3) The Department may require information provided under this Article to be in such form, and verified in such manner, as the Department may specify.

(4) An application for an order under Article 350(1) or (2) must be accompanied by—

(a) a copy of the applicant's rules;

(b) a copy of the applicant's policies and practices; and

(c) a copy of any guidance issued by the applicant in writing.

(5) The reference in paragraph (4)(c) to guidance issued by the applicant is a reference to guidance or recommendations which are—

(a) issued or made by it which will apply to its insolvency specialist members or to persons seeking to become such members;

(b) relevant for the purposes of this Part; and

(c) intended to have continuing effect,

including guidance or recommendations relating to the admission or expulsion of members.

(6) The Department may refuse an application for an order under Article 350(1) or (2) if the Department considers that recognition of the body concerned is unnecessary having regard to the existence of one or more other bodies which have been or are likely to be recognised under Article 350.

(7) Paragraph (8) applies where the Department refuses an application for an order under Article 350(1) or (2); and it applies regardless of whether the application is refused on the ground mentioned in paragraph (6), because the Department is not satisfied as mentioned in Article 350(1) or (2) or because a fee has not been paid (see Article 361A(1)(b)).

(8) The Department must give the applicant a written notice of the Department's decision; and the notice must set out the reasons for refusing the application."."— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Clause 14, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 37 made:

After clause 14 insert

*"**Regulatory objectives***

***14A.**—(1) After Article 350A of the Insolvency Order (inserted by section 14) insert—*

"Regulatory objectives

Application of regulatory objectives

350B.—(1) In discharging regulatory functions, a recognised professional body must, so far as is reasonably practicable, act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(2) In discharging functions under this Part, the Department must have regard to the regulatory objectives.

Meaning of "regulatory functions" and "regulatory objectives"

350C.—(1) This Article has effect for the purposes of this Part.

(2) "Regulatory functions", in relation to a recognised professional body, means any functions the body has—

(a) under or in relation to its arrangements for or in connection with—

(i) authorising persons to act as insolvency practitioners; or

(ii) regulating persons acting as insolvency practitioners; or

(b) in connection with the making or alteration of those arrangements.

(3) "Regulatory objectives" means the objectives of—

(a) having a system of regulating persons acting as insolvency practitioners that—

(i) secures fair treatment for persons affected by their acts and omissions;

(ii) reflects the regulatory principles; and

(iii) ensures consistent outcomes;

(b) encouraging an independent and competitive insolvency-practitioner profession whose members—

(i) provide high quality services at a cost to the recipient which is fair and reasonable;

(ii) act transparently and with integrity; and

(iii) consider the interests of all creditors in any particular case;

(c) promoting the maximisation of the value of returns to creditors and promptness in making those returns; and

(d) protecting and promoting the public interest.

(4) In paragraph (3)(a), "regulatory principles" means—

(a) the principles that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and

(b) any other principle appearing to the body concerned (in the case of the duty under Article 350B(1)), or to the Department (in the case of the duty under Article 350B(2)), to lead to best regulatory practice.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 38 made:

After clause 14 insert

*"**Oversight of recognised professional bodies***

***14B.**—(1) After Article 350C of the Insolvency Order (inserted by section 14A) insert—*

"Oversight of recognised professional bodies

Directions

350D.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, direct the body to take such steps as the Department considers will counter the adverse impact, mitigate its effect or prevent its occurrence or recurrence.

(3) A direction under this Article may require a recognised professional body—

(a) to take only such steps as it has power to take under its regulatory arrangements;

(b) to take steps with a view to the modification of any part of its regulatory arrangements.

(4) A direction under this Article may require a recognised professional body—

(a) to take steps with a view to the institution of, or otherwise in respect of, specific regulatory proceedings;

(b) to take steps in respect of all, or a specified class of, such proceedings.

(5) For the purposes of this Article, a direction to take steps includes a direction which requires a recognised professional body to refrain from taking a particular course of action.

(6) In this Article "regulatory arrangements", in relation to a recognised professional body, means the arrangements that the body has for or in connection with—

(a) authorising persons to act as insolvency practitioners; or

(b) regulating persons acting as insolvency practitioners.

Directions: procedure

350E.—(1) Before giving a recognised professional body a direction under Article 350D, the Department must give the body a notice accompanied by a draft of the proposed direction.

(2) The notice under paragraph (1) must—

(a) state that the Department proposes to give the body a direction in the form of the accompanying draft;

(b) specify why the Department has reached the conclusions mentioned in Article 350D(1) and (2); and

(c) specify a period within which the body may make written representations with respect to the proposal.

(3) The period specified under paragraph (2)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to give the body the proposed direction.

(5) The Department must give notice of that decision to the body.

(6) Where the Department decides to give the proposed direction, the notice under paragraph (5) must—

(a) contain the direction;

(b) state the time at which the direction is to take effect; and

(c) specify the Department's reasons for the decision to give the direction.

(7) Where the Department decides to give the proposed direction, the Department must publish the notice under paragraph (5); but this paragraph does not apply to a direction to take any step with a view to the institution of, or otherwise in respect of, regulatory proceedings against an individual.

(8) The Department may revoke a direction under Article 350D; and, where doing so, the Department—

(a) must give the body to which the direction was given notice of the revocation; and

(b) must publish the notice and, if the notice under paragraph (5) was published under paragraph (7), must do so (if possible) in the same manner as that in which that notice was published.

Financial penalty

350F.—(1) This Article applies if the Department is satisfied—

(a) that a recognised professional body has failed to comply with a requirement to which this Article applies; and

(b) that, in all the circumstances of the case, it is appropriate to impose a financial penalty on the body.

(2) This Article applies to a requirement imposed on the recognised professional body—

(a) by a direction given under Article 350D; or

(b) by a provision of this Order or of subordinate legislation under this Order.

(3) The Department may impose a financial penalty, in respect of the failure, of such amount as the Department considers appropriate.

(4) In deciding what amount is appropriate, the Department—

(a) must have regard to the nature of the requirement which has not been complied with; and

(b) must not take into account the Department's costs in discharging functions under this Part.

(5) A financial penalty under this Article is payable to the Department; and sums received by the Department in respect of a financial penalty under this Article (including by way of interest) are to be paid into the Consolidated Fund.

(6) In Articles 350G to 350I, "penalty" means a financial penalty under this Article.

Financial penalty: procedure

350G.—(1) Before imposing a penalty on a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to impose a penalty and the amount of the proposed penalty;

(b) specifying the requirement in question;

(c) stating why the Department is satisfied as mentioned in Article 350F(1); and

(d) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(d)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide—

(a) whether to impose a penalty; and

(b) whether the penalty should be the amount stated in the notice or a reduced amount.

(4) The Department must give notice of the decision to the body.

(5) Where the Department decides to impose a penalty, the notice under paragraph (4) must—

(a) state that the Department has imposed a penalty on the body and its amount;

(b) specify the requirement in question and state—

(i) why it appears to the Department that the requirement has not been complied with; or

(ii) where, by that time, the requirement has been complied with, why it appeared to the Department when giving the notice under paragraph (1) that the requirement had not been complied with; and

(c) specify a time by which the penalty is required to be paid.

(6) The time specified under paragraph (5)(c) must be at least three months after the date on which the notice under paragraph (4) is given to the body.

(7) Where the Department decides to impose a penalty, the Department must publish the notice under paragraph (4).

(8) The Department may rescind or reduce a penalty imposed on a recognised professional body; and, where doing so, the Department—

(a) must give the body notice that the penalty has been rescinded or reduced to the amount stated in the notice; and

(b) must publish the notice; and it must (if possible) be published in the same manner as

that in which the notice under paragraph (4) was published.

Appeal against financial penalty

350H.—(1) A recognised professional body on which a penalty is imposed may appeal to the High Court on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty was not within the Department's power under Article 350F;

(b) that the requirement in respect of which the penalty was imposed had been complied with before the notice under Article 350G(1) was given;

(c) that the requirements of Article 350G have not been complied with in relation to the imposition of the penalty and the interests of the body have been substantially prejudiced as a result;

(d) that the amount of the penalty is unreasonable;

(e) that it was unreasonable of the Department to require the penalty imposed to be paid by the time specified in the notice under Article 350G(5)(c).

(3) An appeal under this Article must be made within the period of three months beginning with the day on which the notice under Article 350G(4) in respect of the penalty is given to the body.

(4) On an appeal under this Article the Court may—

(a) quash the penalty;

(b) substitute a penalty of such lesser amount as the Court considers appropriate; or

(c) in the case of the appeal ground in paragraph (2)(e), substitute for the time imposed by the Department a different time.

(5) Where the Court substitutes a penalty of a lesser amount, it may require the payment of interest on the substituted penalty from such time, and at such rate, as it considers just and equitable.

(6) Where the Court substitutes a later time for the time specified in the notice under Article 350G(5)(c), it may require the payment of interest on the penalty from the substituted time at such rate as it considers just and equitable.

(7) Where the Court dismisses the appeal, it may require the payment of interest on the penalty from the time specified in the notice under Article 350G(5)(c) at such rate as it considers just and equitable.

Recovery of financial penalties

350I.—(1) If the whole or part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being applicable to a money judgment of the High Court (but this is subject to any requirement imposed by the Court under Article 350H(5), (6) or (7)).

(2) If an appeal is made under Article 350H in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) Paragraph (4) applies where the whole or part of a penalty has not been paid by the time it is required to be paid and—

(a) no appeal relating to the penalty has been made under Article 350H during the period within which an appeal may be made under that Article; or

(b) an appeal has been made under that Article and determined or withdrawn.

(4) The Department may recover from the recognised professional body in question, as a debt due to the Department, any of the penalty and any interest which has not been paid.

Reprimand

350J.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, publish a statement

reprimanding the body for the act or omission (or series of acts or omissions).

Reprimand: procedure

350K.—(1) If the Department proposes to publish a statement under Article 350J in respect of a recognised professional body, it must give the body a notice—

(a) stating that the Department proposes to publish such a statement and setting out the terms of the proposed statement;

(b) specifying the acts or omissions to which the proposed statement relates; and

(c) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide whether to publish the statement.

(4) The Department may vary the proposed statement; but before doing so, the Department must give the body notice—

(a) setting out the proposed variation and the reasons for it; and

(b) specifying a period within which the body may make written representations with respect to the proposed variation.

(5) The period specified under paragraph (4)(b)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(6) On the expiry of that period, the Department must decide whether to publish the statement as varied.".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (1A) (inserted by section 14(6)(b)) insert—

"(1B) In setting under paragraph (1) the amount of a fee in connection with maintenance of recognition, the matters to which the Department may have regard include, in particular, the costs of the Department in connection with any functions under Articles 350D, 350E, 350J, 350K and 350N.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

After clause 14 insert

*"**Oversight of recognised professional bodies***

***14B.**—(1) After Article 350C of the Insolvency Order (inserted by section 14A) insert—*

"Oversight of recognised professional bodies

Directions

350D.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, direct the body to take such steps as the Department considers will counter the adverse impact, mitigate its effect or prevent its occurrence or recurrence.

(3) A direction under this Article may require a recognised professional body—

(a) to take only such steps as it has power to take under its regulatory arrangements;

(b) to take steps with a view to the modification of any part of its regulatory arrangements.

(4) A direction under this Article may require a recognised professional body—

(a) to take steps with a view to the institution of, or otherwise in respect of, specific regulatory proceedings;

(b) to take steps in respect of all, or a specified class of, such proceedings.

(5) For the purposes of this Article, a direction to take steps includes a direction which requires

a recognised professional body to refrain from taking a particular course of action.

(6) In this Article "regulatory arrangements", in relation to a recognised professional body, means the arrangements that the body has for or in connection with—

(a) authorising persons to act as insolvency practitioners; or

(b) regulating persons acting as insolvency practitioners.

Directions: procedure

350E.—(1) Before giving a recognised professional body a direction under Article 350D, the Department must give the body a notice accompanied by a draft of the proposed direction.

(2) The notice under paragraph (1) must—

(a) state that the Department proposes to give the body a direction in the form of the accompanying draft;

(b) specify why the Department has reached the conclusions mentioned in Article 350D(1) and (2); and

(c) specify a period within which the body may make written representations with respect to the proposal.

(3) The period specified under paragraph (2)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to give the body the proposed direction.

(5) The Department must give notice of that decision to the body.

(6) Where the Department decides to give the proposed direction, the notice under paragraph (5) must—

(a) contain the direction;

(b) state the time at which the direction is to take effect; and

(c) specify the Department's reasons for the decision to give the direction.

(7) Where the Department decides to give the proposed direction, the Department must publish the notice under paragraph (5); but this paragraph does not apply to a direction to take any step with a view to the institution of, or otherwise in respect of, regulatory proceedings against an individual.

(8) The Department may revoke a direction under Article 350D; and, where doing so, the Department—

(a) must give the body to which the direction was given notice of the revocation; and

(b) must publish the notice and, if the notice under paragraph (5) was published under paragraph (7), must do so (if possible) in the same manner as that in which that notice was published.

Financial penalty

350F.—(1) This Article applies if the Department is satisfied—

(a) that a recognised professional body has failed to comply with a requirement to which this Article applies; and

(b) that, in all the circumstances of the case, it is appropriate to impose a financial penalty on the body.

(2) This Article applies to a requirement imposed on the recognised professional body—

(a) by a direction given under Article 350D; or

(b) by a provision of this Order or of subordinate legislation under this Order.

(3) The Department may impose a financial penalty, in respect of the failure, of such amount as the Department considers appropriate.

(4) In deciding what amount is appropriate, the Department—

(a) must have regard to the nature of the requirement which has not been complied with; and

(b) must not take into account the Department's costs in discharging functions under this Part.

(5) A financial penalty under this Article is payable to the Department; and sums received by the Department in respect of a financial penalty under this Article (including by way of interest) are to be paid into the Consolidated Fund.

(6) In Articles 350G to 350I, "penalty" means a financial penalty under this Article.

Financial penalty: procedure

350G.—(1) Before imposing a penalty on a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to impose a penalty and the amount of the proposed penalty;

(b) specifying the requirement in question;

(c) stating why the Department is satisfied as mentioned in Article 350F(1); and

(d) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(d)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide—

(a) whether to impose a penalty; and

(b) whether the penalty should be the amount stated in the notice or a reduced amount.

(4) The Department must give notice of the decision to the body.

(5) Where the Department decides to impose a penalty, the notice under paragraph (4) must—

(a) state that the Department has imposed a penalty on the body and its amount;

(b) specify the requirement in question and state—

(i) why it appears to the Department that the requirement has not been complied with; or

(ii) where, by that time, the requirement has been complied with, why it appeared to the Department when giving the notice under paragraph (1) that the requirement had not been complied with; and

(c) specify a time by which the penalty is required to be paid.

(6) The time specified under paragraph (5)(c) must be at least three months after the date on which the notice under paragraph (4) is given to the body.

(7) Where the Department decides to impose a penalty, the Department must publish the notice under paragraph (4).

(8) The Department may rescind or reduce a penalty imposed on a recognised professional body; and, where doing so, the Department—

(a) must give the body notice that the penalty has been rescinded or reduced to the amount stated in the notice; and

(b) must publish the notice; and it must (if possible) be published in the same manner as that in which the notice under paragraph (4) was published.

Appeal against financial penalty

350H.—(1) A recognised professional body on which a penalty is imposed may appeal to the High Court on one or more of the appeal grounds.

(2) The appeal grounds are—

(a) that the imposition of the penalty was not within the Department's power under Article 350F;

(b) that the requirement in respect of which the penalty was imposed had been complied with before the notice under Article 350G(1) was given;

(c) that the requirements of Article 350G have not been complied with in relation to the imposition of the penalty and the interests of the body have been substantially prejudiced as a result;

(d) that the amount of the penalty is unreasonable;

(e) that it was unreasonable of the Department to require the penalty imposed to be paid by the time specified in the notice under Article 350G(5)(c).

(3) An appeal under this Article must be made within the period of three months beginning with the day on which the notice under Article 350G(4) in respect of the penalty is given to the body.

(4) On an appeal under this Article the Court may—

(a) quash the penalty;

(b) substitute a penalty of such lesser amount as the Court considers appropriate; or

(c) in the case of the appeal ground in paragraph (2)(e), substitute for the time imposed by the Department a different time.

(5) Where the Court substitutes a penalty of a lesser amount, it may require the payment of interest on the substituted penalty from such time, and at such rate, as it considers just and equitable.

(6) Where the Court substitutes a later time for the time specified in the notice under Article 350G(5)(c), it may require the payment of interest on the penalty from the substituted time at such rate as it considers just and equitable.

(7) Where the Court dismisses the appeal, it may require the payment of interest on the penalty from the time specified in the notice under Article 350G(5)(c) at such rate as it considers just and equitable.

Recovery of financial penalties

350I.—(1) If the whole or part of a penalty is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being applicable to a money judgment of the High Court (but this is subject to any requirement imposed by the Court under Article 350H(5), (6) or (7)).

(2) If an appeal is made under Article 350H in relation to a penalty, the penalty is not required to be paid until the appeal has been determined or withdrawn.

(3) Paragraph (4) applies where the whole or part of a penalty has not been paid by the time it is required to be paid and—

(a) no appeal relating to the penalty has been made under Article 350H during the period within which an appeal may be made under that Article; or

(b) an appeal has been made under that Article and determined or withdrawn.

(4) The Department may recover from the recognised professional body in question, as a debt due to the Department, any of the penalty and any interest which has not been paid.

Reprimand

350J.—(1) This Article applies if the Department is satisfied that an act or omission of a recognised professional body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives.

(2) The Department may, if in all the circumstances of the case satisfied that it is appropriate to do so, publish a statement reprimanding the body for the act or omission (or series of acts or omissions).

Reprimand: procedure

350K.—(1) If the Department proposes to publish a statement under Article 350J in respect of a recognised professional body, it must give the body a notice—

(a) stating that the Department proposes to publish such a statement and setting out the terms of the proposed statement;

(b) specifying the acts or omissions to which the proposed statement relates; and

(c) specifying a period within which the body may make written representations with respect to the proposal.

(2) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(3) On the expiry of that period, the Department must decide whether to publish the statement.

(4) The Department may vary the proposed statement; but before doing so, the Department must give the body notice—

(a) setting out the proposed variation and the reasons for it; and

(b) specifying a period within which the body may make written representations with respect to the proposed variation.

(5) The period specified under paragraph (4)(b)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(6) On the expiry of that period, the Department must decide whether to publish the statement as varied.".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (1A) (inserted by section 14(6)(b)) insert—

"(1B) In setting under paragraph (1) the amount of a fee in connection with maintenance of recognition, the matters to which the Department may have regard include, in particular, the costs of the Department in connection with any functions under Articles 350D, 350E, 350J, 350K and 350N.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 39 made:

After clause 14 insert

*"**Recognised professional bodies: revocation of recognition***

***14C.**—(1) After Article 350K of the Insolvency Order (inserted by section 14B) insert—*

"Revocation etc. of recognition

Revocation of recognition at instigation of Department

350L.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if the Department is satisfied that—

(a) an act or omission of the body (or a series of such acts or omissions) in discharging one or more of its regulatory functions has had, or is likely to have, an adverse impact on the achievement of one or more of the regulatory objectives; and

(b) it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) If the condition set out in paragraph (3) is met, an order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)).

(3) The condition is that the Department is satisfied—

(a) as mentioned in paragraph (1)(a); and

(b) that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(4) In this Part—

(a) an order under paragraph (1) is referred to as a "revocation order";

(b) an order under paragraph (2) is referred to as a "partial revocation order".

(5) A revocation order or partial revocation order—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(6) A partial revocation order has effect as if it were an order made under Article 350(2).

Orders under Article 350L: procedure

350M.—(1) Before making a revocation order or partial revocation order in relation to a recognised professional body, the Department must give notice to the body—

(a) stating that the Department proposes to make the order and the terms of the proposed order;

(b) specifying the Department's reasons for proposing to make the order; and

(c) specifying a period within which the body, members of the body or other persons likely to be affected by the proposal may make written representations with respect to it.

(2) Where the Department gives a notice under paragraph (1), the Department must publish the notice on the same day.

(3) The period specified under paragraph (1)(c)—

(a) must begin with the date on which the notice is given to the body; and

(b) must not be less than 28 days.

(4) On the expiry of that period, the Department must decide whether to make the revocation order or (as the case may be) partial revocation order in relation to the body.

(5) The Department must give notice of the decision to the body.

(6) Where the Department decides to make the order, the notice under paragraph (5) must specify—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(7) A notice under paragraph (5) must be published; and it must (if possible) be published in the same manner as that in which the notice under paragraph (1) was published.

Revocation of recognition at request of body

350N.—(1) An order under Article 350(1) or (2) in relation to a recognised professional body may be revoked by the Department by order if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case to revoke the body's recognition under Article 350.

(2) An order under Article 350(1) in relation to a recognised professional body may be revoked by the Department by an order which also declares the body concerned to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order (see Article 349A(1)) if—

(a) the body has requested that an order be made under this paragraph; and

(b) the Department is satisfied that it is appropriate in all the circumstances of the case for the body to be declared to be a recognised professional body which is capable of providing its insolvency specialist members with partial authorisation only of the kind specified in the order.

(3) Where the Department decides to make an order under this Article the Department must publish a notice specifying—

(a) when the order is to take effect; and

(b) the Department's reasons for making the order.

(4) An order under this Article—

(a) has effect from such date as is specified in the order; and

(b) may make provision for members of the body in question to continue to be treated as fully or partially authorised (as the case may be) to act as insolvency practitioners for a specified period after the order takes effect.

(5) An order under paragraph (2) has effect as if it were an order made under Article 350(2).".

(2) In Article 361A of the Insolvency Order (fees orders (supplementary)), after paragraph (5) insert—

"(5A) Article 350M applies for the purposes of an order under paragraph (1)(b) as it applies for the purposes of a revocation order made under Article 350L.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 40 made:

After clause 14 insert

*"**Court sanction of insolvency practitioners in public interest cases***

14D. After Article 350N of the Insolvency Order (inserted by section 14C) insert—

"Court sanction of insolvency practitioners in public interest cases

Direct sanction orders

***350O.**—(1) For the purposes of this Part a "direct sanctions order" is an order made by the High Court against a person who is acting as an insolvency practitioner which—*

(a) declares that the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) declares that the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the order;

(c) declares that the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the order or until such time as the requirements so specified are complied with;

(d) requires the person to comply with such other requirements as may be specified in the order while acting as an insolvency practitioner;

(e) requires the person to make such contribution as may be specified in the order to one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(2) Where the Court makes a direct sanctions order, the relevant recognised professional body must take all necessary steps to give effect to the order.

(3) A direct sanctions order must not specify a contribution as mentioned in paragraph (1)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(4) In this Article and Article 350P, "relevant recognised professional body", in relation to a person who is acting as an insolvency practitioner, means the recognised professional body by virtue of which the person is authorised so to act.

Application for, and power to make, direct sanctions order

350P.—(1) The Department may apply to the High Court for a direct sanctions order to be made against a person if it appears to the Department that it would be in the public interest for the order to be made.

(2) The Department must send a copy of the application to the relevant recognised professional body.

(3) The Court may make a direct sanctions order against a person where, on an application under this Article, the Court is satisfied that condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person.

(4) The conditions are set out in Article 350Q.

(5) In deciding whether to make a direct sanctions order against a person the Court must have regard to the extent to which—

(a) the relevant recognised professional body has taken action against the person in respect of the failure mentioned in condition 1; and

(b) that action is sufficient to address the failure.

Direct sanctions order: conditions

350Q.—(1) Condition 1 is that the person, in acting as an insolvency practitioner or in connection with any appointment as such, has failed to comply with—

(a) a requirement imposed by the rules of the relevant recognised professional body;

(b) any standards, or code of ethics, for the insolvency-practitioner profession adopted from

time to time by the relevant recognised professional body.

(2) Condition 2 is that the person—

(a) is not a fit and proper person to act as an insolvency practitioner;

(b) is a fit and proper person to act as an insolvency practitioner only in relation to companies, but the person's authorisation is not so limited; or

(c) is a fit and proper person to act as an insolvency practitioner only in relation to individuals, but the person's authorisation is not so limited.

(3) Condition 3 is that it is appropriate for the person's authorisation to act as an insolvency practitioner to be suspended for a period or until one or more requirements are complied with.

(4) Condition 4 is that it is appropriate to impose other restrictions on the person acting as an insolvency practitioner.

(5) Condition 5 is that loss has been suffered as a result of the failure mentioned in condition 1 by one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(6) In this Article "relevant recognised professional body" has the same meaning as in Article 350O.

Direct sanctions direction instead of order

350R.—(1) The Department may give a direction (a "direct sanctions direction") in relation to a person acting as an insolvency practitioner to the relevant recognised professional body (instead of applying, or continuing with an application, for a direct sanctions order against the person) if the Department is satisfied that—

(a) condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person (see Article 350Q); and

(b) it is in the public interest for the direction to be given.

(2) But the Department may not give a direct sanctions direction in relation to a person without that person's consent.

(3) A direct sanctions direction may require the relevant recognised professional body to take all necessary steps to secure that—

(a) the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the direction;

(c) the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the direction or until such time as the requirements so specified are complied with;

(d) the person must comply with such other requirements as may be specified in the direction while acting as an insolvency practitioner;

(e) the person makes such contribution as may be specified in the direction to one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(4) A direct sanctions direction must not specify a contribution as mentioned in paragraph (3)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(5) In this Article "relevant recognised professional body" has the same meaning as in Article 350O."."— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

After clause 14 insert

*"**Court sanction of insolvency practitioners in public interest cases***

14D. After Article 350N of the Insolvency Order (inserted by section 14C) insert—

"Court sanction of insolvency practitioners in public interest cases

Direct sanction orders

***350O.**—(1) For the purposes of this Part a "direct sanctions order" is an order made by the*

High Court against a person who is acting as an insolvency practitioner which—

(a) declares that the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) declares that the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the order;

(c) declares that the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the order or until such time as the requirements so specified are complied with;

(d) requires the person to comply with such other requirements as may be specified in the order while acting as an insolvency practitioner;

(e) requires the person to make such contribution as may be specified in the order to one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(2) Where the Court makes a direct sanctions order, the relevant recognised professional body must take all necessary steps to give effect to the order.

(3) A direct sanctions order must not specify a contribution as mentioned in paragraph (1)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(4) In this Article and Article 350P, "relevant recognised professional body", in relation to a person who is acting as an insolvency practitioner, means the recognised professional body by virtue of which the person is authorised so to act.

Application for, and power to make, direct sanctions order

350P.—(1) The Department may apply to the High Court for a direct sanctions order to be made against a person if it appears to the Department that it would be in the public interest for the order to be made.

(2) The Department must send a copy of the application to the relevant recognised professional body.

(3) The Court may make a direct sanctions order against a person where, on an application under this Article, the Court is satisfied that condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person.

(4) The conditions are set out in Article 350Q.

(5) In deciding whether to make a direct sanctions order against a person the Court must have regard to the extent to which—

(a) the relevant recognised professional body has taken action against the person in respect of the failure mentioned in condition 1; and

(b) that action is sufficient to address the failure.

Direct sanctions order: conditions

350Q.—(1) Condition 1 is that the person, in acting as an insolvency practitioner or in connection with any appointment as such, has failed to comply with—

(a) a requirement imposed by the rules of the relevant recognised professional body;

(b) any standards, or code of ethics, for the insolvency-practitioner profession adopted from time to time by the relevant recognised professional body.

(2) Condition 2 is that the person—

(a) is not a fit and proper person to act as an insolvency practitioner;

(b) is a fit and proper person to act as an insolvency practitioner only in relation to companies, but the person's authorisation is not so limited; or

(c) is a fit and proper person to act as an insolvency practitioner only in relation to individuals, but the person's authorisation is not so limited.

(3) Condition 3 is that it is appropriate for the person's authorisation to act as an insolvency practitioner to be suspended for a period or until one or more requirements are complied with.

(4) Condition 4 is that it is appropriate to impose other restrictions on the person acting as an insolvency practitioner.

(5) Condition 5 is that loss has been suffered as a result of the failure mentioned in condition 1

by one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(6) In this Article "relevant recognised professional body" has the same meaning as in Article 350O.

Direct sanctions direction instead of order

350R.—(1) The Department may give a direction (a "direct sanctions direction") in relation to a person acting as an insolvency practitioner to the relevant recognised professional body (instead of applying, or continuing with an application, for a direct sanctions order against the person) if the Department is satisfied that—

(a) condition 1 and at least one of conditions 2, 3, 4 and 5 are met in relation to the person (see Article 350Q); and

(b) it is in the public interest for the direction to be given.

(2) But the Department may not give a direct sanctions direction in relation to a person without that person's consent.

(3) A direct sanctions direction may require the relevant recognised professional body to take all necessary steps to secure that—

(a) the person is no longer authorised (whether fully or partially) to act as an insolvency practitioner;

(b) the person is no longer fully authorised to act as an insolvency practitioner but remains partially authorised to act as such either in relation to companies or individuals, as specified in the direction;

(c) the person's authorisation to act as an insolvency practitioner is suspended for the period specified in the direction or until such time as the requirements so specified are complied with;

(d) the person must comply with such other requirements as may be specified in the direction while acting as an insolvency practitioner;

(e) the person makes such contribution as may be specified in the direction to one or more creditors of a company, individual or insolvent partnership in relation to which the person is acting or has acted as an insolvency practitioner.

(4) A direct sanctions direction must not specify a contribution as mentioned in paragraph (3)(e) which is more than the remuneration that the person has received or will receive in respect of acting as an insolvency practitioner in the case.

(5) In this Article "relevant recognised professional body" has the same meaning as in Article 350O.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 41 made:

After clause 14 insert

*"**Power for Department to obtain information***

***14E.**After Article 350R of the Insolvency Order (inserted by section 14D) insert—*

"General

Power for Department to obtain information

350S.—(1) A person mentioned in paragraph (2) must give the Department such information as the Department may by notice in writing require for the exercise of the Department's functions under this Part.

(2) Those persons are—

(a) a recognised professional body;

(b) any individual who is or has been authorised under Article 349A to act as an insolvency practitioner;

(c) any person who is connected to such an individual.

(3) A person is connected to an individual who is or has been authorised to act as an insolvency practitioner if, at any time during the authorisation—

(a) the person was an employee of the individual;

(b) the person acted on behalf of the individual in any other way;

(c) the person employed the individual;

(d) the person was a fellow employee of the individual's employer;

(e) in a case where the individual was employed by a firm, partnership or company, the person was a member of the firm or partnership or (as the case may be) a director of the company.

(4) In imposing a requirement under paragraph (1) the Department may specify—

(a) the time period within which the information in question is to be given; and

(b) the manner in which it is to be verified.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 42 made:

After clause 14 insert

*"**Compliance orders***

***14F.**After Article 350S of the Insolvency Order (inserted by section 14E) insert—*

"Compliance orders

350T.—(1) If at any time it appears to the Department that—

(a) a recognised professional body has failed to comply with a requirement imposed on it by or by virtue of this Part; or

(b) any other person has failed to comply with a requirement imposed on the person by virtue of Article 350S,

the Department may make an application to the High Court.

(2) If, on an application under this Article, the Court decides that the body or other person has failed to comply with the requirement in question, it may order the body or person to take such steps as the Court considers will secure that the requirement is complied with.".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Amendment No 43 made:

After clause 14 insert

"Power to establish single regulator of insolvency practitioners

Power to establish single regulator of insolvency practitioners

***14G.**—(1) The Department may by regulations designate a body for the purposes of—*

(a) authorising persons to act as insolvency practitioners; and

(b) regulating persons acting as such.

(2) The designated body may be either—

(a) a body corporate established by the regulations; or

(b) a body (whether a body corporate or an unincorporated association) already in existence when the regulations are made (an "existing body").

(3) The regulations may, in particular, confer the following functions on the designated body—

(a) establishing criteria for determining whether a person is a fit and proper person to act as an insolvency practitioner;

(b) establishing the requirements as to education, practical training and experience which a person must meet in order to act as an insolvency practitioner;

(c) establishing and maintaining a system for providing full authorisation or partial authorisation to persons who meet those criteria and requirements;

(d) imposing technical standards for persons so authorised and enforcing compliance with those standards;

(e) imposing professional and ethical standards for persons so authorised and enforcing compliance with those standards;

(f) monitoring the performance and conduct of persons so authorised;

(g) investigating complaints made against, and other matters concerning the performance or conduct of, persons so authorised.

(4) The regulations may require the designated body, in discharging regulatory functions, so far as is reasonably practicable, to act in a way—

(a) which is compatible with the regulatory objectives; and

(b) which the body considers most appropriate for the purpose of meeting those objectives.

(5) Provision made under subsection (3)(d) or (3)(e) for the enforcement of the standards concerned may include provision enabling the designated body to impose a financial penalty on a person who is or has been authorised to act as an insolvency practitioner.

(6) The regulations may, in particular, include provision for the purpose of treating a person authorised to act as an insolvency practitioner by virtue of being a member of a professional body recognised under Article 350 of the Insolvency Order immediately before the regulations come into force as authorised to act as an insolvency practitioner by the body designated by the regulations after that time.

(7) Expressions used in this section which are defined for the purposes of Part 12 of the Insolvency Order have the same meaning in this section as in that Part.

(8) Regulations under this section shall not be made unless a draft of the regulations has been laid before and approved by resolution of the Assembly.

(9) Section 14H makes further provision about regulations under this section which designate an existing body.

(10) Schedule A1 makes supplementary provision in relation to the designation of a body by regulations under this section.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

New Clause

Mr Principal Deputy Speaker: Amendment No 44 is consequential to amendment No 43.

Amendment No 44 made:

After clause 14 insert

*"**Regulations under section 14G: designation of existing body***

***14H.**—(1) The Department may make regulations under section 14G designating an existing body only if it appears to the Department that—*

(a) the body is able and willing to exercise the functions that would be conferred by the regulations; and

(b) the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in subsection (2) are met.

(2) The conditions are—

(a) that the functions in question will be exercised effectively; and

(b) where the regulations are to contain any requirements or other provisions prescribed under subsection (3), that those functions will be exercised in accordance with any such requirements or provisions.

(3) Regulations which designate an existing body may contain such requirements or other provisions relating to the exercise of the functions by the designated body as appear to the Department to be appropriate.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New clause ordered to stand part of the Bill.

Clause 15 (Power to make regulations)

Mr Principal Deputy Speaker: Amendment No 45 is consequential to amendment No 37.

Amendment No 45 made:

In page 14, line 2, at end insert

"(5) After that paragraph insert—

"(3) In making regulations under this Article, the Department must have regard to the regulatory objectives (as defined by Article 350C(3)).".".—

[Mr Bell (The Minister of Enterprise, Trade and Investment).]

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 to 21 ordered to stand part of the Bill.

12.45 pm

New Schedule

Amendment No 46 made:

Before schedule 1 insert

"SCHEDULE A1

SECTION 14G(10).

SINGLE REGULATOR OF INSOLVENCY PRACTITIONERS: SUPPLEMENTARY PROVISION

OPERATION OF THIS SCHEDULE

1.—(1) This Schedule has effect in relation to regulations under section 14G designating a body (referred to in this Schedule as "the Regulations") as follows—

(a) paragraphs 2 to 13 have effect where the Regulations establish the body;

(b) paragraphs 6, 7 and 9 to 13 have effect where the Regulations designate an existing body (see section 14G(2)(b));

(c) paragraph 14 also has effect where the Regulations designate an existing body that is an unincorporated association.

(2) Provision made in the Regulations by virtue of paragraph 6 or 12, where that paragraph has effect as mentioned in sub-paragraph (1)(b), may only apply in relation to—

(a) things done by or in relation to the body in or in connection with the exercise of functions conferred on it by the Regulations; and

(b) functions of the body which are functions so conferred.

NAME, MEMBERS AND CHAIR

2.—(1) The Regulations must prescribe the name by which the body is to be known.

(2) The Regulations must provide that the members of the body must be appointed by the Department after such consultation as the Department thinks appropriate.

(3) The Regulations must provide that the Department must appoint one of the members as the chair of the body.

(4) The Regulations may include provision about—

(a) the terms on which the members of the body hold and vacate office;

(b) the terms on which the person appointed as the chair holds and vacates that office.

REMUNERATION ETC.

3.—(1) The Regulations must provide that the body must pay to its chair and members such remuneration and allowances in respect of expenses properly incurred by them in the exercise of their functions as the Department may determine.

(2) The Regulations must provide that, as regards any member (including the chair) in whose case the Department so determines, the body must pay or make provision for the payment of—

(a) such pension, allowance or gratuity to or in respect of that person on retirement or death as the Department may determine; or

(b) such contributions or other payment towards the provision of such a pension, allowance or gratuity as the Department may determine.

(3) The Regulations must provide that where—

(a) a person ceases to be a member of the body otherwise than on the expiry of the term of office; and

(b) it appears to the Department that there are special circumstances which make it right for that person to be compensated,

the body must make a payment to the person by way of compensation of such amount as the Department may determine.

STAFF

4. The Regulations must provide that—

(a) the body may appoint such persons to be its employees as the body considers appropriate; and

(b) the employees are to be appointed on such terms and conditions as the body may determine.

PROCEEDINGS

5.—(1) The Regulations may make provision about the proceedings of the body.

(2) The Regulations may, in particular—

(a) authorise the body to exercise any function by means of committees consisting wholly or partly of members of the body;

(b) provide that the validity of proceedings of the body, or of any such committee, is not affected by any vacancy among the members or any defect in the appointment of a member.

FEES

6.—(1) The Regulations may make provision—

(a) about the setting and charging of fees by the body in connection with the exercise of its functions;

(b) for the retention by the body of any such fees payable to it;

(c) about the application by the body of such fees.

(2) The Regulations may, in particular, make provision—

(a) for the body to be able to set such fees as appear to it to be sufficient to defray the expenses of the body exercising its functions, taking one year with another;

(b) for the setting of fees by the body to be subject to the approval of the Department.

(3) The expenses referred to in sub-paragraph (2)(a) include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper exercise of its functions.

CONSULTATION

7. The Regulations may make provision as to the circumstances and manner in which the body must consult others before exercising any function conferred on it by the Regulations.

TRAINING AND OTHER SERVICES

8.—(1) The Regulations may make provision authorising the body to provide training or other services to any person.

(2) The Regulations may make provision authorising the body—

(a) to charge for the provision of any such training or other services; and

(b) to calculate any such charge on the basis that it considers to be the appropriate commercial basis.

REPORT AND ACCOUNTS

9.—(1) The Regulations must require the body, at least once in each 12 month period, to report to the Department on—

(a) the exercise of the functions conferred on it by the Regulations; and

(b) such other matters as may be prescribed in the Regulations.

(2) The Regulations must require the Department to lay before the Assembly a copy of each report received under this paragraph.

(3) Unless section 394 of the Companies Act 2006 applies to the body (duty on every company to prepare individual accounts), the Regulations must provide that the Department may give directions to the body with respect to the preparation of its accounts.

(4) Unless the body falls within sub-paragraph (5), the Regulations must provide that the Department may give directions to the body with respect to the audit of its accounts.

(5) The body falls within this sub-paragraph if it is a company whose accounts—

(a) are required to be audited in accordance with Part 16 of the Companies Act 2006 (see section 475 of that Act); or

(b) are exempt from the requirements of that Part under section 482 of that Act (non-profit

making companies subject to public sector audit).

(6) The Regulations may provide that, whether or not section 394 of the Companies Act 2006 applies to the body, the Department may direct that any provisions of that Act specified in the directions are to apply to the body with or without modifications.

FUNDING

10. The Regulations may provide that the Department may make grants to the body.

FINANCIAL PENALTIES

11.—(1) This paragraph applies where the Regulations include provision enabling the body to impose a financial penalty on a person who is, or has been, authorised to act as an insolvency practitioner (see section 14G(5)).

(2) The Regulations—

(a) must include provision about how the body is to determine the amount of a penalty; and

(b) may, in particular, prescribe a minimum or maximum amount.

(3) The Regulations must provide that, unless the Department (with the consent of the Department of Finance and Personnel) otherwise directs, income from penalties imposed by the body is to be paid into the Consolidated Fund.

(4) The Regulations may also, in particular—

(a) include provision for a penalty imposed by the body to be enforced as a debt;

(b) prescribe conditions that must be met before any action to enforce a penalty may be taken.

STATUS ETC.

12. The Regulations must provide that—

(a) the body is not to be regarded as acting on behalf of the Crown; and

(b) its members, officers and employees are not to be regarded as Crown servants.

TRANSFER SCHEMES

13.—(1) This paragraph applies if the Regulations make provision designating a body (whether one established by the Regulations or one already in existence) in place of a body designated by earlier regulations under section 14G; and those bodies are referred to as the "new body" and the "former body" respectively.

(2) The Regulations may make provision authorising the Department to make a scheme (a "transfer scheme") for the transfer of property, rights and liabilities from the former body to the new body.

(3) The Regulations may provide that a transfer scheme may include provision—

(a) about the transfer of property, rights and liabilities that could not otherwise be transferred;

(b) about the transfer of property acquired, and rights and liabilities arising, after the making of the scheme.

(4) The Regulations may provide that a transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the former body in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the former body in respect of anything transferred;

(d) make provision for references to the former body in an instrument or other document in respect of anything transferred to be treated as references to the new body;

(e) make provision for the shared ownership or use of property;

(f) if the TUPE regulations do not apply to in relation to the transfer, make provision which is the same or similar.

(5) The Regulations must provide that, where the former body is an existing body, a transfer scheme may only make provision in relation to—

(a) things done by or in relation to the former body in or in connection with the exercise of functions conferred on it by previous regulations under section 14G; and

(b) functions of the body which are functions so conferred.

(6) In sub-paragraph (4)(f), "TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

(7) In this paragraph—

(a) references to rights and liabilities include rights and liabilities relating to a contract of employment;

(b) references to the transfer of property include the grant of a lease.

ADDITIONAL PROVISION WHERE BODY IS UNINCORPORATED ASSOCIATION

14.—(1) This paragraph applies where the body is an unincorporated association.

(2) The Regulations must provide that any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.

(3) In sub-paragraph (2) "relevant proceedings" means proceedings brought in or in connection with the exercise of any function conferred on the body by the Regulations.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Before schedule 1 insert

"SCHEDULE A1

SECTION 14G(10).

SINGLE REGULATOR OF INSOLVENCY PRACTITIONERS: SUPPLEMENTARY PROVISION

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(b) paragraphs 6, 7 and 9 to 13 have effect where the Regulations designate an existing body (see section 14G(2)(b));

(c) paragraph 14 also has effect where the Regulations designate an existing body that is an unincorporated association.

(2) Provision made in the Regulations by virtue of paragraph 6 or 12, where that paragraph has effect as mentioned in sub-paragraph (1)(b), may only apply in relation to—

(a) things done by or in relation to the body in or in connection with the exercise of functions conferred on it by the Regulations; and

(b) functions of the body which are functions so conferred.

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2.—(1) The Regulations must prescribe the name by which the body is to be known.

(2) The Regulations must provide that the members of the body must be appointed by the Department after such consultation as the Department thinks appropriate.

(3) The Regulations must provide that the Department must appoint one of the members as the chair of the body.

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(2) The Regulations must provide that, as regards any member (including the chair) in whose case the Department so determines, the body must pay or make provision for the payment of—

(a) such pension, allowance or gratuity to or in respect of that person on retirement or death as the Department may determine; or

(b) such contributions or other payment towards the provision of such a pension, allowance or gratuity as the Department may determine.

(3) The Regulations must provide that where—

(a) a person ceases to be a member of the body otherwise than on the expiry of the term of office; and

(b) it appears to the Department that there are special circumstances which make it right for that person to be compensated,

the body must make a payment to the person by way of compensation of such amount as the Department may determine.

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(b) for the retention by the body of any such fees payable to it;

(c) about the application by the body of such fees.

(2) The Regulations may, in particular, make provision—

(a) for the body to be able to set such fees as appear to it to be sufficient to defray the expenses of the body exercising its functions, taking one year with another;

(b) for the setting of fees by the body to be subject to the approval of the Department.

(3) The expenses referred to in sub-paragraph (2)(a) include any expenses incurred by the body on such staff, accommodation, services and other facilities as appear to it to be necessary or expedient for the proper exercise of its functions.

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(b) such other matters as may be prescribed in the Regulations.

(2) The Regulations must require the Department to lay before the Assembly a copy of each report received under this paragraph.

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(5) The body falls within this sub-paragraph if it is a company whose accounts—

(a) are required to be audited in accordance with Part 16 of the Companies Act 2006 (see section 475 of that Act); or

(b) are exempt from the requirements of that Part under section 482 of that Act (non-profit making companies subject to public sector audit).

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(2) The Regulations—

(a) must include provision about how the body is to determine the amount of a penalty; and

(b) may, in particular, prescribe a minimum or maximum amount.

(3) The Regulations must provide that, unless the Department (with the consent of the Department of Finance and Personnel) otherwise directs, income from penalties imposed by the body is to be paid into the Consolidated Fund.

(4) The Regulations may also, in particular—

(a) include provision for a penalty imposed by the body to be enforced as a debt;

(b) prescribe conditions that must be met before any action to enforce a penalty may be taken.

STATUS ETC.

12. The Regulations must provide that—

(a) the body is not to be regarded as acting on behalf of the Crown; and

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TRANSFER SCHEMES

13.—(1) This paragraph applies if the Regulations make provision designating a body (whether one established by the Regulations or one already in existence) in place of a body designated by earlier regulations under section 14G; and those bodies are referred to as the "new body" and the "former body" respectively.

(2) The Regulations may make provision authorising the Department to make a scheme (a "transfer scheme") for the transfer of property, rights and liabilities from the former body to the new body.

(3) The Regulations may provide that a transfer scheme may include provision—

(a) about the transfer of property, rights and liabilities that could not otherwise be transferred;

(b) about the transfer of property acquired, and rights and liabilities arising, after the making of the scheme.

(4) The Regulations may provide that a transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the former body in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the former body in respect of anything transferred;

(d) make provision for references to the former body in an instrument or other document in respect of anything transferred to be treated as references to the new body;

(e) make provision for the shared ownership or use of property;

(f) if the TUPE regulations do not apply to in relation to the transfer, make provision which is the same or similar.

(5) The Regulations must provide that, where the former body is an existing body, a transfer scheme may only make provision in relation to—

(a) things done by or in relation to the former body in or in connection with the exercise of functions conferred on it by previous regulations under section 14G; and

(b) functions of the body which are functions so conferred.

(6) In sub-paragraph (4)(f), "TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

(7) In this paragraph—

(a) references to rights and liabilities include rights and liabilities relating to a contract of employment;

(b) references to the transfer of property include the grant of a lease.

ADDITIONAL PROVISION WHERE BODY IS UNINCORPORATED ASSOCIATION

14.—(1) This paragraph applies where the body is an unincorporated association.

(2) The Regulations must provide that any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.

(3) In sub-paragraph (2) "relevant proceedings" means proceedings brought in or in connection with the exercise of any function conferred on the body by the Regulations.".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

New schedule agreed to.

Schedule 1 agreed to.

Schedule 2 (Minor and consequential amendments)

Amendment No 47 made:

In page 18, line 15, at end insert

"3A. In Article 14(2), omit "or authorised to act as nominee,".

3B. In Article 15(4), omit ", or authorised to act as nominee,".

3C. In Article 17(2), omit "or authorised to act as nominee,".

3D. In Article 20(5), omit "or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 48 made:

In page 18, line 28, at end insert

"12A. In Schedule A1—

(a) in paragraph 38(1), omit ", or authorised to act as nominee,";

(b) in paragraph 41(2), omit ", or authorised to act as nominee,";

(c) in paragraph 43(1), omit ", or authorised to act as nominee,";

(d) in paragraph 49(6), omit ", or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Schedule 2, as amended, agreed to.

Schedule 3 (Repeals)

Amendment No 49 made:

In page 19, line 42, in second column, at end insert

"In Article 14(2), the words "or authorised to act as nominee,".

In Article 15(4), the words ", or authorised to act as nominee,".

In Article 17(2), the words "or authorised to act as nominee,".

In Article 20(5), the words "or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Amendment No 50 made:

In page 20, line 29, in second column, at end insert

"In Schedule A1—

(a) in paragraph 38(1), the words ", or authorised to act as nominee,";

(b) in paragraph 41(2), the words ", or authorised to act as nominee,";

(c) in paragraph 43(1), the words ", or authorised to act as nominee,";

(d) in paragraph 49(6), the words ", or authorised to act as supervisor,".".— [Mr Bell (The Minister of Enterprise, Trade and Investment).]

Schedule 3, as amended, agreed to.

Long title agreed to.

Mr Principal Deputy Speaker: That concludes the Consideration Stage of the Insolvency (Amendment) Bill. The Bill stands referred to the Speaker.

Committee Business

Public Services Ombudsperson Bill: Extension of Committee Stage

Mr Sheehan (The Deputy Chairperson of the Ad Hoc Committee on the Public Services Ombudsperson Bill): I beg to move

That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to 30 September 2015, in relation to the Committee Stage of the Public Services Ombudsperson Bill [NIA 47/11-16].

Question put and agreed to.

Resolved:

That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to 30 September 2015, in relation to the Committee Stage of the Public Services Ombudsperson Bill [NIA 47/11-16].

Barnett Formula: Review Report

Mr Principal Deputy Speaker: The Business Committee has agreed to allow up to two hours for the debate. The proposer will have 15 minutes to propose the motion and 15 minutes to make a winding-up speech. All other Members who wish to speak will have five minutes.

Mr McKay: I beg to move

That this Assembly approves the report of the Committee for Finance and Personnel on its review of the operation of the Barnett formula (NIA 254/11-15); and calls on the Minister of Finance and Personnel, in conjunction with Executive colleagues, to implement, as applicable, the recommendations contained therein.

Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I open what I believe to be a very important debate strategically. While it focuses on our future funding arrangements, the issues are ultimately concerned with the longer-term prosperity of our local economy and the wider community.

In terms of the headlines arising from the review of the operation of the Barnett formula, let me make two points clear up front: first, the Committee is not necessarily calling for the Barnett formula to be scrapped, at least not in

the short-term; secondly, the Committee has identified two key areas of risk. The possibility exists that, as a result of the way in which the formula works, we could end up being significantly underfunded in relative terms, certainly when we turn the corner with austerity, which, I am sure, we all hope is sooner rather than later. There is also the very real possibility that the status quo will be changed for us as a result of wider constitutional reform across the water in the wake of the Scottish independence referendum and the May general election.

The Committee had the privilege of a briefing from Professor David Heald, one of the leading lights on devolution funding, who is accredited with giving the Barnett formula its name. In light of the vow by Messrs Cameron, Clegg and Miliband before the independence referendum in Scotland, Professor Heald had pointed out that that could mean different things, including that Barnett is kept in name only; that the population-based mechanism continues and is combined with a needs assessment; and/or that it will be about maintaining Scotland's level of per capita spending. In short, therefore, we do not know what the future holds for how or whether the Barnett formula continues.

In February 2012, the Committee received preliminary evidence from a panel of expert witnesses that indicated that, whilst historically the Barnett formula, or the original block allocation, may have worked in our favour due to various factors, we could soon reach the point at which we are underfunded in terms of relative need. In light of this and the apparent commitments to retain the formula, the Committee commenced its review last autumn, taking evidence from a range of expert witnesses over seven months. Research was commissioned, and several members visited Edinburgh in May for discussions with senior Scottish Government officials and members of the Scottish Parliament's Finance Committee.

I expect others may wish to cover some of the detail of the Committee's findings during the debate, including the pros and cons of the formula. I shall, therefore, focus in very broad terms on the four key areas that needed to be addressed.

I mentioned the risk of being underfunded. A number of experts highlighted how convergence with per capita spending in England — the Barnett squeeze, as it is known — means that the North is likely to be in the same position as Wales in a few years' time, whereby funding has gone below the level that needs-based formulae would provide. In this regard, Professor Alan Trench cautioned:

> *"the point at which spending matches a reasonable estimate of relative need may not be far away. At that point, life could get very tough indeed for a Finance Minister"*

— if it is not tough enough already.

Most of the experts agreed that convergence appears to have occurred in the North to some extent, although the influences and complexities of that were discussed in some detail. While convergence can slow or reverse during a period of austerity, the Committee noted that it will depend on the particular mix of influencing factors that exist at any point in time. Moreover, Dr Gudgin cautioned:

> *"The worst situation for [the North] would be if real spending was stagnant or falling while prices were rising. [The North] would then be hit twice, once by the real fall which would affect all regions and secondly by a falling share of national spending due to inflation."*

The Committee also examined the different considerations in needs assessment. The key point is that it has the potential to be controversial in the approach taken and in the definitions and data used. As such, the Committee calls for the Department of Finance and Personnel and the Executive to do their homework on those complex issues. That will be important by way of contingency planning for circumstances in which we need to promote or respond to proposals for change.

It is reasonably foreseeable that external pressure for change will arise from the increased fiscal devolution and wider constitutional reform across the water. The Committee noted several issues that may lead to increased complexity and contention, ultimately influencing the future of the Barnett formula and devolution funding generally.

The first issue is the implications of the further devolution of fiscal powers. That could lead to a diminished funding allocation through the formula and increasingly notional deductions from the block grant. There is the big question of what principles will be used for block grant adjustments and whether they will apply across the devolved jurisdictions. The Committee has queried, for example, whether the no detriment principle from the Smith Commission in Scotland will also apply here in calculating the cost of applying a reduced corporation tax rate. If so, that could reduce the hit on our block grant quite substantially. I refer Members to paragraphs 40 and 41 of the report.

The Committee's review also examined other topical issues that could have implications for devolution funding arrangements. They include the proposal for English votes for English laws, more often referred to as "EVEL"; the potential for devolution within England; and the tie between the Barnett formula and policy decisions in England. It is clear that those issues could further complicate things and lead to disputes, which could act as a further impetus for more thoroughgoing reform.

The other two areas that the Committee identified as needing to be addressed relate to the clear lack of transparency and accountability in Treasury's decision-making and the dearth of reliable, independent public finance data. It is clear that there are widely held concerns about the data underpinning the Barnett decisions and a general recognition that greater transparency and openness are required. I will not rehearse the evidence from the expert witnesses. However, Committee members, during their visit to Edinburgh, noted an interesting point that the Scottish Parliament's Finance Committee had picked up on in recent evidence from the Institute for Fiscal Studies (IFS). The IFS pointed out that after it "pestered the Treasury", it managed to get hold of the spreadsheets that are used for the more detailed Barnett calculations and which are unpublished. The IFS could not see any reason why that information could not be published by Treasury with each spending review or Budget statement.

Closer to home, it was clear from the Department's previous evidence to the Committee that DFP officials have been unfairly disadvantaged in their negotiations with Treasury on the devolution of corporation tax. It was noted that Treasury had not shared all the detail of its calculations. The obvious question arising from that is this: how can that be acceptable to any devolved Government or Administration?

Also related to transparency is the fact that the Committee heard about some of the more notorious examples of arbitrary decision-making by Treasury on what does or does not attract Barnett consequentials. They included the initial decisions that infrastructure spending on the 2012 London Olympics, Crossrail and Kew Gardens would not attract consequentials, as they were classified as an activity in England benefiting all the jurisdictions. In evidence, Professor Holtham described one of those examples more colourfully than I could. He stated:

> *"The Royal Botanic Gardens at Kew is regarded as of national significance and, therefore, is excluded from having Barnett consequentials. However, the National Botanic Garden of Wales falls entirely to the cost of the Welsh Government".*

He said:

> *"How the hell is Kew regarded as being of national significance, when the National Botanic Garden of Wales is not? That is unfair. For once, the Treasury gave way and put in a small consequential for expenditure on Kew gardens. It was very small."*

In his evidence, Professor Trench highlighted the failure of the existing dispute resolution arrangements when they were invoked by the devolved Governments over the issue of the 2012 London Olympics. He stated:

> *"Essentially, the Treasury said no, that it had made its decision and that it would not budge. So, even though there was a very strong argument that that had taken quite a lot of spending out of devolved Governments' pockets and that it was completely inappropriate... they still could not persuade the Treasury through the disputes resolution panel, which, for these purposes, was Francis Maude, the Cabinet Office Minister... So, effectively, the devolved Governments got nowhere with that process, and that is a problem that will remain built into the present structure of resolving disputes, particularly finance disputes."*

Related to that point, the Committee heard various suggestions for improvements to the arrangements for making decisions and resolving associated disputes. Those are outlined in the Committee's report and discussed in detail in the source evidence. Members may wish to pick up on some of the suggestions during the debate.

The Committee has not been prescriptive on the solutions covered. Instead, it is calling on the Minister to engage with her counterparts in Scotland and Wales, with a view to presenting jointly agreed proposals to the Government in Westminster.

More generally, the Committee is calling on the Department and the wider Executive to act now and develop a well-thought-out position on funding arrangements, with a view to influencing the shape of things to come. I look forward to the contributions from Members and

the Minister and commend the report to the House.

Mr Principal Deputy Speaker: The Business Committee has arranged to meet immediately after the lunchtime suspension today. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. The first item of business when we return will be Question Time.

The debate stood suspended.

The sitting was suspended at 1.02 pm.

On resuming (Mr Deputy Speaker [Mr Beggs] in the Chair) —

2.00 pm

Oral Answers to Questions

Education

Mr Deputy Speaker (Mr Beggs): Questions 1, 8, 9 and 11 have been withdrawn.

Glenwood Primary School/Malvern Primary School

2. **Mr Humphrey** asked the Minister of Education what impact the proposed new-build development of Glenwood Primary School will have on the decision in relation to the future of Malvern Primary School. (AQO 8462/11-15)

Mr O'Dowd (The Minister of Education): Glenwood Primary School is one of the 22 new-build projects that I announced would advance in planning in January 2013. As part of my recent decision on Malvern Primary School, I asked the Education Authority to draw up firm proposals for a wider area solution, encompassing Edenbrooke, Glenwood and Malvern primary schools. That will assist in giving clarity to the size of the Glenwood Primary School new-build project. The Education Authority's Belfast region is preparing the business case for the new Glenwood Primary School, which will justify the required size and consider a revised area solution.

Mr Humphrey: I thank the Minister for his answer. I appreciate the work that he has done in relation to schools in the greater Shankill, not least Malvern Primary School, and I appreciate the decoupling of the Malvern and Glenwood schools. The Minister will know that Glenwood is the hub school for the greater Shankill, with more than 500 children, and is vital to the education of the young people in that area. Given its importance and the key role that it plays, can the Minister provide certainty to the school and its board of governors that the new build will go ahead, and that it will go ahead as soon as is possible?

Mr O'Dowd: I have no hesitation in doing so. There was some concern, and perhaps confusion, in relation to comments around the possible negative impact on Glenwood Primary School of Malvern Primary School being kept open. That caused concern in both schools and, indeed, the wider community, and I hope we have reassured the community that that is not the case. This is a normal planning process that we have to go through with every building application. It is my intention to deliver a new Glenwood Primary School, and my decision on Malvern Primary School will not divert me from that.

Iveagh Primary School: Nursery Unit

3. **Ms Ruane** asked the Minister of Education, following the establishment of a new 26-place part-time nursery unit at Iveagh Primary School in Rathfriland, to outline the benefits that this new facility will bring to families in the Rathfriland area. (AQO 8463/11-15)

Mr O'Dowd: On 2 June, I approved the establishment of a new 26-place part-time nursery unit at Iveagh Primary School in Rathfriland. That approval was in response to the publication in October 2014 by the then Southern Education and Library Board of a development proposal to establish the new provision with effect from 1 September 2015 or as soon as possible thereafter. The new nursery unit will replace the current reception provision at the school. Having reviewed the advice from officials, I was satisfied that the evidence clearly demonstrated a need for more preschool places for the benefit of children in the Rathfriland area. It is well known that high-quality preschool education has a positive long-term impact on children's educational outcomes. The new provision at Iveagh Primary School will help achieve that aim in the Rathfriland area.

Ms Ruane: Gabhaim buíochas leis an Aire as an fhreagra sin. I thank the Minister for his answer. I appreciate the decision and share his view on the importance of early years. Will he outline the rationale for the modification of the implementation date for the new nursery to September 2016?

Mr O'Dowd: I thank the Member for her question and comments. We have modified it to September 2016 because the decision-making process meant that my decision did not come until the start of June. That meant that the preschool applications for this year were quite well advanced, so we felt that it was only right and proper to delay the Rathfriland decision until 2015-16 so as to not interfere with this year's applications and to ensure that we can put in place the infrastructure required in the school for this much-welcomed development.

Mr Rogers: I welcome that new nursery provision in the Rathfriland area. In the flexibility around nursery education, a child normally gets five three-hour sessions per week, but have you ever thought about introducing flexibility so that that could be changed to three five-hour sessions?

Mr O'Dowd: We carried out a review of preschool education a number of years ago, and we introduced our Learning to Learn policy within the last two years. We now believe that we have in place a policy that benefits the needs of children. However, if there are imaginative proposals coming forward that can be accommodated within the infrastructure of a school, each one is worth looking at on its own merits.

Mr Deputy Speaker (Mr Beggs): David McNarry is not in his place.

Area-based Planning: Update

5. **Mr Girvan** asked the Minister of Education for an update on area-based planning for primary and post-primary schools. (AQO 8465/11-15)

Mr O'Dowd: New area planning governance structures are being implemented at a strategic, working-group and local level. They aim to improve the area planning process by refreshing and enhancing strategic directional and operational consistency across all Education Authority regions. They will also give opportunities for increased engagement with all key stakeholders and stakeholder bodies.

The area plans for primary and post-primary schools are to be reviewed and consulted on by the Education Authority. They will then be published together for all regions by July 2016. The plans will be reviewed on a three-year cycle.

The annual action plan will also accompany the area plan. That will reflect how the needs of all sectors will be provided for. It will highlight those schools that are exhibiting stress and indicate how they will be supported and how their sustainability issues will be addressed. The first annual action plans are due to be submitted to my Department in September this year.

The annual area profiles, which contain information for 2014-15 on all schools in a common and accessible format, have been published on the Education Authority's website. I remain committed to area planning, and I am confident that the new structures and processes that I described will lead to a more efficient and inclusive implementation process.

Mr Girvan: I thank the Minister for his answer thus far. Have the criteria been applied fairly and equally throughout all the sectors of education that exist in Northern Ireland?

Mr O'Dowd: I believe so. All the main sectors are represented on one or other of the planning models, and each one's voice is heard. Representations are made from all the sectors; for instance, the new controlled sectoral body's role has been recognised and placed on the appropriate level in relation to area planning.

Area planning has been an evolving process over the last number of years. We struggled against the backdrop of uncertainty with the Education and Skills Authority and the continuation of the education boards. We now have the Education Authority and the controlled sectoral support body in place. There is certainly now a way forward, and I think that we can continue to achieve significant goals through the area planning process in the short, medium and long term.

Mr Ramsey: Why is there limited cross-border engagement when considering areas that are so close to the border that that level of cooperation would clearly make sense?

Mr O'Dowd: I think that partition has clearly had an impact on how structures on both sides of the border plan and on how you think about how you deliver services in a region. That has had a negative impact, in my opinion.

There is further work to be done and that can be done through education and area planning on cross-border cooperation. We are looking at a model in Fermanagh and Donegal to see how we can cooperate there, and there are clearly

areas in your constituency where greater cooperation can take place.

It is about breaking down not the big political mindset but politics with a small "p". It is also about ensuring that, when people come to planning, they look within and beyond this jurisdiction to make sure that we provide the best services possible for all our young people.

Mr Cree: Does the Minister recognise that the Catholic maintained sector has, in fact, reorganised its own schools estate over many years without reference whatsoever to other sectors? Does he agree that we will not be able to have proper area planning-based sectors until we agree a long-term vision of having one schools estate?

Mr O'Dowd: The question, then, is this: what will that one, single schools estate and its management body look like? We tried to bring in a model through the Education and Skills Authority, but it faced huge resistance.

The Member is not the first person to make a statement saying that we need a single education system. The challenge for all politicians and educators is to establish what that system looks like and how we ensure that everybody has faith in it and that the stakeholders all have a say in the development of education moving forward. That is a challenge for the Assembly and for those beyond it.

I do not think that it is fair to criticise the Council for Catholic Maintained Schools (CCMS) in isolation. All sectors have been guilty at one time or another of planning their estate in isolation. I have now brought all sectors together under the one umbrella, where they have to engage with each other, discuss with each other and work with each other around planning the future schools estate. I hope also to bring shared education legislation to the Assembly, which I think will enhance the work of ensuring that sectors, communities and schools work together in the planning of our schools estate going into the future.

Mr McCarthy: What procedures does the Minister have in place to ensure support for the growth of the integrated sector in the area-based planning process?

Mr O'Dowd: The integrated sector has a seat at the top table. It is represented at all layers in area planning. It also has a responsibility to make its voice heard and to engage with and encourage and facilitate integrated education among the other sectors. I have made my views quite plain and clear to the body. I chair the meetings biannually, and my deputy permanent secretary chairs the other meetings. All sectors need to work together, and everyone's voice has to be heard, including the smaller sectors, which are the integrated sector and the Irish-medium sector.

Ms Sugden: When setting out the area-based plans, was the Minister mindful of finance and, indeed, did he set aside finance to implement his plans, for example of an amalgamation of a new school?

Mr O'Dowd: Yes. Area planning has been one of the central cores and policies of my Department and, indeed, my time as Minister of Education. For new builds, amalgamations are given a higher score in moving forward towards new build or investment in the school. Those elements are taken under consideration in moving forward capital and resource provision to newly amalgamated schools.

I say again that it is a learning process. It is a learning process for the schools, the sectors and my Department, but I think that we are improving on it and that we are learning from the lessons that need to be learned from.

School Enrolments: Temporary Variation

6. **Mrs Dobson** asked the Minister of Education whether there are any circumstances where he would overrule his Department's decisions on applications for temporary variation in individual school enrolments. (AQO 8466/11-15)

Mr O'Dowd: I will start by putting into context why the temporary variation process exists. The Education Order 1997 requires the Department to determine an enrolment number and an admissions number for each grant-aided school. These numbers are set each year in consultation with the Education Authority, with the school's board of governors and with CCMS in the case of Catholic maintained schools. However, in recognition of the pressures that can arise in local areas, the Department has the power to create additional places by way of temporary variations (TVs). In effect, TVs are about addressing short-term demographic pressures in an area. Additional spaces are sought and approved for specific named children on a school's waiting list in an order dictated by the school's own admissions criteria. They are not about facilitating particular parental preferences or indeed about meeting the needs of a particular institution.

The Department considers hundreds of TV requests each year. Where I am asked to consider a particular request, my overriding priority will always be the educational interests of the specific children named in the request.

Mrs Dobson: I thank the Minister for his answer. Does he understand why there is great concern that he saw fit to review and reverse the recent decision by his officials not to allow a temporary increase in year 8 enrolments in a County Armagh maintained secondary school but not to review the same decision in a neighbouring controlled school? Can he assure the House and, indeed, the wider public that this is not a case of preferential treatment, given the media comments by his party colleagues in the area?

Mr O'Dowd: Before I answer the question, I offer my sympathies to Mrs Dobson on the death of Councillor John Hanna. I pass on my sympathies to the Ulster Unionist Party in Upper Bann, to John's wife and to his wider family. I knew John, and he was a character. He will be sadly missed by all. My sympathies go to everyone involved.

I can understand the concern because I believe that I have been misrepresented in the media. Media and press releases have been inaccurate, not factual and, in some cases, in my opinion, deliberately misleading. I have set out quite clearly why I approved the places in St Paul's, and there is a clear rationale behind that. I have set out quite clearly where I turned down the places at Markethill High School, and there is a clear rationale behind that as well.

I do not focus my work on orange and green. I focus my work on what the policy dictates, the needs of the children who apply and the impact that that has on the wider area.

2.15 pm

I am not going to get into a media fight over it. The facts speak for themselves. If people deal with the facts, there is a clear rationale. If people wish to spin those facts, I cannot stop that, but if they sit down and look at the simple facts of the case, they can see that the decisions are defensible. They were the right decisions to make, and if I had to make them again in the morning, I would make the same decisions.

Mr Newton: The Minister will be aware of the unique situation with Strandtown Primary School and, indeed, the three feeder schools of Belmont, Dundela and Greenwood, where temporary variation owing to potential development plans needs to be kept in place. To encourage what are very good schools offering a very good education base and, indeed, a very good social mix, will the Minister allow the temporary variations for the period of the development plan's implementation?

Mr O'Dowd: I will consider each case on its merits. There have been a number of temporary variations agreed in previous years, and one, I believe, for this year for Strandtown as well. I encourage everyone involved in the equation to come forward with a development proposal that gives an area-planning-proofed solution to the specific primary school/nursery school relationship in that area. I encourage the Education Authority and the schools involved to come forward with a development proposal as quickly as possible.

Ms McCorley: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagraí go dtí seo. Why is it not possible to grant every temporary variation request submitted to the Department by schools?

Mr O'Dowd: The simple answer is that every temporary variation is different and has different circumstances attached. As in the case of a development proposal, which gives a permanent increase to numbers in schools, it also has an impact on the schools surrounding the named school, so it is impossible to give a blanket approval, just as it is impossible to have a blanket ban on any increase in numbers. As I said, each case will be judged on its merits.

There will be occasions when I as Minister either review decisions made by my officials or am asked to review decisions made by my officials, and I will do that. The task of any Minister in any Department is to govern and run the Department. At times, I will make a decision that is different from my officials, but that is the nature of government. That is the nature of being in a ministerial post. As long as I can stand over the decisions that I have made, and I believe that I can stand over the decisions that I have made, even in the recent past, I am content that the process has been followed properly and fully.

Cyberbullying

7. **Mr F McCann** asked the Minister of Education, given the recent tragedy caused by cyberbullying, to outline what measures his Department is taking to help young people and

parents deal with this type of bullying. (AQO 8467/11-15)

Mr O'Dowd: Gabhaim buíochas leis an Chomhalta as an cheist. The primary duty to safeguard pupils lies with each school board of governors, and schools are required to have in place policies for bullying and the safe use of the Internet and digital technologies. The Department supports schools by providing, through C2k, safe and controlled Internet access and ICT services. We also focus on teaching pupils of all ages about e-safety and acceptable online behaviour so that, even beyond the school gates and the boundaries of C2k, they are equipped to participate in the online world effectively, enjoyably and safely.

C2k provides schools with access to e-safety information and teaching resources via a dedicated e-safety zone. In May 2015, it ran e-safety conferences that attracted over 400 school representatives. All schools have received a new circular containing information, advice and lesson plans on issues such as sexting, using webcams, social networking, inappropriate content and chatting with strangers. C2k works directly with pupils to highlight online safety issues and to provide young people with links to relevant Web resources.

The Department funds the local Anti-Bullying Forum, which provides support, resources and guidance to schools, parents and pupils. We have tasked the Anti-Bullying Forum with enhancing its cyberbullying resources during the year. Further specialist support is available from the Education Authority's child protection support service to schools, and children in post-primary education can use the independent counselling service for schools to speak to a trained counsellor about any concerns or fears that they have. I am currently taking forward new anti-bullying legislation, which will be accompanied by additional detailed guidance for schools, parents and pupils. My Department is working with the Safeguarding Board in the development of its e-safety strategy.

Mr F McCann: Will the Minister outline the scope of his anti-bullying Bill?

Mr O'Dowd: In that Bill, I plan to give a legal definition to bullying for the first time. The proposal will be that bullying is the repeated and intentional use of physical, verbal, electronic, written or psychological acts, or omissions, or any combination thereof by one or more pupils against a pupil or group of pupils with the intention of causing hurt, harm, fear, distress or adversely affecting the rights or needs of that pupil or group of pupils. The legislation will also put a duty on boards of governors to ensure that they have in place a robust anti-bullying policy and that measures are taken, as far as possible, as in any circumstances, to eradicate bullying and support the victims of bullying in our schools.

E-safety and Internet safety will require a combined approach from a number of Departments to bring forward legislation, if legislation is the right answer with regard to further e-safety for children. The Safeguarding Board is working with Departments and has agreed terms of reference on bringing forward a strategy on protecting our young people online etc. Quite a significant amount of work is going on across Departments and interdepartmentally to protect young people online. It is a very difficult area both for schools and parents. As the recent tragic events have shown us, criminals can reach young people from thousands of miles away, with disastrous impacts on children and their families. We will continue to work across a range of agencies and areas to do our best to protect our young people when they are online.

Mrs Overend: I thank the Minister for that. I know that the Department of Education carries out a lot of work in the realm of Internet safety. Can he tell me whether the Office of the First Minister and deputy First Minister has shared with him the details of the gapping and mapping exercise that it carried out in winter 2012 and completed in summer 2013, or given him any of the information from that exercise? I feel that it is something that should greatly benefit him —

Mr Deputy Speaker (Mr Beggs): The Member has asked a question.

Mrs Overend: If not, will he endeavour to get that information?

Mr O'Dowd: I can neither confirm nor deny that. I will ask my officials to check whether that information has been shared and, if not, whether it can be shared and what help it will be to my Department. It may have been shared or may be part of the work of the Safeguarding Board. It is involved in and spearheading work between the various Departments and agencies. I will endeavour to check out whether the safety information can be shared and what assistance it is to my Department in our work on anti-bullying infrastructure.

Mr Craig: I welcome the fact that the Minister is bringing forward legislation on bullying policies

in schools. Does he agree, though, that a lot of cyberbullying in particular actually occurs outside of the school and, as he mentioned, even on an international basis? What has his Department done in conjunction or in liaison with the PSNI on that as it has now become a priority matter for the PSNI and has been put into the new policing plan?

Mr O'Dowd: The latest circular that we issued to schools was done in conjunction with and on advice from the PSNI. I know that, even with regard to presentations that have taken place since the tragedy in Tyrone, there have been joint presentations by C2k and the PSNI to schools and parents in the area, which have been very informative and useful. We will continue to liaise with all agencies, including the PSNI, on how we protect young people in and outside school and on how we provide information to teachers, parents and guardians on how they can assist in protecting young people.

We will also liaise on how we ensure that our young people and children feel comfortable about coming forward if they have made a mistake or are under pressure from elements, whether bullies, criminals or whoever. They must feel that they can come forward to discuss these matters with a trusted adult and that action can be taken and assistance given.

Those are the objectives, and the approach will be multi-departmental and multi-agency. The work to date has been very good, but we are always learning. As for the Internet, there is always somebody one step ahead of you, so we have to keep learning and keep our ideas fresh.

Mr Deputy Speaker (Mr Beggs): Excuse me, but could I ask Members to take their seats? Thank you. I call Dolores Kelly.

Mrs D Kelly: Thank you. Minister, you will be aware that I wrote to you recently in the aftermath of the tragedy. I hope that we can also promote the website Get Safe Online as an information tool. Given that there has been a death as a result of cyberbullying, has the Minister any plans for a critical incident analysis? Despite all the safeguards, policies and procedures, somehow or other, what was happening to Ronan was not brought to the attention of the school authorities, and he did not know where to turn to for help.

Mr O'Dowd: I responded to your letter in the last number of days, and you will have the information.

I do not want to get into the detail of Ronan's case or what the school, family or police did or did not know. I met the principal, the vice-principal and the senior management team of the school yesterday to ensure that counselling services were available over the summer holiday period for parents and pupils. The staff, who acted tremendously in support of Ronan's family and his school peers, also need support, and we also have to ensure that we look after their mental health and well-being, because this is a very testing and trying period for everyone involved.

I have no difficulty in engaging with, or even suggesting to, other Departments and agencies that we have a critical incident review. I am not sure whether this is the right time. It may be the time, and, if lessons have to be learned, we should learn them.

When there is a sudden death in a school, whether of a pupil or staff member, the counselling service reacts immediately once notified. It will send counsellors into a school to support staff, pupils and parents. That happened in this case, as it has happened in so many other cases, so the counselling service is there. However, in the context of what you are saying, Mrs Kelly, I will certainly raise the issue with other Departments and see when is the best time to carry out a critical incident review.

Post-primary Places

10. **Mrs McKevitt** asked the Minister of Education, given that a number of children have not been awarded a post-primary place this year, to outline the action he is taking to ensure all children are awarded a post-primary place in future years. (AQO 8470/11-15)

Mr O'Dowd: I understand that, as of 22 June, 53 children have not yet been awarded a post-primary school place. With over 21,000 applications, that represents less than 0·3% of the cohort. That is changing daily, and the Education Authority is actively working to ensure that all children are placed.

The Education Authority has a statutory duty to secure provision of primary and secondary education, and the area planning process helps to ensure that there is a network of sustainable schools to cater for our children and young people now and in the future.

The Education Authority and the Council for Catholic Maintained Schools (CCMS), as the bodies with statutory responsibility for planning school provision, in conjunction with other

sectors, including the integrated and Irish-medium sectors, produced area plans that provide an indication of how the schools estate will meet the projected demand for places.

It is the responsibility of the managing authorities and schools, in the context of area planning, to bring forward development proposals to make a significant change to the admission and enrolment of a school.

Mr Deputy Speaker (Mr Beggs): That is the end of listed questions. We now move on to topical questions.

2.30 pm

Crèche Places: Early Years Cuts

T1. **Ms Sugden** asked the Minister of Education how he is minimising the risk to 900 crèche places due to the impending early years cuts. (AQT 2701/11-15)

Mr O'Dowd: We are now down to 900 — originally, I was questioned about 2,400 preschool places. I have yet to see any figure on this that I believe can be stood over. I do not believe that there is a risk to a significant number of preschool places. I have already put on record that I have the finances to fund preschool places. The early years fund is a different fund from that for preschool places. The early years fund supported community and voluntary providers of preschool places. Preschool funding is from a different budget and has not been affected.

Ms Sugden: The Minister has laboured on what he believes early years to be and not to be, but my sense is that he is just ignorant of the facts. When will the Minister take responsibility for a fund that is within his remit?

Mr O'Dowd: With the deepest respect to the Member, if she can produce for me a budget paper that shows that the early years fund is the preschool fund, I am ignorant of the facts. However, I suspect that there is one person in the Chamber who is ignorant of the facts, and that is you, because the early years fund is a separate fund.

Ms Sugden: *[Interruption.]*

Mr O'Dowd: You can mutter and interrupt me all that you want, but, if you listen, you might be surprised that you learn something. The early years fund is a fund separate and distinct from the preschool education fund. It was established —

Mr Deputy Speaker (Mr Beggs): Could all remarks be made through the Chair, please?

Mr O'Dowd: Sorry, Mr Deputy Speaker. It was established in the early 2000s as a result of the ending of one of the Peace funds. It was transferred from the Department of Health to the Department of Education, which continued to pay out the fund. It was a budget of around £2·2 million, and it was cut because of the drastic cuts that we face as a result of the British Government's economic policies. Preschool education is funded from a completely different budget line that has not been cut.

Ms Sugden: *[Interruption.]*

Mr O'Dowd: We are still muttering, and we are still not learning anything. If the Member wants a copy of all the budget lines in the Department of Education, I will send her one, and she will see that there is a clear distinction between the two. If she has been listening to the lobby from the Early Years organisation, she will know that it, too, accepts that there are two distinct and clear budget lines.

Schools: New-build Process

T3. **Mrs Hale** asked the Minister of Education to inform the Assembly of any changes to the process for deciding on new-build schools now that the five education and library boards have been subsumed by the Education Authority. (AQT 2703/11-15)

Mr O'Dowd: No change is proposed or planned in how we decide to provide new builds or in the size of a school required for a new build.

Mrs Hale: I thank the Minister for his answer. Can the Minister provide details of the prioritised list of schools waiting for departmental and ministerial approval for new school buildings?

Mr O'Dowd: We do not have a prioritised list in that sense. I am aware that many, many schools out there require a new build and significant investment of capital, whether for a full new build through the school enhancement programme or through the minor works programme. If we get to the stage of deciding to make a new announcement, we will contact the relevant managing authorities and ask them to put forward a list of schools that they believe

can be built in a timely way and fit within whatever funding envelope we have going into the future.

Early Years Fund: June Monitoring Round

T4. **Mr McQuillan** asked the Minister of Education for an update on his June monitoring round bid for early years funding, given that, in a recent answer to a question on early years funding, he said that it was his number one priority. (AQT 2704/11-15)

Mr O'Dowd: It remains my number one priority. All Departments have now submitted bids to the Department of Finance and Personnel, and those will be processed in the normal way. If and when we ever reach a point at which the Budget Bill is passed and June monitoring arrives at the Executive, I hope that they will agree to provide funding to the early years fund.

Mr McQuillan: When does the Minister expect the Budget to be passed, agreed and all the rest of it?

Mr O'Dowd: If I had the answer to that question, I would be doing a tour of the radio and TV studios, telling everyone that the answer to all our woes had been found, but I do not have the answer. I am aware that the Budget Bill is progressing, and I think that its Final Stage is next week. I assume that June monitoring will be dealt with at some stage after that.

Teachers: Voluntary Exit Scheme

T5. **Mr Milne** asked the Minister of Education how many teaching posts are being supressed in this financial year as part of the voluntary exit scheme. (AQT 2705/11-15)

Mr O'Dowd: There are significantly fewer than first estimated. The Department received 214 teaching redundancy applications, which means that boards of governors have identified 200 teaching positions as being redundant. Eighty of those 214 applications relate to development proposals that I approved prior to 31 March 2015. Those have been approved as part of the ELB education incurred costs in the 2014-15 annual accounts and will be paid from those. The cost of the 80 approved redundancies is £3·1 million and the cost of the remaining 134 applications is £4·7 million.

Mr Milne: Go raibh maith agat, a LeasCheann Comhairle. Mo bhuíochas leis an Aire as a fhreagra go dtí seo. How many teachers are in our schools now as opposed to three years ago due to reductions in budgets over recent years?

Mr O'Dowd: Despite several years of significant teaching redundancies, the number of teachers that we have has actually grown. That is as a result of the growth in the number of pupils in primary school over past years. We had an increase of 208 full-time equivalent teachers in the system in the 2014-15 year. We have paid off a significant number of teachers, but it is good to know that we have 208 more teachers in the system than we had in the previous year.

It is worth noting that it is very difficult to judge the impact across 1,100 schools of a reduction in the Department of Education budgets. To suggest that about 500 teachers could have been made redundant as a result of the cut to the Department of Education's budget was a fair estimate, but the schools have reported back, and we are looking at 214 redundancies, which will be covered through the voluntary exit scheme. That is a very welcome development.

We also estimate the number of non-teaching staff that might leave education to be around 1,000. That figure will not be necessary and will be significantly reduced. I think that we are now dealing with school-based non-teaching redundancies of about 140, but that number changes daily. The voluntary exit scheme of the Education Authority will be added to that at a later date.

Educational Underachievement

T6. **Mr Sheehan** asked the Minister of Education what his Department is doing to tackle educational underachievement among working-class children, in light of the 'Firm Foundations' report, launched by the PUP last week. (AQT 2706/11-15)

Mr O'Dowd: The policy direction of my Department over the last seven years, and previously, during Mr McGuinness's tenure, has been about tackling educational underachievement. We have tackled the myth that we had a world-class education system. People used to say, "If it's not broke, don't fix it." We have now got the majority of political parties to the point of saying that something is broken. We may not agree on exactly what it is, but they now agree that greater focus must be aimed at young people from socially deprived backgrounds in particular.

Policies that we have put in place are paying dividends. The latest examination results show an increase in those achieving five good GCSEs, including English and maths. There is still a tale of underachievement that we have to tackle, but I believe that the policies that are in place have the potential to turn things around significantly.

Mr Sheehan: Go raibh maith agat. Gabhaim buíochas leis an Aire as ucht a fhreagra. Will the Minister tell us whether the measures that he and his Department have put in place have made any improvements to educational attainment?

Mr O'Dowd: The simple answer is yes. As I said during my original answer, we have had an increase of about 4% in the number of young people achieving good GCSEs, including English and maths. As to the provision of education in our primary schools, this international report states that we have some of the best primary schools in the English-speaking world. That is something that our schools, and those involved in education, should be proud of. The potential, moving into post-primary schools, is hugely significant.

We still face significant challenges in post-primary schools, and I welcome that the PUP document recognises that academic selection is a challenge to education. We often hear of this child or that child from a socially deprived background doing well, and people tell us, "academic selection worked great for me" and all that stuff, but the system has to work for all children. Pointing to one or two examples of children who have done well — and fair play to them — is not good enough. There has to be a system in place that ensures that all our young people achieve all they can. The PUP report is useful for many reasons, not least because it has again stirred up a debate about education. I think that debating education in the round is a very good thing, and I hope the debate continues.

Schools: Free School Meals Formula

T7. **Mrs Cochrane** asked the Minister of Education to outline the main ways in which the money allocated to schools under the free school meals formula is spent. (AQT 2707/11-15)

Mr O'Dowd: It is up to schools, at the end of the day, as to how they spend their investment. We have provided them with additional information through the Sutton toolkit, which gives examples of how high-performing schools in socially deprived areas invest additional resources and best use them to improve education outcomes for young people. We have also made it clear to schools that we will monitor how money is invested and that we want to ensure there is a turnaround in the education outcomes of the young people in the schools that the money has been awarded to. It will take a number of years for that money to make a difference. It will take a number of years for the schools to plan and invest that money with a strategic long-term view.

I have no doubt that the money will make a difference, but money on its own is not the answer to the problem. Money is part of the answer. Strong school leadership is crucial, strong boards of governors are crucial, parental involvement in education is crucial, and ensuring that parents who have had a poor education experience themselves have the confidence and knowledge to get involved in their children's education is crucial. Community and political support for schools are also crucial. Money is only one element. I was never of the view that providing more money to socially deprived schools was the answer; I always said that it was part of the answer.

Mrs Cochrane: I thank the Minister for his response. Does he believe that the free school meal percentage of school population threshold actually allows for the money to be targeted at the children it is designed for, given that the calculation means that some schools with more pupils on free school meals are receiving less additional support than some smaller schools? Should there be more of a focus —

Mr Deputy Speaker (Mr Beggs): I ask the Member to finish her question.

Mrs Cochrane: — on spending that money to develop quality teaching?

Mr O'Dowd: In the debate on the common funding formula, which took place around a year and a half ago, or more, I was constantly challenged by commentators and other political parties on the ground that the free school meal entitlement formula did not properly target children in need. A year and a half on, no one has come forward with an alternative or an analysis suggesting that free school meal entitlement is the wrong way to identify social deprivation. I do not think you can prove that it is wrong. I am not aware of any other social deprivation factor that identifies the individual to whom you give the money. Free school meal entitlement identifies children who are entitled

to the benefit, and they are entitled either because they come from a low-paid family or a family that is on one or more benefit. The child therefore comes from a socio-economically deprived background.

When you have significant numbers of children from socio-economically deprived backgrounds in one school, that causes further pressures on the education attainment level and learning in the school. The money we have awarded to those schools is to tackle that additional factor against learning. Again, I throw out the challenge, a year and a half on from the debate, when many commentators and political parties told me that free school meals entitlement was not the right way to do it. No one has come forward with an alternative.

2.45 pm

Employment and Learning

Mr Deputy Speaker (Mr Beggs): Thomas Buchanan is not in his place to ask question 1.

Performing Arts

2. **Mrs McKevitt** asked the Minister for Employment and Learning what steps his Department is taking to support aspiring performing arts students from disadvantaged backgrounds. (AQO 8477/11-15)

Dr Farry (The Minister for Employment and Learning): Widening participation in further and higher education to students from a disadvantaged background is a key strategic aim for my Department. As the main providers of adult education throughout Northern Ireland, colleges continue to encourage access to further education, including performing arts, by delivering a varied curriculum through their campuses and community outreach centres. Colleges have a strong track record in attracting enrolments from deprived areas. In the 2013-14 academic year, there were over 1,000 enrolments in performing arts courses in further education. Of that, 21% were from the most deprived areas. Performing arts courses are available from level 1 to level 5 and offer learners the opportunity to acquire the skills and knowledge that they need to gain qualifications to help them progress in their chosen careers. A range of financial assistance is also available to students with low incomes.

Mrs McKevitt: Has the variety of such arts courses taught in this region increased in line with any so-called 'Game of Thrones' effect given that we have benefited so much from the likes of the film industry here in the North?

Dr Farry: First of all, the Member is right to point to the benefits to our economy from the film and other creative industries being present in our economy. Indeed, the further education system is there to be responsive to the needs of the local business community and investors that come in. It is important to bear in mind that, while the question is on performing arts, it is part of a much wider landscape that involves a whole range of creative industries, from textiles and fashion through to multimedia. There are other aspects that are important in film production, such as sound. Our colleges are providing courses across the full spectrum of the creative industries, including the performing arts, and, in that way, we are bringing forward a range of people with the relevant skills.

It is also important to recognise that we continue to invest in the further education estate to ensure that we have modern, world-class facilities and to ensure that we are providing the best type of environment for our students to pick up the skills that are so important to those fast-growing industries.

Mr Cree: What support has been given to FE colleges so that they can deliver courses and supplement the good work that is being done in the film and television industry, which the Minister mentioned, and can encourage more people to get involved in that?

Dr Farry: I thank the Member for the question. It is difficult to say that we are in a position to give more support because, as the House will be aware, we are going through very difficult financial cuts. Indeed, the FE sector is bearing an element of those, though we are working with the colleges to ensure that we try to minimise the impact of those cuts on the front line and on the areas that are most relevant to the economy. The type of areas that have been touched upon by the questions to date would fall into those areas that are very relevant. As I said, we continue to invest in the capital estate, and, as the Member represents North Down, he will be conscious of the imminent opening of the SPACE at the South Eastern Regional College's campus in Bangor, which will be a major asset to the whole community in Northern Ireland.

Ms Sugden: Is the Minister aware of the financial aspect of the business case not to continue dance and drama classes at Belfast Metropolitan College?

Dr Farry: It is not an issue of a business case as such. These are decisions to be taken by the colleges themselves, which are there to manage their resources. Obviously, all our colleges are facing very difficult circumstances and need to make difficult decisions. It is important that we bear in mind that our colleges are not simply there to service a distinct geographical area. It is important that we encourage specialism and collaboration across our colleges. It is also worth bearing in mind that the very particular direction of travel in Belfast Met is not just a product of the current financial climate, though that obviously has accelerated the approach that is being taken, but that the strategic direction to this was set out in the college development plan, which predates my time as Minister.

Postgraduate Students: Funding

3. **Mr Ó hOisín** asked the Minister for Employment and Learning for an update on the introduction of a funding scheme for postgraduate students. (AQO 8478/11-15)

Dr Farry: At present, the majority of postgraduate students in Northern Ireland must finance their own studies. Of the minority who are funded, some are treated as undergraduates for student support purposes. My Department also funds a postgraduate awards scheme that will provide over 700 scholarships this academic year. These scholarships cover students' approved tuition fees and provide around £14,000 per annum to support them with their living costs. They are, however, limited in number and largely restricted to PhD students. They are allocated by our universities on a highly competitive basis. There is no standard student finance package in place for postgraduate students through the Student Loans Company.

Looking ahead, it is clear that our economic growth is going to be highly, and increasingly, dependent on higher skill levels. Those skill demands will only intensify under a potentially lower rate of corporation tax. Indeed, forecasting commissioned by my Department has shown that, in an environment of lower corporation tax, the requirement for postgraduate qualifications in our workplace will rise faster than any other type of qualification. However, Northern Ireland continues to enrol far fewer postgraduate students, relative to our population, than any other country in the UK. Supporting an increase in postgraduate provision is therefore not only a matter of social justice but an economic imperative. That is why, two weeks ago, I launched a policy consultation that considers a range of options for better assisting postgraduate students through the student finance system. The consultation will run until 11 September, and my Department will publish a summary of the responses after that date. For a range of legislative and administrative reasons, any new policies resulting from the consultation will carry significant lead-in times.

Mr Ó hOisín: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra sin. I thank the Minister for his answer and commend him for launching the consultation. How important to the wider economy is increasing access to postgraduate degrees?

Dr Farry: First of all, I thank the Member for his comments and for welcoming the consultation, which I should mention also covers potential options for supporting part-time students.

On the issue of postgraduate students, as our economy evolves ever further, the demand for higher-level skills will increase. That includes primary degree level to level 7 and level 8, so it is important that we ensure we have proper investment in that regard. That will accelerate with a lower level of corporation tax.

At present, we have a system of support that tends to help those who are doing PhDs, but not those who are doing master's degrees. We see the same situation occurring elsewhere in the UK. A lot of people talk about the "broken bridge" between an undergraduate progressing to a master's and then to a PhD. That is why the consultation particularly focuses on what we can do to better assist master's students. That is where the greatest efficiency has been identified, not just in Northern Ireland but elsewhere in these islands.

Mr Rogers: Thank you for that detailed answer, Minister. You mentioned the economic imperative. Is it the preferred option of the Department that any such schemes target those subject areas identified as key economic drivers?

Dr Farry: We can certainly focus the scheme on particular subject areas. Cost implications may drive us in that direction. Also, some of the options in the consultation are across the board and recognise that there may well be interest in studying a range of subjects. The critical aspect affecting whether or not this will work — bearing in mind that we are going through times of major financial stress — is whether we can access a system of loans from

the Treasury, making the system, in essence, almost self-funding, provided that repayments are made within the approved range allowed by the Treasury scheme.

The Member may be aware that, in England, the UK Chancellor of the Exchequer has announced the development of a loan scheme. That opens up the opportunity for us in Northern Ireland to have a similar scheme for our jurisdiction. That is hopefully the path that we are going to pursue, and if that falls in place, we may be able to extend the intervention beyond just those subjects that are most relevant to the economy to include a wider range of areas.

Ms Lo: Nowadays, many workers prefer to do their master's degrees part time. What plans does DEL have to support those students?

Dr Farry: I thank the Member for the question. Obviously, any scheme has to be one that can adapt to those who are full-time and part-time students. It is also worth stressing, as I did to Mr Ó hOisín, that we are seeking to look at options to support part-time students at undergraduate level. Undergraduate part-time study is an area where, again, there is significant scope for expansion. In particular, we seek to encourage and develop people from a range of different backgrounds beyond perhaps the conventional 18-to-21-year bracket, which is probably no longer seen as the exclusive source of students, to take up a wider range of study at higher-skill levels.

We also recognise that we are under pressure in how we fund full-time places. The importance of part-time study takes on an even greater presence in the way that we will be engaging in skills. It is also important that, as we look to link up our higher education system with the emerging strategy on apprenticeships, we look to funding mechanisms that will support students who are in an apprenticeship system but are also accessing their off-the-job training through university. By definition, they will be part-time students. That funding model may well be important in that regard, as well as for those students who are studying part-time on a free-standing basis.

Apprenticeships: Small and Microbusinesses

4. **Mr G Robinson** asked the Minister for Employment and Learning to outline how he will ensure small and microbusinesses will provide apprenticeships that promote specific and much-needed skills in the workforce. (AQO 8479/11-15)

Dr Farry: With a very smooth link, I can say that we launched 'Securing our Success: The Northern Ireland Strategy on Apprenticeships' in June 2014, which committed to putting employers at the heart of a new apprenticeship system. Naturally, the success of the system will be reliant on successful engagement with employers, in particular those from small and microbusinesses that are the backbone of the Northern Ireland economy. That is why the apprenticeships strategy recognises the need for tailored support for such businesses.

A key aspect of supporting business will be the proposed apprenticeships central service, which will signpost employers, particularly small and microbusinesses, to appropriate sources of advice and guidance and which will administer any support and incentives that might be made available. That will be tested from autumn 2015 with a view to introducing a new central service by September 2016.

Last year, I established an interim strategic advisory forum comprised of employers, trade unions, providers of off-the-job training and other key stakeholders to provide advice on key issues concerning the implementation of the new strategy. A subgroup of that body has been established to look specifically at ways to support small and micro-employers to engage with the new system. That subgroup has met on a number of occasions to examine a range of measures, including financial incentives, group training approaches and wider administrative support that could be introduced to support small and micro-employers to engage with the new system. The subgroup will develop proposals and test them with a wider range of employers before presenting recommendations to me in the autumn.

Mr G Robinson: I thank the Minister for his answer. Does he agree that small and microbusinesses will play a vital role in the economic and employment development of Northern Ireland in the short to medium-term future?

Dr Farry: Yes, I very much concur with that sentiment. It is also worth bearing in mind that the structure of our economy means that we have a greater predominance of small and microbusinesses than many other societies. Indeed, what is viewed as an SME in Northern Ireland is probably of a different nature and scale than is the case in other jurisdictions. We

have more smaller SMEs relative to some other countries in the world.

Whenever we talk about apprenticeships, it is important that we bear in mind that there will always be a differential take-up of those opportunities, subject to the size of the businesses that we are talking about. What I mean by that is that larger businesses are always more readily placed to create such opportunities. That is the pattern even in the most successful vocational training systems in the world, including the Germanic countries and Scandinavia. We are putting such a focus on particular types of interventions to encourage SMEs in Northern Ireland to engage with the system, because they will benefit very much from that type of approach to training. In particular, our discussions so far indicate that perhaps the biggest perceived blockage is in administration and bureaucracy. I think that that is where a lot of focus is going to go in trying to ensure that we have full participation from that sector of the economy.

3.00 pm

Mr McKinney: I thank the Minister. The SDLP sees the apprenticeship model as being a strong tool for freeing up the issues around long-term unemployment, but what steps can be taken to ensure that any such apprenticeships will lead to longer-term employment for students and not to a situation where we have a conveyor belt of reduced-cost labour, for example?

Dr Farry: It is worth saying a couple of things. First, I welcome the support from the Member for apprenticeships. I think there is a strong consensus across the House on the importance of apprenticeships as a way forward. To answer the question, it is very much in the self-interest of employers to ensure that this model is sustainable. It is not, and should not be, a source of cheap labour for employers. It is the means by which companies and organisations will find and be investing in their future talent. There will always be an investment that employers have to make. They will receive a return by way of productivity on the far side of an apprenticeship, so it is important that employers understand that this is something that benefits them. If they understand that, they will not simply be letting people go on the far side.

Secondly, I must stress that, from the outset, we in Northern Ireland have been very clear around the importance of quality and have not simply been badging anything that looks like training in an employment context as an apprenticeship. Members will be aware that there has been a change of approach in England, notably, over the past number of weeks, where greater care is being taken about labelling certain types of activity as an apprenticeship and avoiding labelling other types of activity as an apprenticeship. That way, if we have a focus on quality, we will be ensuring that young people who are going through apprenticeships will be well served, as will the companies that benefit from apprenticeships.

Mr Deputy Speaker (Mr Beggs): Alastair Ross is not in his place. John McCallister is not in his place. I call Barry McElduff.

Mr McElduff: I am in my place. *[Laughter.]*

Undergraduates: Cross-border Mobility

7. **Mr McElduff** asked the Minister for Employment and Learning for an update on the removal of barriers to cross-border mobility for undergraduates. (AQO 8482/11-15)

Dr Farry: I am committed to improving cross-border student mobility. As part of my Department's higher education strategy, a project group, which includes representation from the Irish Higher Education Authority and the institutes of technology, has been established to take the issue forward. The project team has considered the recommendations of the IBEC-CBI report on undergraduate mobility and has made progress in a number of areas.

In relation to improving information, careers teachers and careers advisers have received additional training on the higher education opportunities available in the South and on the Central Applications Office processes. Extensive information regarding Northern Ireland's higher education sector is available through the NI Direct portal. As well as supporting our local students, that information can act as a gateway for other students, including those from the South, who may be interested in studying in Northern Ireland.

Northern Ireland students studying in the South now have access to funding support. The Irish Universities Association recently announced that it is planning to make changes to the Central Applications Office point system to improve access for A-level students.

My officials have been working with officials in the Department of Education and Skills to research and analyse the impact of future demographics on cross-border student flows in order to inform future policy development. A joint report was published on 15 of June.

I regularly meet the Irish Minister for Education to discuss a range of issues, including student mobility. I will continue to meet Minister O'Sullivan to discuss progress on these issues, and my officials will work closely with their counterparts in the South on that and other cross-border issues.

Mr McElduff: I commend the Minister and the Minister of Education for work done in this area by way of a lot of meetings with Minister Quinn and, subsequently, Minister O'Sullivan. Is the Minister satisfied that part of the training for careers teachers and careers advisers is touching on the range and type of courses that are available to local students along the border corridor in the likes of Institute of Technology, Sligo, Letterkenny Institute of Technology and Dundalk Institute of Technology?

Dr Farry: I thank the Member for his question and his comments. In some respects, he is right to focus on the careers aspect, because I would like to think that, in addressing the recommendations, we have addressed very clearly the issues around funding and the distortions that previously existed in funding. The issue regarding recognition of the qualifications from Northern Ireland is well on the way to being resolved, and we will see how that rolls out over forthcoming years. The key attitude now has to be around tackling attitudes and hearts and minds. Obviously, our careers teachers and careers advisers have a critical role to play in that regard. A lot of training has been provided, and people are much more aware of the mutual opportunities that exist across the two jurisdictions. We probably need a stronger public debate to encourage students, and I include in that other influencers, such as parents and friends, to think about the opportunities that may exist.

The Member is right to indicate that, as pressure on public finances continues, there will be a need for specialism in some areas, and, whether that is for our universities, institutes of technology or further education colleges, we should be seeking to establish where we can find economies of scale in some very particular specialisms and trying to find a solution to the benefit of everyone. In some ways, we are doing that through the research offer across our different higher education institutions on the island.

Mr A Maginness: I thank the Minister for his very detailed answer. Is there anything further than can be done on the free movement of university students, North and South, and, of course, A-level and leaving-certificate students both ways? It seems an absurd situation to have all those obstacles. Surely the goal must be free movement of students, North and South.

Dr Farry: I thank the Member for his interest. We have been progressively removing the actual barriers to free movement on the island. That having been said, we have seen a reversal of trends over the past 10 years on the scale of movement in both directions on the island, and that is disappointing. It is worth stressing that the flow on the island, again in both directions, is much smaller than the flow between Northern Ireland and other parts of the UK. Undoubtedly, there is untapped potential. In common with what I said to Mr McElduff, the real focus has to be on attitudes and on using the careers approach and other key influencers in society to encourage young people to see the full range of opportunities that is out there.

I say this to any young person who wants to study outside Northern Ireland: by all means, pursue your dreams, but do not forget about us in Northern Ireland and please consider coming back to build your career here.

Mr Allister: The Minister may not have it to hand, but will he undertake to provide the figure of the cost to his hard-pressed budget of providing free education in our regional colleges to students from the Irish Republic?

Dr Farry: The figure is between £6 million and £7 million at present, but I will write to the Member and give him the precise figure. As he will be aware, that is an outworking of European Union legislation on the free movement of students. In case the House thinks that, all of a sudden, I am being converted to Euroscepticism, it is one small source of frustration in what is otherwise a very lucrative area from which Northern Ireland's economy and wider society massively benefits.

The real source of the cost that is being borne in Northern Ireland is less as a result of having students from the South coming to study in the North; rather, it is more the case that we do not see the flow going in the other direction. There is a real challenge for the Southern Government to work on improving the offer that they have, particularly around the level 2 and level 3 equivalents in the north-west, particularly in the north of County Donegal. By

far the predominance of student flows from South to North occurs in that north Donegal/Derry corridor, which indicates that there is recognition that Derry, in some ways, has been a natural hinterland over history for that part of the island and that there is a real underinvestment in facilities outside the context of what is offered by the Letterkenny Institute of Technology.

Youth Training: Industry Consultants

8. **Mr McGlone** asked the Minister for Employment and Learning whether his Department has identified or appointed the dedicated industry consultants referenced in the review of youth training. (AQO 8483/11-15)

Dr Farry: The consultation on the review of youth training closed in February 2015. When operational, the new youth training system will secure a step change in professional and technical training for all young people aged between 16 and 24 through a new system of learning. It will be accessible to those already in employment, those starting a new job and those not yet in employment.

The review is being finalised, and the strategy, when published, will include details of the new system, along with an implementation plan. There will be piloting of the strategy from July this year onwards including industry consultants, with a full system in place from September 2016.

Mr McGlone: Go raibh maith agat don Aire as a fhreagra. I thank the Minister for his response. Will he clarify for me how the strategy will be directed at those most in need: people not in employment, education or training?

Dr Farry: I thank the Member for his question and congratulate him on his timing in that he has got in a week ahead of the formal announcement of the new system. I hope to make a statement to the Assembly next Tuesday in that regard. Our new system will be open to all young people between the ages of 16 and 24 who are capable of achieving a level 2 qualification. There is a pool of people who, for various reasons, leave school and do not progress directly into further or higher education, apprenticeships or employment but clearly, with support, have the potential to do so. The new system is designed to be of assistance to them. Where people do not yet have a level 1 qualification and therefore are not in a position to access the new system of youth training, there will be support available to help them to get that far. That will include a lot of the projects that have been announced and will be resourced under the European social fund.

Student Support Payments

9. **Mr Flanagan** asked the Minister for Employment and Learning for an update on the proposed consultation on the introduction of changes to the frequency of student support payments. (AQO 8484/11-15)

Dr Farry: At present, full-time undergraduate higher education students from Northern Ireland receive their maintenance support payments in three instalments, roughly at the beginning of each term of the academic year. A number of student union bodies and a number of fellow Members of the Assembly have raised concerns in recent months about the existing payment frequency. It is felt that larger and less frequent payments heighten the risk of financial mismanagement and, by extension, the risk of financial hardship among students. It has been suggested that smaller and more frequent payments would better prepare students for entering the working world, where wages are, in the majority of cases, paid monthly. Of course, there are other sides to the argument. Students contend not only with day-to-day living costs but, in many cases, with significant upfront costs in respect of things such as accommodation, books and equipment. Therefore, I intend to launch a consultation in the near future outlining options for the frequency at which the payments are made, including options for monthly payments. The consultation will clearly outline the pros and cons of each option and any additional administrative costs associated with the options considered.

I stress that the consultation will consider only the frequency at which the existing maintenance package is paid. In our current financial circumstances, it would simply not be realistic to consider options for raising the level of overall support available. The consultation is currently under development by my officials, and I hope to have the opportunity to consider the initial draft in the near future.

Mr Flanagan: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer and hope that, in the round, this will be seen as a positive move for students. He says that there is no money to increase the

maintenance payments that students get, even though tuition fees are going up in line with inflation. Does it not seem a bit unfair that his Department continues to increase tuition fees, often above the rate of inflation, but there is no reciprocal increase in the maintenance support grants given to students to cover those costs?

Dr Farry: What I would say to the Member is that I would love it to be different. Things have been going so well so far today, and we were keeping ourselves reasonably calm and focused on the detail of policy. However, I must mention the elephant in the room: unless we have a major change in the nature of funding for higher education in Northern Ireland, options such as increased maintenance support will simply not be viable. The Member may well make a powerful case in that regard, but, in a context where the higher education sector alone faces in-year cuts to date of £16 million, on top of what is already a structural deficit, according to universities, of around £39 million with other pressures, including from the Member's colleagues, for expansion of the sector, notably at the Magee campus in Derry, we are in a very difficult position to proceed along the lines that the Member articulates.

Mr Deputy Speaker (Mr Beggs): That is the end of our time for listed questions. We move to topical questions.

TA3 Conference: Benefits

T1. **Mr Lynch** asked the Minister for Employment and Learning to outline the outcome of the recent Trans-Atlantic Technology and Training Alliance (TA3) conference in Belfast and to state the benefits for the local economy. (AQT 2711/11-15)

3.15 pm

Dr Farry: I was pleased that our colleges in Northern Ireland were able to host the TA3 conference in Belfast earlier this month. This prestigious conference brings together practitioners from different parts of the world, including the United States, Denmark, Spain and Germany, to share best practice on further education and vocational training. Some of the biggest employers, such as Siemens, which use vocational training, were also represented. The conference built on a strong local track record of learning from best practice internationally around the successes of vocational training, and it provided a good opportunity to share that best practice further.

On the back of that, I had the opportunity to visit the Basque region in Spain in the same week and was able to sign a memorandum of understanding with the regional government there on exchange opportunities for our students and to allow our colleges to develop further their international strategies on learning about best practice in each other's jurisdictions. I was encouraged that they were as keen to learn from us as we are to learn from them.

Mr Lynch: Go raibh maith agat. Gabhaim buíochas leis an Aire as an fhreagra sin. I thank the Minister for his answer. He has possibly answered my next question. What was learned from international input to the conference? You mentioned that some international companies were there.

Dr Farry: To add to that, I hope that the Member will see the lessons learned from the outworkings of the conference in the Department's ongoing policy development work and how, at a more local level, that filters through to the curriculum offered by the colleges, including the South West College in his area.

Mr Deputy Speaker (Mr Beggs): Questions 2 and 8 have been withdrawn.

Life and Health Science Degree Courses: Budget Cuts

T3. **Mr McKinney** asked the Minister for Employment and Learning to what extent life and health science degrees will be impacted by the upcoming cuts to university budgets. (AQT 2713/11-15)

Dr Farry: As the Member will appreciate, Queen's University and Ulster University have announced in general terms the impact of in-year cuts on student places and potential staff reductions. This is a detrimental state of affairs that is not only sending out a negative image to the rest of the world but impacting on opportunities for our young people.

Within that framework, I have asked the universities to protect, as far as they can, what we term the "narrow STEM subjects": maths, physics, computer science, engineering and elements of life sciences and biological sciences. When the Member refers to health and life sciences, that is probably a slightly broader concept that will bring in what we would term "allied health areas". The requested protection, which the universities are intent on

delivering, would not necessarily cover the full range of what the Member has outlined.

When we ask the universities to protect the subjects that are deemed most relevant to the economy, that comes at an additional cost. On average, those subjects are more expensive to provide than some arts and humanities courses. When we ask for such protection, that puts further pressure on places elsewhere in the system. However, we have to take a balanced view of what is most important for the future of the Northern Ireland economy and act strategically, including at times of great pressure and stress. All I will say is that, the sooner we have a change of direction in our finances and begin to reinvest in our universities, the sooner we will be on a much better course.

Mr McKinney: The Minister's answer reflects part of my concern, which is about making sure that degree courses that are relevant to the future economy will go ahead. However, in reply to a question for written answer and in this reply, the Minister indicates that, fundamentally, despite his advice or encouragement —

Mr Deputy Speaker (Mr Beggs): Can we have a question?

Mr McKinney: — it is up to the universities to make a decision. Given the importance of science degrees and the potential expansion of the cancer centre in south Belfast, which could bring very well paid jobs, will the Minister indicate that he will put further pressure on the universities to look more favourably on the type of degree that could lead to those better-paid jobs?

Dr Farry: I am a little reluctant to use the term "pressure". We need to be slightly sensitive, given that we are collectively part of a system that is already, in a sense, undermining what the universities have to offer. That said, I think it fair to say that the universities and the Department have in common a sense of the strategic direction. Even outside the context of how best to mitigate the effect of cuts, there has been, as part of our existing higher education strategy, a project that is about rebalancing the offer in our universities. That is not to diminish the importance of a range of other subjects, but it is about changing the balance on the margins so that we have a greater footprint in STEM subjects. Relative to other jurisdictions, Northern Ireland's STEM footprint has a strong record. However, in the narrower STEM subjects, we have a small footprint relative to some of our competitors. We are aware of that imbalance, and we are encouraging universities to address it even before we hit the current round of cuts.

Non-contracted Services: DFP Instruction

T4. **Mr McAleer** asked the Minister for Employment and Learning to clarify whether his Department received an instruction from DFP to cease the funding of non-contracted services. (AQT 2714/11-15)

Dr Farry: We have received a letter from the Finance Minister that requested that Departments be very cautious about further discretionary spend. I fully understand why the letter was issued by the Minister: we do not have certainty on what our budgets will be over the remainder of this year. A Budget might be agreed by the Assembly over the coming days, but that, in itself, will not resolve the underlying financial issues, including those in-year. The non-implementation of the Stormont House Agreement and welfare reform means a pressure of £600 million.

I have no certainty on where my budget will be in several months' time or whether we will be asked to make further in-year cuts. That handcuffs Ministers who are acting in a responsible manner, because the more discretionary spend a Minister commits to at this stage, the further that constrains the scope to find savings later in the year. Even in a general sense, the later you act on the desire to find savings, the more difficult it becomes because more expenditure is committed. Look at colleges and universities: they will be locked into providing places come August/September this year. The Member has touched on the pitfalls of where we stand, not just in the general sense, which has been well articulated, but in how Departments manage their expenditure from day to day.

Mr McAleer: Go raibh maith agat. Does the Minister accept that the move could have a particularly detrimental impact on local community and voluntary groups, particularly in light of the changes to ESF?

Dr Farry: The attitude that the Member's party and other parties in the Chamber are taking to the Budget is having a massively detrimental impact on the community and voluntary sector and large aspects of society as a whole. We do not have a sustainable Budget settlement for Northern Ireland. We are in an extremely bad and extremely irresponsible place. A lot of very difficult decisions are having to be made on

how to manage resources given the uncertainty. Frankly, the sooner the Member's party comes to its senses on budgets, the delivery of the Stormont House Agreement and the implementation of welfare, including all the modalities, the sooner we will be able to give certainty to the community and voluntary sector on where they stand.

After I leave Question Time, I will meet the disability sector to discuss the challenges being faced. I would like to give them some good news about developments in the political context, but I suspect that we are not yet at that stage, if, indeed, we will ever be at that stage over the coming weeks and months.

STEM Subjects: FE Colleges

T5. **Ms P Bradley** asked the Minister for Employment and Learning whether anything is being done in our further education colleges, and especially for women, to promote STEM subjects. (AQT 2715/11-15)

Ms P Bradley: I apologise to the Minister. I was talking to his party colleague earlier when I should have been listening. My question is also on the issue of STEM. It seems that today is the day for discussion of STEM. My question is more to do with our further education colleges and the people whom I represent. Some have lower attainment levels but are still interested in those subjects.

Mr Deputy Speaker (Mr Beggs): I remind Members to speak into the microphones so that everyone can hear them clearly.

Dr Farry: I thank the Member for her question. I am sure that her distraction was entirely caused by my colleague, as opposed to her initiating discussions, given that my colleague was sitting over there at the time.

She raised a couple of important points. First, when we talk about STEM, it is not solely an issue for our higher education provision but what is offered through further education (FE) and mainstream provision and, increasingly, the apprenticeship system. While the FE sector, in common with other parts of the public sector, is wrestling with very difficult financial challenges at present, it is also trying to act in a very strategic way in seeking to protect what is most relevant to the economy. That is about ensuring that people are brought through the whole range of STEM skills interventions.

The Member is also right to point to the importance of gender issues in STEM. That has been in the news over the past number of weeks, due to some ill-judged comments that were made by a particular academic. We always need to encourage more women to engage in STEM careers and to study in STEM areas. Unless we do that, we will not fully maximise the talent base in Northern Ireland in the sectors that are most relevant to growing our economy.

Ms P Bradley: I thank the Minister for his answers. He will be aware of the recent announcement by RLC, which is based at Global Point in Newtownabbey. Will he outline whether he is working with that company to look at getting more people, at all levels, into STEM subjects so that we can grow that and produce more workers for that business?

Dr Farry: I will say two things. At a departmental level, we are very keen to work with all businesses on careers to encourage more people to consider studying the relevant subjects and then move into jobs in those sectors and to address their very particular skill requirements.

The Northern Regional College (NRC) is a major asset to that area, and, as the Member will know, it has a very particular specialism in engineering. That goes back to the point that I made earlier about there being different emphases in different parts of Northern Ireland, given the different balance of the economy in different parts of the region. Obviously, given the constitution of companies in that area, the NRC has that reputation with respect to engineering.

Further and Higher Education: Investment

T6. **Mr Flanagan** asked the Minister for Employment and Learning how he intends to deliver increased investment for our further and higher education sector without punishing students through increased tuition fees or punishing welfare claimants through cuts to welfare benefits. (AQT 2716/11-15)

Dr Farry: Oh, I suspect that the Minister is meant to walk into this one. The answer again lies in the fact that we do not have political consensus on the delivery of the Stormont Castle and Stormont House agreements and welfare reform. Until we have that, we will have a situation in which we are disinvesting in further and higher education and denying opportunities to students, both in their ability to finance their studies and their opportunities to

go to college or university in the first place. We will see an impact on people's lives.

We hear all this talk about the importance of protecting the most vulnerable in society, but there is a whole host of ways that we support and help the most vulnerable. One of the key areas is giving them a ladder to escape poverty and deprivation, and one of the best ways out of poverty and deprivation is through education. That applies to investing in early years education as much as it does to the provision of further and higher education and training and employment opportunities. If the Member has that aspiration, I suggest that the solution lies with his party and others providing leadership on those challenging issues.

Mr Flanagan: Go raibh maith agat, a LeasCheann Comhairle. I suppose that the problem with the question is that you might get an answer. If the Minister really thinks that the solution to the Executive's financial crisis is merely to implement welfare cuts, he is more naive than I thought. Our financial crisis is much bigger than that.

Mr Deputy Speaker (Mr Beggs): Could we have a question please?

Mr Flanagan: Yes. Does the Minister accept that the financial situation that we face is not solely the result of disagreement over cuts to the welfare system but is much bigger than that and due to the cuts that have been imposed on the Executive by the British Government, and that that is where the emphasis needs to be?

3.30 pm

Dr Farry: There are probably three elements to why we are in this particular difficulty. First, we have the situation with the cuts to the block grant from the UK Government; but it is what it is. The Conservative Party has been elected for better or worse; worse, in my opinion, but it is there and will be there for the next five years. That is the reality that we have to deal with on where we get our money, because we do not have the tax base to do anything differently in Northern Ireland.

Frankly, what we are doing around current budget cuts is setting us further back from becoming self-sustaining as an economy rather than helping the situation. We also have structural difficulties in our budgets around the cost of division, which the Member's party is not particularly minded to address. Thirdly, we have the deadlock around Stormont House and welfare. What we had in Northern Ireland was a deal around welfare that provided a degree of protection for our local citizens that is above and beyond what is on offer elsewhere in the UK.

The choice is not between some idealised version of welfare that we cannot afford and what is currently on the table; the choice is between what was negotiated at Stormont Castle and the full-blown version coming from London, either imposed directly over our heads or through some sort of version of direct rule. I, for one, want to avoid a situation where we are simply being handed the Tory cuts on a plate, but I am afraid that the approach that the Member's party is taking is inevitably leading to a situation where that will be the case.

Northern Ireland Assembly Commission

Mr Deputy Speaker (Mr Beggs): Questions 3 and 12 have been withdrawn.

Language Strategy

1. **Mr D Bradley** asked the Assembly Commission for an update on the development of a language strategy, with particular reference to the Irish language. (AQO 8491/11-15)

Ms Ruane: Go raibh maith agat, a LeasCheann Comhairle. I thank the Member for the question. Ar an drochuair tá dréacht-treoir teangan ag Coimisiún an Tionóil, ach níl Straitéis na Gaeilge aige. Unfortunately, the Assembly Commission does not have an Irish language strategy that you would expect under the Good Friday Agreement in relation to statutory duties and equality. The absence of an Irish language strategy adversely impacts on Irish speakers in the Assembly, including MLAs, staff, workers and also visitors to the Assembly. The Assembly Commission does have draft language guidance, but that is not a substitute for an Irish language strategy. I expect that there will be further discussion on this deficit at future meetings.

Mr D Bradley: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Chomhalta Tionóil as ucht an fhreagra chuimsitheach sin. I thank the Member for that comprehensive answer. Does she recall a number of years ago that a consultation was carried out by the Commission on the formulation of a languages policy? Some of us went to some trouble to respond to that. Can I ask her whether there is any chance, even now

after three years, that the results of that consultation will be acted upon?

Ms Ruane: I share the Member's frustration, and I think that it is disappointing that we do not have a strategy. I cannot speak for everyone on the Commission and, while we are a corporate body, I believe that we should have an Irish language strategy. I pay tribute to the people who made representation, and I can absolutely understand their disappointment.

Mr Ó hOisín: Go raibh maith agat, a LeasCheann Comhairle. Bhí m'iarscoil áitiúil suas anseo anuraidh agus bhí mé ag iarraidh turas a reachtáil ach ní raibh an Tionól in ann é sin a dhéanamh agus sa deireadh rinne mé féin é. Is there an option for tours and visits to be conducted as Gaeilge? If not, does the Commission have plans to facilitate these?

Ms Ruane: Gabhaim buíochas leis an Chomhalta Tionóil as an cheist sin. I thank the Member for that question. Unfortunately, we currently do not have an option in relation to tours, and this is disappointing for Irish language speakers and people who love our language. I believe that it is one of the direct results of the failure to have an Irish language strategy and of the Assembly Commission to fulfil its equality duties.

Mrs Overend: Can the Commission member detail the cost of translating all of the content on the Assembly education website into the Irish language in 2015?

Ms Ruane: I cannot, and I do not think that cost should be the only factor in relation to translation. I hope that the Member is not saying that. We do not ask how much it costs us to put English on the website. Indeed, I believe that we should also try to make sure that we reach out to people from different countries who speak different languages. However, I do know that it is not an exorbitant cost, and it should certainly not be used as an excuse for discriminating against the Irish language community. I am sure that the Member is not saying that.

Gender Action Plan

2. **Ms McCorley** asked the Assembly Commission for an update on the gender action plan. (AQO 8492/11-15)

Ms Ruane: Gabhaim buíochas leis an Chomhalta as an cheist. I thank the Member for her question. Agus tá an Meitheal um an Dréacht-phlean Gníomhaíochta Inscne ag forbairt dréacht-phlean gníomhaíochta inscne do Fhoireann na Rúnaíochta. Tá foireann sinseárach trasna an Tionóil ar an ngrúpa. A draft gender action plan for secretariat staff is currently being developed by the gender action plan working group, a group comprising senior members of staff from across the Assembly.

The development of a gender action plan is a recommendation arising from the working group's gender findings report, which was approved by the Commission in December 2014. The report contains a review of research, including international research, and best practice in other organisations, as well as the results of the staff gender questionnaire, all of which will inform the development of the action plan. I am sure that we all agree that, given the make-up of directors and that in our Assembly, it is very important that we take action, because we currently have gaps in relation to gender.

Subgroups have been established to take forward key themes. Identified in the findings of the report are caring responsibilities; decision-making structures; flexible working; gender identity; and learning and development opportunities. Of course, to make change, we need leadership from the top of the organisation to ensure success. The gender action working plan group is liaising with officials, considering Commission-related aspects of the Assembly and Executive Review Committee report. That is a review of women in politics and the Northern Assembly.

Lena chois sin, thionól an Meitheal imeacht le cainteoir inscne I bhFoirgnimh na Parlaiminte ar 1 Bealtaine 2015 le cur le cumas bhall na Meithle foghlaim faoi conas a thugtar faoi ceisteanna inscne in eagraíochtaí eile. In addition, the group held a gender guest speaker event in Parliament Buildings on 1 May 2015 to enable group members to learn about how gender issues are addressed in other institutions. It will be submitted to the Commission in September 2015 for its consideration.

Ms McCorley: Go raibh maith agat, a LeasCheann Comhairle, Gabhaim buíochas leis an Chomhalta as an fhreagra sin. I thank the Member for that answer. An dtig liom iarr ar an Chomhalta an bhfuil an Comisiún ar an eolas faoi cad a bhí ráite ag an Choimisnéir Ceapacháin Phoiblí, atá ag dul as oifig, maidir le heaspa ban ar bhoird phoiblí? Is the Commission aware of comments made by the outgoing Commissioner for Public Appointments in relation to the lack of women on public boards?

Ms Ruane: I am aware of it. In fact, it was circulated to every MLA. I share the commissioner's disappointment in relation to women in public life. While we are looking at staff here in the Assembly and at the number of women politicians, of course there are not enough women on public boards. All of us in the Chamber need to make sure that we have more-representative public boards. I read the letter from the commissioner in detail and would like to pay tribute to him for outlining that to us and writing to each and every one of us.

Mrs McKevitt: In her last reply, the Member indicated some of the actions that have been taken by the Commission in order to implement parts of the plan. In the short term, in order to begin the full implementation of the plan, what actions can be taken?

Ms Ruane: I asked the Assembly Commission to carry out the gender action plan, because I know that there are serious gaps right across this institution in relation to gender. We just need to look around this Chamber to see that.

Some actions have been carried out. We have had public events, and I know that the Speaker has taken some action to ensure that we have more women in positions of leadership. In September, we will discuss gender action fully at the Commission meeting. I know that the Member, along with others in this Chamber, was with us in Sweden looking at how we can move forward on gender. Certainly I and, I know, other Commission members, would welcome any ideas that she has on this. It is a serious deficit that we really need to come to grips with.

Flags: Unauthorised Flying at Parliament Buildings

4. **Mr Givan** asked the Assembly Commission to outline the actions it has taken following the unauthorised flying of flags from Parliament Buildings on Wednesday 3 June 2015. (AQO 8494/11-15)

5. **Mr Humphrey** asked the Assembly Commission, in light of the recent security breach, to outline what additional measures are being put in place to restrict access to the roof of Parliament Buildings. (AQO 8495/11-15)

Mr Ramsey: I propose to take questions 4 and 5 together. I thank the Members for their questions.

The Members will be aware that in order to facilitate the roof project, which is nearing completion, the fourth floor and all of the roofs of Parliament Buildings are presently in the possession of the main contractor for the works. As required under the contract, temporary barriers and signage are in place to deter unwarranted access to the contractor's site, although there is a requirement to maintain access and egress for the contractor's workmen in the event of fire evacuation.

Following the incident in question, the Commission, in conjunction with the contractor, took the following steps immediately to minimise the risk of any further recurrence. First, the flag-raising mechanisms on the flagpoles were temporarily decommissioned to prevent flags being raised on the flagpoles. Secondly, access to that particular area of the roof was restricted. This was achieved by the addition of one locking mechanism and the replacement of another on the two access doors that lead to that area of the roof. Finally, CCTV cameras were installed in the vicinity of the flagpoles. Images from these cameras are seen directly in the control room.

Further to this, the Assembly's operational procedures relating to workmen's security clearance and the issue of contractors' passes will also now be subject to review as part of the wide-ranging review of security arrangements in Parliament Buildings to be undertaken by the Commission. Members will have also noted that the Speaker wrote to all Members on 8 June providing a report on the Commission's consideration of this incident.

Mr Givan: I thank the Member for that response. Despite the best efforts of people in this House and indeed some outside it, Northern Ireland is still British. To have a foreign flag hoisted on this Building is something that people should not necessarily laugh about.

Mr Deputy Speaker (Mr Beggs): Can we have a question, please?

Mr Givan: That having been said, there are clear health and safety concerns, irrespective of one's view of the type of flag that was flown. We could have been talking about a fatality, given the location of where the flagpoles are on this Building.

Mr Deputy Speaker (Mr Beggs): Has the Member got a question?

Mr Givan: I do, Deputy Speaker.

Mr Deputy Speaker (Mr Beggs): Please proceed now.

Mr Givan: I will. Thank you for that, Deputy Speaker.

Can the Member assure this House that there will be no hiding behind the police investigation and that a proper investigation will be carried out by the Assembly externally that will lead to sanctions if it is found that individuals who are in this Building were responsible for this act?

Mr Ramsey: I thank the Member for the question. He raised the point of health and safety. I can assure him that there was never any concern about health and safety. During the completion of the project, which is very close at hand, there were two minor incidents separate to the flag incident which were well under control and where there was no health and safety risk as we understand it. They were completely under control by the contractor.

With regard to going forward on the point on which the Member reflects, security is always a question. It is always something that the Assembly Commission reviews on a constant basis. The police are presently undertaking a further security risk assessment on Parliament Buildings. We are due to receive that report soon. The Assembly Commission's internal staff are, coincidentally, due to bring a report to tomorrow's Assembly Commission meeting. As a result of that report, we will then consider whether it is appropriate to seek an internal independent assessment on security risk as well.

Mr Humphrey: I note the laughter from across the Chamber in relation to the question that was asked by my colleague. Indeed, I understand that some members of Sinn Féin were very light-hearted and relaxed about the idea of the Irish tricolour flying over this Building for 10 minutes. It is a pity that they would not take that attitude about a six-minute parade along the Crumlin Road in north Belfast.

Mr Deputy Speaker (Mr Beggs): Can we have a question, please?

3.45 pm

Mr Humphrey: I thank Mr Ramsey for his answer. I appreciate what he said about health and safety, but, where security is concerned, can I ask the Commission member this: who had ultimate responsibility for the roof, and was that a breach of the contract?

Mr Ramsey: It certainly was not a breach of the contract. On the question of who had responsibility for the roof, let me say that the contractor has full responsibility for the upkeep of and access to the roof. That is the case in any project that is undertaken, particularly one of this significant nature. As the Member will be aware, there is a police investigation under way into the incident on the roof, and because of that, the Assembly Commission is not in a position to lay blame until it ultimately finds out the outcome of that investigation.

Mr Lynch: Go raibh maith agat, a LeasCheann Comhairle. I think the people of Ireland saw it as a light-hearted moment. Does the member of the Commission think that it was a good use of PSNI time and public money to investigate this issue?

Mr Ramsey: I think that, because there was a breach of security to the Building and of access to it, it is imperative for the Assembly Commission to take appropriate action to try to ensure that it does not happen again. It is not a matter of the seriousness of whether it was a flag; it could have been a bomb.

It is important that the Assembly Commission takes appropriate steps, whether that means the police investigation that is under way to determine who was at fault and whether they can lay blame or prefer charges. I am sure that the Member would also agree that it is important and imperative for the Assembly Commission to ensure the safety of not just Members and staff but the high volume of visitors. Look at the Public Gallery this afternoon and the number of children who were here. We have an imperative to ensure that safety is uppermost in our thoughts.

As I said, we are discussing this issue tomorrow at the Assembly Commission. We will be reviewing, as we constantly do, ongoing security and the threat to it. We look forward not only to the police investigation and assessment of the security risk but to our internal review of security.

Mr Elliott: I thank Mr Ramsey for the answers. He mentioned the PSNI investigation. I am wondering whether the contractor has carried out any internal investigation or whether there has been any report from the contractor to the Assembly Commission about the incident.

Mr Ramsey: I assure the Member that the contractor has cooperated fully with the investigation internally. As for laying blame, which most people want to do, as well as to find

out who was responsible for this incident, it is the case that we are awaiting the outcome of the police investigation.

We are fully content that the contractor fully supported the police investigation as well, so we are awaiting the outcome of that before we can make a definitive statement about whether someone is liable or is to be prosecuted as a result of this.

Mr Allister: I want to press the Commissioner on why the Assembly's own investigation was suspended under the guise of a police investigation. Not so long ago, we had allegations about abuse of expenses. That resulted in a police investigation and an Assembly investigation going on in tandem. Surely there was no reason, other than an attempt to sweep it under the carpet, to suspend the Assembly investigation because of a quite different investigation addressing different issues, namely the police investigation.

Mr Ramsey: I thank the Member for his question. He knows fine well, with his career in law, that in any investigation, the police have the principal call in determining who is responsible. We are respecting that.

There are no circumstances where the Assembly Commission as a whole, or the directorate, wants to sweep this under the carpet as he implies. As I outlined to a number of Members, the Assembly Commission has taken this quite seriously. There is that police investigation, and, to date, they have interviewed all those employees who had access to the roof on that date. The Assembly directorate's team has clearly carried out its own internal audit of the circumstances leading up to the incident. I made it clear to the Member who spoke previously that the contractor fully complied and cooperated with the investigation. We now await our directorate's review of security in the House. Under no circumstances can he, or should he be permitted to, say that this is something that is being dismissed by the Assembly Commission, because that is not accurate.

Union Flag: Parliament Buildings

6. **Mr Sheehan** asked the Assembly Commission what consideration it has given to the equality impact assessment on the review of the policy on the flying of the Union flag at Parliament Buildings. (AQO 8496/11-15)

Ms Ruane: Gabhaim buíochas leis an Chomhalta as an cheist. Rinneadh comhairliúchán formálta ar athbhreithniú an pholasaí ar chrochadh bhratach an Aontais os cionn Fhoirgnimh na Parlaiminte mar chuid de mheasúnacht tionchair chomhionannais. Chríochnaigh an comhairliúchán ar 2 mí Feabhra 2015. I thank the Member for his question. The formal consultation carried out as part of the EQIA on the review of the policy of the flying of the British flag ended on Monday 2 February 2015. At our meeting on 17 June 2015, a proposal was put by the DUP to fly the flag for 365 days. This was supported by the UUP but failed to secure enough support, and the proposal was defeated.

Vótáil an DUP agus UUP agus Páirtí na Comhghuaillíochta ar son laetha ainmnithe; vótáil Sinn Féin agus an SDLP ina gcoinne. Tá mé ar thaifead cheana féin nach é an Coimisiún an áit le déileáil leis an gceist seo. Tá easnamh ann fós i bhFoirgnimh na Parlaiminte maidir le gach traidisiún a chlúdach. Subsequently, we had a proposal by the Alliance Party for designated days. The DUP, the UUP and the Alliance Party supported this, the SDLP and Sinn Féin voted against it, and the motion passed.

I am on record as saying in the Chamber — I would like to reiterate it — that the Commission is not the place to discuss flags. In 2002, the Commission itself agreed that it should not discuss the issue of flags. There is a democratic deficit in decisions made at the Commission. Really, those decisions should come to the Assembly where we have cross-community voting.

Mr Sheehan: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Chomhalta Tionóil as an fhreagra sin. Does the Commission member believe that the flying of only one flag is in line with the intentions and spirit of the Good Friday Agreement?

Ms Ruane: Gabhaim buíochas leis an Chomhalta as an cheist sin. I thank the Member for that question. I do not believe that the flying of one flag is in the spirit of the Good Friday Agreement. We have in the Chamber people who designate themselves as Irish and people who designate themselves as British. The current policy of the Commission does not give equality to Irish citizens, whether it is those in the Chamber or, indeed, party staff, the secretariat and workers in the Building. I believe that it has an adverse impact.

It is interesting that, in the consultation, the highest number of people, 1,512, opted for two flags. It is very disappointing that that was

ignored in the report. I, as an Irish citizen, do not believe that my flag is being respected in the way that it should be.

Mr McCarthy: I stand here as a proud Irishman. Will the Member explain Sinn Féin and the SDLP's reasons for voting against the EQIA even though they voted for it at Belfast City Hall?

Ms Ruane: I am speaking as a Commission member here. However, the question was asked of me as a Sinn Féin representative, so I will answer the Member. I will not speak for the SDLP, because I do not think that that would be right for me to do.

I am a proud Irishwoman, and I believe that the Parliament should have the Irish tricolour and the British flag, or no flags; equality or neutrality. The situation at City Hall was that the original 365 days was being brought down to 18 days. Here, we had 15 days and the proposal by the Alliance Party was to increase the number of days. It is pretty logical that an Irishman or Irishwoman would not want to see an increase in the number of days, particularly when the Irish tradition is not reflected.

Mr Humphrey: Although she may well have voted one way and I another on the Belfast Agreement in 1998, does the commissioner agree that Northern Ireland's constitutional position was settled; that the issue of the sovereignty of Northern Ireland was resolved; that Northern Ireland is an integral part of the United Kingdom; and that the Union flag is the flag of this part of the kingdom and the flag of this Assembly as a devolved Administration?

Ms Ruane: The Member considers himself British. I consider myself Irish.

Mr Allister: Why is the commissioner abusing her position in this House this afternoon? She is here to answer as a commissioner on behalf of the Commission and to give us the Commission's policy. Why are we being treated to a diatribe of her partisan views on these issues?

Mr Deputy Speaker (Mr Beggs): I ask that Members show courtesy and respect to everyone.

Ms Ruane: I am here answering as a commissioner, and I absolutely reject that I have abused my position in any way. The Member will understand fully that there are deeply divided positions and attitudes in this Chamber and on the Assembly Commission. It is for that reason that I believe that the Assembly Commission should answer to the Assembly, rather than make decisions at Commission meetings.

I am a proud Irish citizen. I respect the fact that people opposite consider themselves British. I ask the same for me.

Education Service: 2015 Uptake

7. **Mr Ó Muilleoir** asked the Assembly Commission to outline the number of schools and groups that have availed themselves of the Education Service since January 2015. (AQO 8497/11-15)

Ms Ruane: Ón 1 mí Eanáir 2015 bhain 272 grúpa feidhm as an tSeirbhís Oideachais; is ionann sin agus 8,901 rannpháirtí. Since 1 January 2015, 272 groups, comprising 8,901 participants, have availed themselves of the Education Service.

Mr Ó Muilleoir: Go raibh maith agat. Mo bhuíochas fosta leis an choimisinéir as an fhreagra sin.

Ba mhaith liom ceist a chur uirthi: ó tharla fás gasta iontach a bheith ar an Ghaedhilg le blianta beaga anuas, ó tharla é a bheith ráite ag an Chéad-Aire, Peter Robinson, go bhfuil meas aige ar phobal na Gaedhilge, agus ó tharla anois go bhfuil an Ghaedhilg ag leathnú amach go dtí an pobal Protastúnch fosta, an dóigh leis an choimisinéir go bhfuil go leor seirbhísí ar fáil do na scoileanna Gaedhilge?

In the context of the rapid growth of the Irish language across the North; the First Minister's commitment to the Chamber that he respects the Irish language community; and the cross-community nature of much Irish language promotion, as evidenced by the Turas project at Skainos in east Belfast, does the Commission member believe that enough is being done by the Education Service to accommodate Irish-medium schools?

Ms Ruane: Gabhaim buíochas as an gceist sin. I thank the Member for his question. Obviously, in any of the work that we are doing, we can always do more. The same is true of the Irish-medium sector. I absolutely support the Member's comments that the Irish language belongs to everyone. It is certainly not the preserve of any one community. I am delighted to see people right across the North, from all different communities, supporting and learning our beautiful language. It is our collective language. People from ethnic minority

communities, who have brought such richness to our society with their languages, are also learning the Irish language. It is great to see that.

An education officer from the Education Service has been designated as Irish-language champion. An education officer has visited the Irish-medium post-primary school Coláiste Feirste and the Irish-medium unit in Scoil Chaitríona in Ard Mhacha — in Armagh. Two of the visits to Coláiste Feirste involved focus group workshops on behalf of the Committee for Education to consult young people on inquiries into shared and integrated education and the school inspectorate.

As part of the ongoing development of its website for schools and young people, the Education Service has been working with the Council for the Curriculum, Examinations and Assessment (CCEA) on a translation of the primary section of the website. That is almost complete and will be launched in 2015. A number of education videos have also been produced by the Education Service. It is good to see the work that has been done, but, obviously, there is more work that we can do.

4.00 pm

Dr McDonnell: As someone who may be leaving you in the not-too-distant future, I would like to take this opportunity to commend the Commission and the Education Service for the outstanding work they have done in my time here. It has been a privilege and a pleasure to work with the Education Service and the various groups it receives from all over the island of Ireland. It is worth putting on record the good work that it does and the tremendous service it provides to this Assembly.

I ask you to indulge me for 10 seconds, Mr Deputy Speaker, while I pay tribute to colleagues across the Chamber —

Mr Deputy Speaker (Mr Beggs): With a question.

Dr McDonnell: — and say what a privilege it has been to serve in this Chamber for some 17 years.

Some Members: Hear, hear. [Applause.]

Mr Deputy Speaker (Mr Beggs): That is the end of questions to the Commission.

Mr Allister: On a point of order, Mr Deputy Speaker. I ask that there be an inquiry into how far the performance of Ms Ruane breached the protocols and guidance for how members of the Assembly Commission are supposed to answer questions on behalf of the Commission in this House. It is surely not by such partisan propaganda stunts that the Commission is supposed to operate or present itself to this House.

Mr Deputy Speaker (Mr Beggs): The Member has put his views on record. That issue is primarily one for the Commission to address, and I will leave it to others to raise appropriate matters there. I ask Members to take their ease for a few moments.

(Mr Principal Deputy Speaker [Mr Newton] in the Chair)

Committee Business

Barnett Formula: Review Report

Debate resumed on motion:

That this Assembly notes the report of the Committee on Standards and Privileges on the Review of the Northern Ireland Assembly Code of Conduct and the Guide to the Rules Relating to the Conduct of Members [NIA 178/11-16]; agrees to the new code of conduct and guide to the rules set out in annex 1 of the report; and further agrees to the other recommendations contained within the report.

Mr Girvan: I appreciate that this debate is on the back of the report that came through the Committee for Finance and Personnel. It was a very worthwhile exercise in gathering information on how the Barnett formula has worked historically. Northern Ireland has done very well out of the Barnett formula up to now. There were evidence-gathering sessions, and a number of recommendations came through as a consequence of the inquiry.

There is still a body of work that needs to be looked at on how we go forward with Scotland and Wales to ensure that we get a fair crack of the whip. Unfortunately, some people are looking forward to seeing some change. In the evidence that was received and is found in the report, Dr Graham Gudgin brought forward the argument, "Don't wish for change, because, if you do, it might not necessarily get you what you want." We should remember that, in the overall scheme of things, Barnett has been quite helpful to Northern Ireland.

Before we consider going down another route, which would be deemed to be needs based, we need to remember that some of that is built on assumptions of what need is, how you actually define it and get it on a level footing, so as to make it the correct way forward. Unfortunately, what one person deems to be need and another person deems to be need are two different things. It was to ensure that there would be some measurement if that were to be brought forward. Due to various factors, it is possibly no longer a safe haven. Professor Holtham was at another evidence session. Up to now, it has been a safe haven for funding. The convergence issue was mentioned, and we have done well up until a certain point, and, after that, it could be less favourable. On the basis of it being less favourable, it could mean that we might get what is, in a GB-based stance, a fair crack of what they believe we should get. Up until now, we have been quite happy, and I am reluctant to raise too many issues about wishing Barnett away. That needs to be put forward.

We appreciate that this has been ongoing since 2012. Professor Holtham undertook a study on behalf of the Welsh Assembly, and his report indicated that Wales has not necessarily come out as well as other regions such as Scotland and Northern Ireland. At least one thing has been clear in that it has given us a clear stance and a formula to calculate exactly how much we will get. It takes away the need to go to Westminster every year to fight our corner to see whether we can get additional moneys. I appreciate that, up until now, the formula has worked very well as opposed to having to go across every year and fight your corner, not knowing what you will get for the next financial year. There is an element of security in knowing where we stand. That has been good.

There was mention of HS2, the high-speed rail network, and how there should have been Barnett consequentials for its inclusion. Unfortunately, we probably did not do as well out of the Olympics as we might have under Barnett. We got some £5 million as a Barnett consequential from that, but the potential opportunity is there. We have to ensure that we fight our corner to make sure that —

Mr Principal Deputy Speaker: I ask the Member to bring his remarks to a close.

Mr Girvan: — major national issues such as HS2 are factored in and that we get a consequential that we can add through.

Mr D Bradley: Go raibh míle maith agat, a LeasCheann Comhairle. Tá áthas orm an deis cainte a fháil sa díospóireacht seo ar an fhoirmle Barnett. I welcome the opportunity to contribute today. The Barnett formula is much talked about and discussed, and I suppose that we could say that it has some advantages. It can be applied simply and largely automatically, and it avoids direct negotiations annually on public expenditure between the Treasury and the devolved Administrations. It also provides stable and largely predictable allocations without huge fluctuations. However, as the report quite rightly highlights, there are also disadvantages to the formula, including the fact that it does not deliver an equitable share of funding between devolved Governments and does not take account of the relative spending needs across the regions. A major flaw in the Barnett formula is the lack of transparency on the data used for calculations and on the basis for decision-making surrounding the formula. That lack of transparency is very concerning indeed. There should be transparency. The fact that the Institute for Fiscal Studies has access to the data that determines Barnett consequentials, and the data is not available to the Executive or the Department of Finance here, underlines the lack of transparency and hinders the ability of the Assembly to scrutinise effectively adjustments to the block grant. Without a doubt, one of the initial changes could be to make that data freely available to the Department and the Assembly.

The Committee report on the review of the formula made recommendations, including that DFP establish how a needs-based assessment mechanism could be best designed to take account of the context here. We also recommended that the chosen methodology be piloted using current data. The Committee suggested that the Minister engage with her counterparts in the Scottish and Welsh Governments, with a view to presenting jointly agreed proposals to the UK Government for at least initial improvements to the operation of the Barnett formula and related devolution funding arrangements. The SDLP supports that Committee recommendation.

In conclusion, I will underline some points. One of the recommendations in the report is that DFP put forward proposals on how the Assembly can be afforded the opportunity to scrutinise effectively any planned adjustments to the Northern Ireland block grant. We are very concerned about the secrecy — some would say "the black arts" — surrounding the calculations of the Barnett formula that result in changes to the block grant. We call, strongly, for transparency and for an opportunity for the

Assembly effectively to scrutinise adjustments. That means that the British Government — the Treasury — should provide us with clear and transparent data on which we can assess and scrutinise those changes. With that, I will end. Thank you.

Mr Cree: In 2012, the Committee for Finance and Personnel received preliminary evidence from a panel of expert witnesses, indicating that while, historically, due to various factors, the Barnett formula had provided generous funding to Northern Ireland, it might no longer carry out that function. The major parties in Westminster were looking at need — or relative need — and contemplating a new system. In September last year, the Committee agreed the terms of reference for a review of the scope for improving the Barnett formula, with a view to ensuring that the future needs of Northern Ireland will be safeguarded. Much work is being done, and evidence, written and oral, has been taken from a wide range of expert witnesses and stakeholders. The Committee also commissioned research from a range of areas and has provided a comprehensive report.

The Barnett formula works on the basis of a calculation that takes into account population and planned spending by Departments in Westminster on comparable services in the rest of the United Kingdom. It provides additional revenues, known as Barnett consequentials, because of extra in-year spending by the rest of the Kingdom. Barnett certainly worked well for Northern Ireland in the past, but the imminent possibility of increased devolution is likely to change that. The report covers the pros and cons arising from the evidence.

Treasury has had a long-standing commitment to the continuation of the Barnett formula, and it is easy to see why. The process lacks transparency and accountability, but, as devolution becomes more intricate, we need — I am repeating what Mr Bradley said — transparency and accountability, particularly when dealing with Treasury.

4.15 pm

As part of the review, the Committee explored how convergence works and the factors that influence it. The purpose of convergence is to ensure that relative public spending per head will converge on the English spending level. In his evidence, as has already been mentioned, Dr Gudgin said that:

> *"The worst situation for Northern Ireland would be if real spending was stagnant or falling while prices were rising. Northern Ireland would then be hit twice, once by the real fall which would affect all regions and secondly by a falling share of national spending due to inflation."*

The evidence to the Committee highlighted the potential for significant constitutional reform across the United Kingdom to have a bearing on the future operation of the Barnett formula and the wider arrangements for devolution, funding and finance. The debate on UK constitutional reform is still taking place against the backdrop of a growing number of studies calling for the Barnett formula to be replaced or supplemented. These are in the report, and I trust that Members will have considered them, as they are of significant importance. The conclusion and recommendations are in the report, and I commend them to the House. I wish to place on record my thanks to the Committee officials for their excellent work in compiling the report and, as many will have seen, for their illustrations.

Mrs Cochrane: As a member of the Committee for Finance and Personnel, I support the report's recommendations, although the limited number of recommendations is perhaps evidence that, over the years, the Barnett formula has indeed served Northern Ireland well. While the allocation is based on population and does not take account of need, it would appear that this has not proved to be detrimental to Northern Ireland because the baseline from which the allocation is made to us has been historically generous.

The Committee report recommends that DFP and the Executive look at how a needs-based approach would benefit Northern Ireland. The Welsh Government have been vociferous about that and may indeed be able to provide further information on it. I suggest, however, that, in doing so, we need to be careful that we do not aim for a system that incentivises failure. When that happens, we end up stuck not wanting to improve our circumstances for fear of losing out on money coming into Northern Ireland. We often see that with some EU moneys, when staying poor actually gets you more.

Furthermore, there is an assumption that our relative needs in Northern Ireland are higher than those in other areas of the UK; but are we, perhaps, being naive? There is a good chance that when we truly compare our need to that of, say, inner London, the Black Country, parts of the north-east or the Welsh valleys, we will find that a needs-based mechanism of distributing

public funding might not be as favourable to us as Barnett is. However, the Barnett formula may not always be so beneficial to Northern Ireland. That is partly because of the long-term feature of the Barnett squeeze, where funding gradually converges across all the nations. While that has not occurred as much in recent years due to spending cuts, it is a long-term process and it can be expected to rise again in future. The Committee, therefore, recommends that DFP examine the impact that that could have in Northern Ireland in the coming years in order to inform discussions on any proposed new mechanisms for distributing moneys.

The constitutional situation of the UK is also incredibly fluid at the moment. Additional devolution to Scotland, significant tax-levying powers over corporation tax here and potential changes to the voting rights of non-English MPs will have an effect on how the UK's public finances operate and might make moving to a new system more likely to be considered. However, I would be amazed were any new system to result in more for Northern Ireland than we already get. Having a system based on Westminster policy decisions has meant that Northern Ireland is not in the invidious position of having to raise its own taxes. However, I appreciate that there are downsides to that approach. Until Northern Ireland is in a position to fully fund its public services it is still, on balance, the preferred option.

While Barnett is still in place, therefore, the Committee has made some minor suggestions to ease the operation of the formula, including that the Treasury publish the data on which the Barnett consequentials are based; a requirement that the statement of funding policy be subject to approval by the devolved Governments; clarity on the arrangements for block grant adjustments; and improvements to the intergovernmental machinery. Perhaps if those issues were addressed, Northern Ireland could make a balanced assessment and offer other solutions for positive change. However, I suggest that we must also demonstrate responsibility with our own finances before that is likely to happen.

Mr McQuillan: I start by thanking the Clerk and the Committee staff for all of their help during the review and, indeed, throughout the past year.

In February 2012, the Committee for Finance and Personnel received preliminary evidence from a panel of expert witnesses that while, historically, the Barnett formula had provided generous funding to Northern Ireland, it was no longer safe, due to various factors. It was in that context that, on 24 September 2014, the Committee agreed terms of reference for a review into the scope for improving the operation and administration of the Barnett formula, with a view to ensuring that the future needs of Northern Ireland would be met.

The Committee has received written and oral evidence from a number of expert witnesses and stakeholders. In the evidence, it was pointed out that the Treasury had a long-standing commitment to the continuation of Barnett because it can be applied simply and, largely, automatically; it avoids direct annual negotiations over public expenditure; it has minimised conflict between the four jurisdictions of the UK over spending levels; it provides stable and largely predictable allocations without large fluctuations; and it prevents the devolved Governments from having to face many of the problems of revenue raising. While acknowledging those benefits, the drawbacks of the Barnett formula were also highlighted and identified to the Committee.

The Committee is also mindful that while the three main UK-wide parties have made a commitment that the Barnett formula will continue, it is unclear what that means going forward.

In my humble opinion, and in view of all that the Committee has heard and seen during the review, the Barnett formula is, at the minute, the best placed formula for Northern Ireland to be funded by from the UK, and will be in the future. Leave well enough alone.

Mr Ó Muilleoir: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. Thank you, Mr Principal Deputy Speaker. Ba mhaith liom buíochas fosta a thabhairt don fhoireann a chuir an tuairisc seo le chéile. I thank the team — the staff — who put this material together and the Committee members who took so much evidence over a lengthy period.

Three issues continue to concern us. I would argue that we cannot just leave it alone. I think we need to take a very engaged position in relation to the Barnett formula. Mr Girvan talked about the twin areas of trust and transparency. It has been repeated by Members, and several witnesses have said, that you need to have the correct figures; you need to have access to the data. If we cannot have that, we cannot trust the figures. None of us would accept in any other area a situation in which only those who decide what you are entitled to have access to the data. Are we talking about improving Barnett? Are we talking about a new approach or a new formula?

Certainly, we need to find a way to have transparency around figures. It is very interesting that the Treasury is willing to share these figures with other organisations but not with the devolved Administration.

That is particularly important, of course, in relation to corporation tax. The Treasury has held tight to the figures, the estimates and the guesstimates, but that is a crucial issue for us. Regardless of how many speed bumps we hit in the time ahead, or have hit to date, it seems to me that we need to have access to the key data that is involved if we are to get corporation tax right.

Many expert witnesses said that convergence is on the cards — that it will come. It is my opinion that convergence will not be good for those of us in this part of the world and it means that the areas that need the most investment will not necessarily get it. I think you need to provide more TLC and investment to any enterprise where you have an area that is lagging behind. The Barnett formula makes some accommodation for that, and it is important, if convergence comes, that we do not lose that. So, we need an extra element of need and consideration of how that should be assessed to make sure that the gap between the rich and the not-so-well-offs, between the Londons and the devolved areas, does not widen. That would create economic stagnation instead of help us to grow our economy.

I also noted the comments around Barnett consequentials. I have written to the Minister in relation to HS2; I hope that there will be a consequential relating to that. There has not been a lot of money spent on that yet, but it is vital that there is a Barnett consequential around high-speed rail. There was a consequential to Crossrail but, as Mr Girvan pointed out, only a very peripheral one around the Olympics.

I will finish with an organisation that I do not quote every day, Mr Principal Deputy Speaker — the British Institute of International and Comparative Law. However, according to paragraph 80 of our report, it:

> *"concluded that the machinery for financing devolution 'can no longer be left to the sole discretion of HM Treasury' and included in its recommendations a call for an independent body to advise Treasury, an external review function in respect of block grant calculations and deductions and an independent disputes resolution function."*

It is my hope that the Minister and her team, when they go to the Treasury — she will think that I am angling for an invite to one of those meetings with the Treasury — put those hard questions to it around the key issues for us and make sure that we get the best deal possible for all our people.

Mr I McCrea: The Member who spoke previously may wish to attend meetings with Treasury; I am not sure that those who have had those meetings have enjoyed them in the way that he might have. I suppose that that is another lesson: they need to get their act together to ensure that the Stormont House Agreement is agreed in its totality to ensure that we have a budget and money to spend, so that there can be future meetings with the Treasury.

I join the Member and others who thanked the Clerk and the staff of the Committee for all their work in pulling this together. It is not easy when you are trying to get 11 members of a Committee there on time when witnesses are there to give evidence, so I thank them for the effort that they put in. I also thank those who came and gave evidence because, without them, it would have been a waste of our time and a waste of a report.

As has been said, the DUP, in principle, supported the need to have the review of Barnett, or at least the Committee's inquiry. Whilst we did so, it was predicated on the fact that, sometimes, if it is not broken, do not fix it. It is important that when we do so, we do it with the belief that Barnett is, for now, the best formula that ensures that we get our fair share of the public finances. No one has been able to contradict it so far. We have had our fair share, and we look forward to continuing that practice in the near future.

Whilst the recommendations are there, there are not many, as other Members have said. Nonetheless, I look to the Minister, and I have no doubt that she will deal with those when she responds to the debate. If — I say that with a big "if" — there was another way that we could get a formula similar to that of Barnett, and we talked in yesterday's debate about new thinking, maybe there will be Members in the SDLP — they are not here — who could come up with new thinking in respect of how we get a better share and something other than Barnett. I will await that with bated breath. Nonetheless, if there is something, I will be the first to say that we should see the colour of their money.

Mr McCallister: Principal Deputy Speaker, I apologise to you for missing Employment and Learning question 7.

I also want to thank the Committee staff. I found that looking into how we are financed was a very interesting subject. In light of yesterday's debate, which will continue tomorrow, I say to those who are critical that it is ironic that the opening part of the report says that we have been very generously dealt with through the Barnett formula, and we should all be mindful of that. You listen to Budget debates and you hear how bad the national Government are and all of that, and when you look at the evidence and do a Committee inquiry into this, you see that it uncovers the fact that we have been very well served through Barnett.

We listened to expert witnesses who told us that we are very well served by this. One of the dangers of opening up a debate like this is that any future arrangements may not meet our requirements quite as well as Barnett has served us, particularly in the past.

4.30 pm

On some of the wider issues that the debate has opened up, we hear people, predominantly Sinn Féin and the SDLP, talking about austerity. We have been largely protected from that austerity because of Barnett. In answering a question from me at last week's Committee, the Minister explored the idea that, when the coalition Government protected health spending, we got our share of it through Barnett. It came at 100%, because it has a 100% comparator effect on the consequential. That made a huge difference to our spending. When there were increases in spending in education in England on things like free school meals, we had a Barnett consequential on that as well. Those eased spending dramatically. I suspect that, even as we move through this Parliament, if the current Government meet their obligation to increase health spending by £8 billion, there will be Barnett consequentials on that that will have a dramatic impact on the spending situation of the Department of Finance here. So, on those positives, I think it has been good.

On other aspects, I think that we should, of course, look to and speak to other Administrations about this. For probably 18 months, even before the Scottish referendum, I have been warning that, whatever its outcome, it would change the United Kingdom in a very different way. The debates are on English votes for English MPs and on devolving tax-varying powers. I have very often warned that we do not seem to be at the forefront of that debate or engagement. We have focused exclusively on corporation tax. We have not looked at other areas, while the Scots and Welsh are much further ahead.

I am sure that the Minister shares my concerns. Yes, I would like us to be at that debate, and yes, I would like the Executive to be in a position to have more tax-varying powers devolved to them. But given the state of paralysis that the Assembly and Executive face at the minute, we just do not have the political maturity to devolve anything to them. I think that that is hugely regrettable, given the state of flux that the UK is in.

I think that a constitutional convention being set up would be a very positive step. The big question is whether parties like Sinn Féin would participate in a UK constitutional convention. That is the big challenge. Would they participate in and debate issues such as the powers that the Parliaments and Assemblies around the nations of the UK should have, and how we can tap into things like the English northern powerhouse?

Mr Principal Deputy Speaker: I ask the Member to bring his remarks to a close.

Mr McCallister: What linkages can we build up to that and what changes can we make? However, all that depends on the funding that we get, and we must always be mindful of that funding coming from the centre.

Mr Principal Deputy Speaker: The Member's apology has been noted and is now on the record.

Mrs Foster (The Minister of Finance and Personnel): I can only imagine that the SDLP is not at the debate because there is obviously a leaving party for Mr McDonnell that none of us have been invited to.

Mr I McCrea: Some of them might not have been invited to it either.

Mrs Foster: That is a matter for the SDLP.

I very much welcome the debate. I thank the Committee for producing the report that we have before us. I think that the debate yesterday on the Budget (No. 2) Bill shows the sort of tough choices that can no longer be avoided if we are to put our finances on a sustainable footing. Therefore, it is important to look at how the block grant is allocated to Northern Ireland. I think that it is a very timely debate.

From the very outset of this debate, let me assure the House and the few Members here, for the avoidance of any doubt whatsoever, that I am totally committed to ensuring that we have available to Northern Ireland the maximum resources possible. As Finance Minister, it is I who must develop a Budget that balances the many competing needs of our public services and responds to the many pressures that we face. So, I would certainly welcome more money coming to Northern Ireland.

Where there are discussions to be had with Treasury or with colleagues in other devolved Administrations, I will be there to ensure that the best interests of Northern Ireland are served. I note Mr Ó Muilleoir's offer to hold my hand at those meetings, to help me fly the flag — to use his phraseology from yesterday — for Northern Ireland, but let me assure him that if there are hard questions to be asked, I am quite capable of asking them.

When I was with Her Majesty's Chief Secretary to the Treasury just last week, we had a brief conversation about the respect agenda. It is important to talk about the fact that the Government in Westminster have respect for the devolved Administrations and respect the fact that we are elected to our different devolved institutions to deal with issues in front of us. So, we had a good discussion around that, and I hope that it is something that we can develop at our next meeting.

The Committee's report raised, as have Members, a number of very familiar issues and concerns about how Northern Ireland is funded. I am not going to stand before you today and argue that the Barnett formula is perfect. However, Members need to recognise that, as it stands — and this is a point that was made by Mr McCallister and Mrs Cochrane — Northern Ireland, on a per capita basis, has the highest level of public expenditure of any of the devolved Administrations. Mrs Cochrane made the point that it really was to do with where we started in relation to baselines. That is why Wales is not in as good a position as we are in Northern Ireland. Therefore, we need to acknowledge that and look at the fact that our position, with the higher level of expenditure available to us, is one that the Westminster Government are very quick to remind us of when we are arguing for more funding from Westminster. That is a very natural thing to do. When we are pushing for more money, they will point out the fact that we have a high level of spending here.

I will deal with the report's conclusions and recommendations in a moment, but, before I do, I strongly caution that those present today who believe that an alternative approach is guaranteed to yield a better outcome for Northern Ireland should tread carefully. There is a risk that seeking to fundamentally reopen or renegotiate the basis on which we are funded could result in less funding, not more, for Northern Ireland. That would be disastrous and would mean that we would be less equipped than we are at present to respond to and address the greater level of need that exists in Northern Ireland. Indeed, many in this House have expressed grave concern about the Conservative Government's determination to press ahead with its so-called austerity agenda. I wonder if those same Members genuinely believe that, with their renewed mandate in Westminster, the Government will agree to a new settlement for Northern Ireland that is better than the one we have at present. I think that Members should be careful what they wish for.

That said, I want to touch on some of the individual conclusions and recommendations in the report. First, to touch on convergence, there has been much discussion about how the Barnett formula leads to convergence in per capita spending. The Committee has called on the Department to examine the extent of convergence to date and the outlook going forward to assess the risk for Northern Ireland being significantly underfunded in the future. The report draws on the evidence provided to the Committee, sets out the extent to which convergence has taken place in public expenditure per head, standing at 124% of the UK average. The report suggests that that is down from around 135% back in the early 1990s.

There are a couple of points worth mentioning in that regard. First, it is important to recognise that those are relativities. Actual spend has increased significantly over this period. For example, our identifiable expenditure increased by almost 50% in cash terms over the 10-year period from 2003-04 to 2013-14.

Secondly, it is important to emphasise a point that the report makes; namely, that, in times of decreasing public spend, the Barnett formula works to our advantage. It is important that Northern Ireland receive the best deal from any funding mechanism. Should the Treasury indicate that the Barnett formula is to be reviewed, we have always been clear that we need to have a detailed analysis of the impact of any change, including on the issue of convergence.

The Committee suggested that consideration be given to a needs assessment. In principle, the suggestion that funding be based on need is not one that can be argued with. Significant work was undertaken in that regard locally back in 2001-02, and various approaches to measuring different aspects of need were developed, based on demographics and on health and economic indicators. Indeed, that was not the first time that that had been done, with the methodology building on previous research, going back to the 1970s.

However, the Calman commission highlighted a key concern, which I share, relating to the difficulties in agreeing on a fair measure of need. The key concern is the subjective nature of any needs assessment designed to replace the current Barnett funding mechanism. We therefore need to exercise caution before pressing for any review. Based on experience, a needs-based system is not likely to be any less complex than the Barnett formula — in fact, it would probably be more complex — nor is it certain to produce a more advantageous funding settlement for Northern Ireland. That is my main concern, and I am not alone, because Dr Gudgin, in his evidence to the Committee, cautioned against the assumption that a needs assessment will lead to us having higher levels of public expenditure.

Professors Birrell and Cairney pointed to the disputes that could arise over how need might be identified. The Treasury and the other Administrations could well take a different view from us, which, if that analysis were to prevail, would lead to an inferior outcome for Northern Ireland, recognising, of course, that we are the smallest Administration in the UK.

The Committee's report also suggests that we engage with our Scottish and Welsh counterparts, with a view to presenting jointly agreed proposals for improvements to Barnett and wider funding arrangements. Looking further forward, the report suggests that we develop a longer-term view of funding arrangements that would best suit us in Northern Ireland. Both are laudable suggestions. The concept of producing a joint set of proposals from the devolved Administrations is very attractive, but, in practice, that may prove difficult, as each of us will have different priorities. As I indicated to the Committee last week, my job as Finance Minister is to do what is best for Northern Ireland. The Scottish and Welsh may have different priorities when it comes to what they need to look for.

I will take each of the report's suggested improvements in turn. First, any publication of data by Treasury that provides greater clarity on how UK public spending is calculated and agreed is to be welcomed, and I would support a joint call by the devolved Administrations on that. Publication of that data, however, is a matter for Treasury. Treasury does provide my Department with high-level figure work for the Barnett formula calculations, and that is sufficient for officials to ensure that it is being correctly and consistently applied. Mr Bradley referred to the black arts of the Treasury and suggested that we did not have data. We do receive data, and it is certainly enough for us to make sure that the Barnett formula is correctly applied.

Secondly, the Committee suggested that the statement of funding policy be subject to approval by the devolved Administrations. It is currently, by convention, agreed by the Secretaries of State for the devolved regions in consultation with the devolved Governments. I, on behalf of the Executive, will engage with Treasury on the statement of funding policy at each review, but ultimately, going back to the constitutional issue, it will be for the UK Government to decide how they fund the devolved regions. I cannot envisage a scenario in which they relinquish that control, because, at the end of the day, we are devolved, which means that power remains at Westminster. We act as a devolved Administration under the ultimate power of Westminster. There are processes in place, such as the Joint Ministerial Committee, which can be used if we are of the opinion that amendments to the statement of funding policy are unfair, but we have not yet had the necessity to call on those.

4.45 pm

I understand that the Scottish Government have been briefed by experts on a possible independent commission to agree the statement of funding policy. I will certainly analyse carefully any proposal that is forthcoming from Holyrood in that regard and look forward to discussing that with my counterpart there.

Work is also under way on a review of the memorandum of understanding between the United Kingdom Government and the devolved Administrations, and that, again, is being led by the Joint Ministerial Committee. I welcome any improvements to intergovernmental machinery, but I remind the House that significant business with Her Majesty's Treasury is conducted bilaterally and that that has worked well for Northern Ireland in the past. Members will be

aware of the St Andrews Agreement and the Stormont House Agreement. Both involved financial adjustments to the block grant, which, it has to be said, were to the advantage of Northern Ireland and took place outside the formal mechanisms. Those worked well for us.

More broadly, I want to assure Members that I am very mindful of the ongoing constitutional reform that was referred to by Mr McCallister and the implications that that could have. In the near term, it is anticipated that Her Majesty's Treasury will update the statement of funding policy in advance of the United Kingdom spending review this autumn. That will reflect the new fiscal arrangements that will be in place for Scotland at that time.

I want to briefly mention corporation tax, because there has been a lot of mention of that over the past number of days. Whilst the more routine adjustments of the Budget are clear, the report highlights an issue with the lack of clarity when it comes to significant block grant adjustments, such as the one that will be required as part of the devolution of corporation tax powers. Let me assure the House that my Department and others have been working with the Treasury on the devolution of those powers and that significant progress has been made.

The broad principles upon which it will go ahead were set out in a letter from David Gauke from the Treasury on the Corporation Tax Bill back in February. First, the Barnett formula will continue to operate. Secondly, a deduction will be applied to the Barnett-based block grant to reflect the corporation tax revenues that are foregone by the UK Government as a result of devolution — that, of course, is to abide by the Azores ruling — and, thirdly, the tax revenues generated by the Northern Ireland corporation tax regime will be retained by the Executive and added to the Barnett-based block grant.

Estimates have been developed that suggest that the net cost would ramp up to £325 million three years after implementation if a 12·5% rate were applied. The precise costs to be incurred have yet to be agreed with Her Majesty's Treasury, and my Department continues to engage with it on that. Clearly, the objective in relation to the devolution of corporation tax is to get a fair outcome for us in Northern Ireland in terms of the cost, and we continue to work with the Treasury on that. Of course, the European Commission will also need to be worked upon and kept in the loop in relation to everything that we do.

I appreciate the Committee's concerns about the need for effective scrutiny at Stormont, but the reality is that much of the work is ongoing and we are not really in a position to present the detail of that to the House as it has not been agreed. We continue to talk to the Treasury. Once the UK Government have turned on the power, via the commencement clause, it will be for the Assembly to agree a Northern Ireland rate and implementation timescale following a recommendation from me as Finance Minister. That process will provide a very clear scrutiny and approval role for the Committee and, ultimately, the Assembly. We work towards that point, and I will seek to ensure that that work is as transparent as possible. We are obviously not yet in a position in which we can have the devolution of corporation tax, because it is all part of the Stormont House Agreement, and we will have more discussion on that when I speak on the Budget Bill tomorrow. It is important to recognise that the process will be as transparent as possible and that I will work with the Committee on that.

The Committee report rightly highlights the significant need for public expenditure in Northern Ireland on many measures, which is greater than any part of the UK. They are a reflection of our poorer relative position on deprivation, ill health and economic weaknesses, which come from years of violence and the Troubles in Northern Ireland. It is not hard to find examples of that deprivation. Our levels of output per head, a measure that economists often use to assess regional prosperity, are more than 20% lower than the United Kingdom as a whole, and our inactivity rate is higher than any UK region. We are taking steps to deal with those issues, particularly through the economic inactivity strategy, which Stephen Farry and I developed when I was in my previous role. Of course, we have had to deal with the global downturn over the past number of years, but I think that there is a real issue that we need to get to the heart of with productivity.

I accept that the Barnett formula could lead us towards convergence with England on relative public spending, but that will take time and will require a growth in public expenditure, which, from where we are now, looks a long way away. While I understand why the Committee's report recommends a re-examination of the needs-based approach, it needs to be appreciated that this is not straightforward, agreement would be difficult to reach, and, fundamentally, there is no guarantee that it would lead to an improved or even sufficient outcome for Northern Ireland.

I also fear that the other side of this argument is missing and that we are in danger of missing this important point. The reason why I entered

politics was fundamentally to change the picture of need here. In the years to come — if, indeed, I am here — I do not want to be in the position of having to go to the Treasury arguing that we are the most deprived part of the United Kingdom. That is not a position that anyone in here should aspire to. We should be moving to a position where we are one of the fastest-growing regions of the United Kingdom. That is certainly where I want to be.

We need to change the game. How do we do that? The route is mapped out in our economic strategy. It paints a vision of an economy and a society that is characterised by growing employment opportunities and prosperity for all. More than that, it identifies the actions that will deliver on that vision. That includes, of course, the lowering of corporation tax to spur investment, and we are closer to delivering on that commitment than we have been at any time before. We cannot miss that opportunity. I reflected on the comment that someone made yesterday that that is the one trick that we have, and of course it is not the one trick that we have. That sits in the context of everything else that we have been doing, including our economic inactivity strategy, which has just been launched and deals with all the issues.

I am not saying that we should not seek to put our best arguments to the Treasury to ensure that our people are treated fairly on public expenditure; rather, we must not allow that to sidetrack us from what should be our primary focus, which is the creation of wealth and prosperity and making sure that that is shared across Northern Ireland society so that we can close the productivity gap. That said, the Committee has compiled a significant body of work in producing this report and drawn on the evidence of many experts and stakeholders. As such, my officials and I will give it careful consideration. It deserves that, and I will give it that. Now that I have received the report, we can move on. Thanks again to the Committee for all its work.

Mr Principal Deputy Speaker: I call the Deputy Chair of the Committee, Mr Daithí McKay, to conclude and make the winding-up speech.

Mr McKay (The Chairperson of the Committee for Finance and Personnel): Thanks for the demotion, a Phríomh-LeasCheann Comhairle.

This has been a useful debate on the Committee's report, and I thank Members and the Minister for their worthwhile contributions. Historically, I tend to listen to ministerial responses to Finance Committee inquiry reports with an equal measure of hope and trepidation. Hope, because I am mindful of the conscientious and constructive way in which the Committee approaches its work, and trepidation, because I have, in the past, experienced the typical DFP signature response, which tends to be unduly sceptical and defensive, attempting to create the impression that there is no need for concern, everything is in hand, and there is little room for improvement. Sometimes, of course, the Department moves quietly to the Committee's ground at a later stage. We welcome that when it happens.

I welcome the Minister's response and am pleased that she has agreed to go away and look carefully at the detail of the recommendations. I might not agree with her analysis of the Committee recommendations, but I feel that we urgently need to look at them and give them priority, along with all of the other economic priorities that she and the Executive have.

Three key facts need to be highlighted in summing up the debate. First, we cannot be certain how or whether the Barnett formula will continue to operate, given the potential for wider constitutional reform and further fiscal devolution. Secondly, we cannot be certain whether we are being underfunded, overfunded or adequately funded, because we have not completed a local needs assessment. Thirdly, the key issues that the Committee has identified for action will need to be addressed whether or not the Barnett formula is retained.

I turn to the key themes in contributions by Members, and we heard how the Barnett formula has a range of strengths and weaknesses. That was often at the centre of the debate at Committee. Paul Girvan made the point that it was a very worthwhile exercise and said that we need to ensure that we get a fair crack of the whip. He posed a fair question about how you define need. There will be numerous definitions of need. Obviously, Treasury may have a different definition from that of the respective Assemblies and devolved institutions. He also made an important point about the Barnett consequentials, referring to the high-speed rail link, HS2, and the fact that, sometimes, we do not do as well as we could from Barnett consequentials, and that was especially true of the Olympics.

The Deputy Chair, Dominic Bradley, highlighted some disadvantages and argued that Barnett does not take into account the needs of regions. Of course, lack of transparency was a

point that a number of Members raised. Máirtín Ó Muilleoir made the point that it is very hard to operate or trust data if you do not have transparency and have only an incomplete set of figures in front of you. Dominic Bradley made the point that the IFS has the Barnett consequential data, yet devolved Administrations, including the Assembly and the Scottish Parliament, seem to be denied that same information. That, in a sense, is quite disrespectful of our autonomy as devolved institutions, and I certainly feel that, in our interests and those of the people whom we represent, that should be challenged. Mr Bradley argued that data should be freely available and that the Minister should work with her Welsh and Scottish counterparts. Of course, he referred to the black arts of the Barnett calculations.

Leslie Cree argued that increased devolution could impact on the benefits of Barnett, which, he argues, we have had up to this point. He, too, echoed the point made by other Members, which is that the process lacks transparency and accountability. We need to have that transparency and accountability when dealing with Treasury. The Committee heard that from a number of officials and Scottish Finance Committee members when it went to Edinburgh. Mr Cree thanked the officials, as did most of the other Committee members, for their sterling work on the report. I would like to echo that and thank them for their work with the Scottish officials and the very worthwhile connections that we built with our Scottish counterparts, which we should follow up on with the Scottish Assembly and the Welsh Assembly.

Judith Cochrane argued that we need to be careful about having a system that incentivises failure and that a needs-based assessment might not be favourable in our local circumstances, but she recognised that additional devolution and English votes for English laws will have an impact on public finances.

5.00 pm

Adrian McQuillan argued that the simplicity of Barnett was one of the pros: you know where you are with the Barnett formula. His argument was that you should leave well enough alone; and that was echoed by a number of Members.

Máirtín Ó Muilleoir made the point again that we need correct figures and data, because we cannot trust these figures otherwise. He also said that convergence will not be a good situation for us; so it is important that we plan for that situation if it happens or not and regardless of how far down the road it will be. He made the important point that the machinery cannot be left solely to the Treasury as regards this matter.

Ian McCrea also argued that Barnett is the best model, and he challenged others to come forward with alternatives. John McCallister echoed points made by Mr I McCrea and others. He was mindful of the generosity of Barnett in the past and that we have been well served by it. He referred to past Barnett consequentials. I suppose that he put forward the Pandora's box argument: that you need to be careful about what you are opening up with the Barnett formula and tinkering with the system that is in place. He did make a point with which I agreed regarding the Scots and Welsh in that they are much further ahead in the debate on fiscal powers in areas like income tax; and that there is a lot that the Committee and the Assembly can learn from other jurisdictions in these islands. Part of the experience of compiling the report was that it was refreshing to get a range of views, some quite similar to our own, on the experience with the Treasury and the relationship between the Treasury and other jurisdictions.

Mr McCallister: Will the Member give way?

Mr McKay: I will.

Mr McCallister: Can I ask the Member whether, if the UK did set up a constitutional convention — and I realise that he will not answer this as Chair of the Committee but as a Sinn Féin MLA — would his party take part in it?

Mr McKay: I would remind the Member that I am speaking as Chair of the Committee. As a party, we would be willing to look at any proposals. If proposals relate to the devolution of further fiscal powers — and if it is about powers and levers that can help us to balance our Budget better and to benefit the lives of those whom we represent — we would be interested in looking at them.

The Minister welcomed the debate and agreed that it was important to look at the Barnett formula and its operation but also made the point that there is a risk in reopening Barnett that could lead to less funding and not more. She went over a number of the recommendations in the report on the needs assessment and said that there was previous work by the Department in 2001-02. She also agreed with the Calman commission regarding

the fair measure of need but that we need to be careful about being lead into something a lot more complex than Barnett. As I said, I welcome the fact that she is willing to look at these recommendations in further detail.

The Committee's view is that we do not want this to be another report that simply sits on the shelf. I think that the Committee has done quite well in bringing this report together and having cross-party consensus, and that, regardless of your views on the Barnett formula, the pros and cons — and there are clearly those who fall on either side of the argument in the Committee and in the Assembly — there are areas such as transparency, data and arguments about Barnett consequentials on which there is consensus. The Department can look at the areas of consensus, and there is no good reason why we cannot get to work on implementing some of the report immediately.

I believe that an immediate output from the Committee's review and from this debate is that we now have a strong and balanced analysis of the pros and cons of the Barnett formula. We also have a clearer picture of the risks that need to be mitigated and of the issues that need to be addressed.

I would underline this point that I made in my introductory remarks and which has been reiterated during the debate: the experts are telling us that we may no longer rely on the Barnett formula as a safe haven. We need to keep our options open and to take a long-headed view as to what may be round the corner.

Yes, we have benefited from the policy of protecting spending on health and education in England. That may or may not continue to be the policy of the Westminster Government. The more significant point, however, is that we have neither influence nor control over such policy decisions for England, yet they have massive implications for our Barnett consequentials. Therefore, we must not use the current policy of protection for health and education in England as an excuse for not acting strategically.

Similarly, we must not find an excuse for inaction in the possibility that further convergence might be offset by further austerity. In my view, that would be short-sighted. In opening the debate, I quite deliberately pointed to the general trend of convergence and to the fact that it will depend on the particular mix of influencing factors that exist at any point in time.

With regard to action versus inaction, the Chartered Institute of Public Finance and Accountancy was quite forthright in its advice. It countered the argument that we should not be raising issues because of the perception that we do well out of Barnett by stating:

> *"if you want to get to a fair and equitable position funding-wise, there is an opportunity to be at the forefront of that debate, rather than putting your head in the sand … if you are going to influence policy, keeping your head down and saying nothing is probably not the best way to go about it. You are then going to leave it in the hands of Treasury and others to make those decisions for you".*

I believe that that advice is all the more compelling given the external pressures for change, which we have discussed, and the external pressures that will be before us in the next five years in further devolution within these islands and other significant political changes.

As a result of the work of the Committee and today's debate, we know what needs to be done. Without diminishing the challenge of the work involved, it is now time for a local initiative by DFP and the Executive to examine convergence and to establish a needs-assessment methodology that is appropriate for our local context. That would give us a clearer picture of present and future funding requirements. It would also serve to inform our position in any future negotiations.

Finally, it is evident that the current intergovernmental decision-making and dispute resolution arrangements are inequitable, ineffective and outmoded. The research and evidence has highlighted the potential for controversy around the relationship between the Barnett formula and political power. This focuses on the level of central Treasury control and influence over devolved funding and policy decisions.

Some might argue that that is the correct and proper role of any state treasury. However, that view misses the point. It ignores the elephant in the room — the level of devolution to date and the potential for wider constitutional reform, which has gained momentum following recent political events.

I am conscious, a Phríomh-LeasCheann Comhairle, of the clock running out on me. I will just say on behalf of the Committee that we look forward to receiving a formal response to the report after the Department has reflected further. I urge it to reflect further more. I

therefore commend the report to the House and ask for its support for the Committee's motion.

Question put and agreed to.

Resolved:

That this Assembly approves the report of the Committee for Finance and Personnel on its review of the operation of the Barnett formula (NIA 254/11-15); and calls on the Minister of Finance and Personnel, in conjunction with Executive colleagues, to implement, as applicable, the recommendations contained therein.

Private Members' Business

STEM Subjects

Mr Principal Deputy Speaker: The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer of the motion will have 10 minutes to propose and 10 minutes to make a winding-up speech. All other Members who wish to speak will have five minutes.

Mr Buchanan: I beg to move:

That this Assembly notes the importance of the promotion of science, technology, engineering and mathematics (STEM) degrees for the future of the Northern Ireland economy; considers that there should be a greater emphasis on STEM subjects in the education system; and calls on the Executive to investigate innovative ways to promote the uptake by students of these degree programmes to encourage young talent to remain in Northern Ireland post their degree programmes.

A STEM education plays a pivotal role in enabling Northern Ireland to once again lead the way economically and technologically in the global marketplace of the 21st century. As politicians, it is our job to ensure that future policy is informed by the underpinning of this key area, and in particular that Departments work together to ensure that STEM is dealt with on a cross-departmental basis. Our outlook as politicians must be united towards a sustainable development of the economy here. Northern Ireland is synonymous with the Troubles and the shipyard — most notably, the building of Titanic. What is not so widely spoken about, though, is the innovation and inventive legacy that formed the background to the Province. The Royal Victoria Hospital was the first building to use an air conditioning system, in 1906. Defibrillators and ejector seats were the brainchildren of inventors here in Northern Ireland. That is the legacy on which the brilliant minds of Northern Ireland have made their mark on the world stage, and that is the future that we aspire to for our next generation.

However, in relation to the enormity of that task, we have a fundamental problem: for children, parents and the wider community who are not involved in STEM, it has an identity problem and needs a makeover. Perceptions of the STEM sector need to be changed if we are actively going to make any inroads into the sector. It is essential that we change the image, which appears to be more male-dominated, and replace it with the truth of the matter, which is that STEM is the butterfly that will emerge from its chrysalis and on which Northern Ireland's economy will fly high and compete on the world stage. This country may be small, but we have a history steeped in engineering, innovation and manufacturing, and those industries are founded on STEM. It is time to make over STEM and make it attractive, bright and innovative to attract the brightest and best young minds of the future.

The promotion of STEM programmes is important for the future of the Northern Ireland economy. It is widely recognised that STEM underpins economic development, yet funding difficulties sometimes make progress impossible. One local example of that is Sentinus. Such organisations are meeting needs that are not being addressed in the education curriculum. Sentinus runs valuable STEM schemes and projects right across Northern Ireland that are closing the gaps in STEM education not being met by the school curriculum.

Sentinus cannot keep up with the demand from thousands of children in schools across Northern Ireland who are keen to attend its projects, yet its budget has been cut by up to 32% by the Department of Education. That is a backward step, and it is precisely that type of short-sightedness by the Education Minister in cutting some of the smaller budgets that is having drastic and lasting consequences for the future of our children.

The Education Minister should be paying more attention to STEM subjects in primary schools. I call on the Department of Education and the Minister to reconsider the relatively minuscule budget for Sentinus to enable it to continue with the good work it has been doing over the years.

Insiders within STEM suggest that it is not a priority for the Department of Education. This is

a prime example of where two Departments are practically working against each other. On the one hand, DEL is working to push STEM forward, and, on the other hand, the Department of Education is cutting a relatively small budget, and that is having an adverse effect on the current and future projects being delivered for primary schools. For future sustainable growth in this sector, all Departments must work together to focus efforts and collaboratively drive this forward for the good of everyone in Northern Ireland.

5.15 pm

It is too late to leave STEM initiatives until post-primary education. That is where the problem lies. Primary-school children need to be engaged and to understand the significance of STEM subjects for their own futures. Organisations like Sentinus are doing an excellent job in advancing the cause of STEM amongst the entrepreneurs and inventors of the future, who are currently in our primary sector.

Behind the scenes, STEM is a good news story. Innovative schemes are being run right across Northern Ireland in collaboration with schools, colleges and universities. Those are resulting in increased numbers of students applying for STEM subjects at university. Yet, that is still not enough. Much more needs to be done by all the Departments to support the range of initiatives that are already in place.

Ulster University has put a lot of work and effort into ensuring that its degree places are filled with young people who know precisely what degree they are entering. Insight into the degree pathways is given in years 13 and 14 to encourage young people to focus their minds on the degree that they will be pursuing so that it meets their needs. It is essential that we build on that success and support the projects that are already in place.

To kick-start the process of changing STEM's image, we have to start with the primary-school sector. In the primary-school curriculum, STEM subjects are practically non-existent. Yet, it is at this age that children are constructing imaginative contraptions from Lego, building blocks and other toys, which is planting the seeds of engineering in their minds. Minecraft is an extremely popular game that has exploded on to the scene. It essentially involves 3D Lego where children form elaborate constructions and build worlds within worlds. These are the engineers of the future, yet, at this stage, there is no link with their academic careers. It is at this stage that we are losing children. It is essential that we broaden the perception of science, technology, education and maths at this early stage to ensure that the children recognise that these subjects form the backbone of any creative problem-solving solution in the world around us.

Universities have also come on board at this stage. Dedicated community-based outreach schemes to bring STEM to primary schools are already in place in the university system, but, again, that has been hampered by funding cuts. It is time that the Department of Education began to take a closer look and to consider how important it is for STEM subjects to be introduced at primary level. With the widening access schemes at university level, there is the will and determination to bring innovative projects to schools, but, time and again, practical issues stop those types of projects going ahead. Schools have to pay costs to bring their children to those events, and they simply cannot afford that. If we are serious about bringing STEM to the top of the agenda, those types of practical aspects must be addressed. Extra funding must be allocated to schools for attendance at those types of events. Priority must be given to STEM. The Department of Education must not bypass it and leave it on the back-burner in favour of other less pressing subjects.

Changing attitudes to STEM is also a priority. It is necessary to move away from gender stereotypes and to actively encourage everyone to consider careers and education in STEM subjects. That will take everyone involved, from policymakers to business leaders to schools and those in higher and further education (FE) establishments, working together in an active and coordinated way to push that and to promote STEM.

As has been mentioned in previous debates, there is a massive discrepancy in the gender balance within STEM. Men outnumber women by nearly three to one in high-level posts, and this is not helpful going forward, as the need of the Northern Ireland economy for more skilled scientists and engineers can only be met when greater emphasis is placed on recruiting and retraining women in the sector. It is very clear that the current model is not working. The gender gap widens from GCSE to A level, when girls choose to follow alternative career paths. This is a key stage at which girls need to be actively encouraged into STEM, after they receive their GCSE results and are thinking about A-level choices. Perhaps more needs to be done at this stage through careers education —

Mr Principal Deputy Speaker: I ask the Member to bring his remarks to a close.

Mr Buchanan: — and academic pathways to widen the choice and the type of subjects on offer. I support the motion.

Ms McGahan: I also support the motion. I thank the Member for bringing the motion to the House. Recently, I was successful in having a motion adopted by this Assembly expressing concern that men outnumber women by nearly three to one in high-level science, technology, engineering and mathematics posts. There can be no doubt that our economy needs more skilled scientists and engineers, and that need will not be met unless greater efforts are made to retain women in STEM careers. 'Addressing Gender Balance', a report published in 2013, identified that, while high-level STEM posts constituted over 11% of the workforce, men outnumbered women by nearly three to one in those roles. In the North of Ireland, we do not have a strategy that specifically addresses the issue of women and gender imbalance in STEM careers. The most relevant government strategies are Success through STEM and the gender equality strategy. Success through STEM contains 20 recommendations, one of which pertains to the issue of gender imbalance.

It is with much regret that I find myself having to comment on the headline-grabbing and dire comments of Nobel Prize winning scientist Sir Tim Hunt who only days ago felt that he had to share with us his trouble with girls. His comments were reported as typical of the lack of self-awareness by men in places of influence in STEM fields, which reinforces subtle sexist stereotypes and behaviour. Dr Jennifer Rohn, a cell biologist at University College London, was correct when she told the BBC that as a Nobel laureate:

> *"he does have some sort of responsibility as a role model and as an ambassador for the profession."*

Comments such as Sir Tim's set back all the good work that is being done in our schools to promote STEM and gender equality.

While the problem of, and solutions to, gender imbalance in STEM have long been identified, more needs to be actively done to improve the situation. Careers should not be constructed in a way that deters talented women from remaining and progressing in STEM. Women remain under-represented at senior levels across every discipline. The gender imbalance in STEM is caused by a range of factors, and while it is commendable that an emphasis is placed on inspiring young women to choose STEM subjects, such efforts are wasted if women continue to be disproportionately disadvantaged in STEM subjects in comparison with men. It is disappointing that biases and working practices result in systemic and cumulative discrimination against women throughout STEM study and academic careers.

The inquiry in Britain found that scientists are susceptible to the same unconscious gender bias as the rest of the population, and it is unfortunate that some are unwilling to accept this simply because professional research requires them to be objective. As employers of academic STEM researchers, our universities and higher education institutions and secondary schools have ultimate responsibility for employment conditions and the greatest obligation to improve STEM careers for all researchers. More standardisation is required across the higher education sector.

Recommendations in the report commissioned in Britain also call for diversity and equality training, including unconscious bias training, to be provided to all STEM undergraduates and postgraduates by their higher education institution.

It is clear that a lack of careers advice and support for academic researchers can affect women disproportionately. Higher education institutions should encourage mentoring, support networks and seminars at the research group level and monitor that practice.

In conclusion, the promotion of STEM subjects is a key plank of our economy's prosperity, and we need to do more to inspire our students, including females, to study science. Go raibh maith agat.

Mr Rogers: I thank the Members opposite for bringing the motion to the House, and I am delighted to have the opportunity to speak to it. I welcome the Minister as well.

STEM subjects are not simply a collection of facts and figures. They are an active and practical way of investigating the natural world. The motion targets third-level education, but we will not get third-level education right if we do not get post-primary STEM provision right, and we will not get post-primary STEM provision right until we get primary provision right. To me, it is the experimentation that brings the learning to life. I am concerned that, particularly in our primary schools, science is being delivered a bit like any other academic

subject, without the messy learning and experimentation.

The World Around Us (WAU) is an integral part of the curriculum at Key Stage 2, but science and technology are buried in that curriculum area along with history and geography. A recent Education and Training Inspectorate (ETI) report, 'The World Around Us', stated:

> *"it is disappointing that just 54% who responded to the web-survey believe they include the progression of the relevant practical and experiential (science and technology) skills within their WAU planning."*

What the Department failed to tell us is that 35% of schools replied to the ETI survey. You do not need to be a mathematician to work out that 54% of 34% gives you less than 20%. Although that may not be the true figure, it is very worrying that only a small number of our primary schools are proficient at using science.

The primary-school experience is an essential foundation and building block of our children's learning. In those early years, children are sponges for learning. That creativity and sense of adventure needs to be satisfied then. Children will stop asking why if, for years, they do not get a satisfactory answer. In my previous life, I met many 11-year-olds who said that they hated maths, but, in most cases, when you answered the why, they gained the confidence and got their GCSE in maths. They perhaps never got around to loving maths, but they managed to get their GCSE in it. The same is true in other STEM subjects, and it can even be more profound. You will not turn a 14-year-old boy on to physics if the only experience that he gets of physics is his textbook.

I remember well the early days of computer coding at Queen's in the 1970s and teaching it in the 1980s. Then we had the ICT revolution. If we are advance the next generation, it must be about more than simply learning about word processing, spreadsheets and slide shows. We must teach our children to problem-solve, to code and to design programmes that perform useful functions. Learning to send emails is useful but will not make the next talented software engineer. All too often, the real computer whizz-kid is not the teacher at the whiteboard but the student at the back of the class who is programming in his or her spare time.

One of the barriers is the lack of qualified STEM teachers, especially in our primary schools, where it is between 1% and 2%. Another quotation from the report states:

> *"Eighty-seven per cent (251) of schools who replied to the web-based survey have one or more teachers with specific knowledge and/or experience in key aspects of WAU."*

They have specific knowledge in the World Around US. The report does not, however, talk about specific knowledge in STEM subjects. Most STEM graduates are snapped up and choose more lucrative careers. The lack of time and resources for quality continuing professional development for our science teachers can lead them to play safe and be less adventurous in the science experiments that they deliver in the classroom. We have some good examples, but, at best, it is sporadic. The lack of adventure is encouraged by a system that does not judge the quality of practical science delivered or learned by students. School practice is driven by what teachers believe is valued by the ETI. Everything in education is driven by grades. Students want better grades as their passport, while schools want to climb the league tables, but, by removing the contribution of practical work to grades, you inevitably remove the value of practical work.

We must ensure that we have a sufficient number of talented teachers in all Key Stage areas if we are to have a highly skilled workforce that is necessary for our future economy. We need subject specialists who can inspire students with their passion. Many teachers are crying out for that extra support and the opportunity to develop their teaching skills and subject knowledge.

5.30 pm

We must ensure that our curriculum is future-proofed. Computer programming and coding is already part of the curriculum in other areas, including two of our nearest neighbours, England and the Republic. We welcome workers from other areas, but will our students be at a disadvantage when applying for jobs in the digital economy? Digital opportunities are huge, both economically and socially, because technology is such a great leveller.

We will be supporting the motion. We do not need a sticking-plaster approach. We need a strategic approach that tackles the STEM deficit. Yes, there is —

Mr Principal Deputy Speaker: The Member's time is almost up.

Mr Rogers: — a problem at third level, but the source of the problem is back in our primary schools. Today, lots of our children are having an enriched STEM experience in the University of Ulster through Sentinus, but all children —

Mr Principal Deputy Speaker: The Member's time is up.

Mr Rogers: Thank you.

Mrs Overend: Given the latest impending Budget crisis facing the Assembly, private Member's motions, no matter how worthy, seem somewhat superfluous and unreal. Nevertheless, we have another motion in front of us noting the importance of the promotion of science, technology, engineering and maths degrees for the future of the Northern Ireland economy, and calling for a greater emphasis on those in education.

I am fairly sure that the House will not be dividing on the motion, and I am pleased to speak on the subject for the Ulster Unionist Party as it is an area that I have a particular interest in. As a patron of Semta, the sector skills council for science engineering and manufacturing technologies alliance in Northern Ireland, I hosted an event in the Long Gallery in March, celebrating the success of women in STEM careers. While underlining the work that still needs to be done to support and encourage young women to enter those industries, the Semta Northern Ireland Women in STEM programme has played an important part in providing that encouragement, and will hopefully continue to do so.

The Women in STEM programme set out to support 20 SMEs, and four large companies, to develop 50 females in a successful career in STEM, promote STEM to 1,000 schoolgirls and establish a women's network to mentor and support women and girls in those industries. That is the sort of innovative approach to encouraging STEM subjects and careers that the Assembly and the Executive should support. Promotion of STEM subjects and matching the skill set of our young people to the demands of the workplace are central issues that we should focus on. That can and should begin at school, and it is another example of where proper joined-up government would be welcome.

Sentinus, the leading educational charity that delivers science, technology, engineering and maths engagement programmes to over 60,000 pupils across Northern Ireland, has had its budget cut. As a result, a STEM smart technology primary-school programme had to be shelved. Other valuable Sentinus programmes are being shelved or greatly reduced in size, yet those are the type of initiatives that the authors of the motion are presumably referring to: programmes aimed at improving the teaching of science, technology, engineering and maths in primary schools, while developing the skills and confidence of trainee teachers through school-based experience. We will not get STEM graduates if we do not develop the narrow and broad STEM subjects at school.

On 2 March, the Assembly debated a Committee motion highlighting the importance of science, technology, engineering and maths in schools, recognising the role of STEM as a key driver of the economy. It called on the Minister of Education:

> *" to support and encourage the full implementation of the STEM aspects of the curriculum in order to bring about high quality learning for all children."*

In that debate, I described an increase in A-level STEM entries between 2005 and 2011 as "underwhelming". That increase was only 1,957 over six years. I called for more political leadership to encourage pupils to pursue those fields of study. This is where it all must start: in the schools and as early as possible. I am pleased to hear other Members in the House agree with me on that point.

Last week, the Department for Employment and Learning published a higher education statistical fact sheet on its website. The most up-to-date statistics for participation in STEM subjects at higher education level are for 2013-14, and are worth reading into the record. I will not overload you with figures, but suffice it to say that 46·3% of students enrolled in Northern Ireland higher education institutes were enrolled in broad STEM courses. We are in a slightly better situation than England and Wales, but worse than Scotland. Only 23·5% are on narrow STEM-related courses. That shows that we are worse than England, Scotland and Wales in that area.

In the four years up to 2013-14, the total number of students who were enrolled in broad STEM-related courses increased by only 1·2% and by 14% in the narrow STEM subjects. Therefore, it is right to express our concern and our support for improving this situation.

Mr Principal Deputy Speaker: I ask the Member to bring her remarks to a close.

Mrs Overend: I commend the motion's support for promoting STEM courses and careers.

Ms Lo: The workforce of the future will need to be skilled in science, technology, engineering and mathematics for many reasons. We know that many employers view students who have studied STEM subjects as being more employable, with over 50% of STEM students being employed in a career that is related to their long-term employment aims. The promotion of STEM subjects is also needed to meet the growing demands from an economy that is increasingly dependent on ICT and innovation from research and development. An increase in STEM skills will aid economic prosperity and attract more inward investment to Northern Ireland. For those reasons, it is vital that more young people are encouraged to study STEM subjects.

As other contributors mentioned, we need to address the female deficit. Female students tend to do better than their male counterparts in GCSE and A-level results and are more likely to enter higher education, but less than 30% of females graduate in STEM subjects. The under-representation of women in STEM jobs is not just a gender equality issue; there are wider economic consequences for our economy and our international competitiveness. My personal experience growing up was that boys do STEM, and girls do languages, but, while this gendered view of professions is, thankfully, starting to shift, we must continue to challenge the idea that STEM is a man's trade. We must also challenge the idea that STEM is too hard, and schools must continue to do what they can to make these subjects more accessible. I agree with the two previous contributors that it is important to encourage primary and secondary schools to have knowledge of and interest in STEM subjects.

Minister Farry and his Department are aware of the importance of STEM and the challenges involved in increasing its uptake. DEL has led on the production and implementation of the skills strategy — Success through Skills: Transforming Futures — and the STEM strategy — Success through STEM — which particularly aims to encourage more young people, especially females, to study and pursue a career in STEM. Of the 25 recommendations in the STEM strategy, five are for businesses to carry forward. To address the problem of under-representation comprehensively, the approach must be collaborative, including parents, schools and agencies.

The STEM business subgroup was formed with a DEL-funded post of business coordinator to deal with the strategy's business-specific recommendations. The coordinator has taken forward innovative work on gender in STEM in conjunction with the Equality Commission and has produced several careers supplements to encourage young people to study STEM.

DEL has been busy with many other initiatives, such as the one in partnership with Bombardier and Belfast Metropolitan College. Last year, it set up an aerospace summer scheme, which was funded by the Department to promote the STEM agenda. Thirty young people aged 16 to 24 participated in the programme, which was designed to encourage interest in entry-level jobs in aero technology. I am advised that the 2015 aerospace summer school is scheduled for August, with a target of 60 participants. That is just one example of an extensive list of DEL initiatives, which includes the public-private ICT apprenticeship scheme —

Mr Principal Deputy Speaker: I ask the Member to bring her remarks to a close.

Ms Lo: — the continued funding of the Bring IT On campaign and the higher-level apprenticeship in engineering, among others. I support the motion.

Mr Hilditch: I, too, support this evening's motion, which is the latest in a number of motions relating to STEM. As recently as March, we looked to address the gap in the number of males and females enrolling in science, technology, engineering and mathematics. During that debate, we acknowledged much of the work being done and efforts made by the Departments and various stakeholders, not only in bridging the gender gap but in making general progress: the number of students enrolling on STEM coursed has already increased. However, is it enough? In reality, the answer is probably no. In recent days and weeks, we have listened to many of the big players in Northern Ireland — the movers and shakers of our economy — tell us, repeatedly, about the shortage of software skills, and skills in science and engineering. Ultimately, the motion wants to encourage young talent to remain in Northern Ireland post-degree, but the Executive need to drive the consideration of greater emphasis on STEM subjects in the education system.

It is my opinion that we will have to drill down into the grass roots before we can begin to initiate change. The interest in STEM subjects must be instilled at a very early age, even as young as the formative primary-school years, with parents having a vital role to play at home

as well. There has to be an integrated approach. Let us be mindful that STEM subjects, in the main, are still considered by many as unattractive subjects to choose. Parents are the strongest role models for their children, so they must have an input. Education cannot be left solely to teachers.

Can more be done at nursery age to convince parents that these subjects are no longer unattractive as they help to map their children's future? Places like W5 go some way to breaking down the barriers. They provide a unique experience in proving that learning about science can be educational and fun in the early years. It is that type of initiative and innovative project that the Executive should look to and support. It is, I believe, a case of concentrating on teaching self-worth, instilling confidence in students and allowing them to map their future realistically as they move forward in life.

Back in March, I highlighted a number of initiatives that not only encouraged many students in my constituency to take an interest in science subjects but brought national and international recognition to their schools by highlighting the talent that exists here in Northern Ireland. Hopefully, together, the stakeholders can change the mindset. Prompt actions and collaboration can promote how financially rewarding a life-changing STEM career can be.

Finally, the Executive must encourage young talent to remain in Northern Ireland post-degree. That, in itself, is a cross-cutting challenge for Departments and, indeed, society. Over the last couple of decades, Northern Ireland has certainly become a changed place, and many career opportunities exist that were lost to previous generations. Now, as the Executive attempt to revitalise the economy and boost the private sector, the supply of skilled students is crucial in sustaining and expanding the companies that make Northern Ireland an attractive location for investors.

It is key that the Executive investigate innovative, career-guided and STEM-based initiatives as a matter of importance. I look forward to the Minister's response.

Mr McGlone: Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I welcome the motion and the opportunity to take part in the debate. The Assembly can be in no doubt about the importance that STEM subjects — science, technology, engineering and mathematics — have in building a modern and prosperous economy. This morning, I attended an event in Cookstown that was organised by Danske Bank, with local manufacturers, many of which were from precision engineering works and the engineering industry. The constituency is very successful in that regard. Their emphasis was on a skilled, good workforce, and they said that they have the jobs.

Previously, the Assembly —

Mrs Overend: Will the Member give way?

Mr McGlone: Sure.

5.45 pm

Mrs Overend: When you were talking about how successful Mid Ulster was, I thought that you might be interested to know that, today, Cookstown High School won the young engineers' award to attend Birmingham next year. I thought that we would promote Mid Ulster together.

Mr McGlone: Absolutely.

Mr Principal Deputy Speaker: The Member has an extra minute.

Mr McGlone: I concur with the Member in extending our sincere congratulations to the students of Cookstown High School. Hopefully, that is the future. I hope that they are not on their own, because the work will be there for them, and, rather than people having to go to mainland Europe — as some of the top firms in the locality have done — to seek workers, they will be here.

Previously, motions called on specific Ministers to lead the way and, in previous debates, I noted that it is not simply one single Minister's role, as has occurred during our inquiry in the Enterprise Committee. Such major shifts in our educational focus in skills development require the joined-up approach not just from the Education and the Employment Ministers, but from the entire Executive. I am happy to see that today's motion argues for that as well.

Increasingly, we see the demand rising for individuals who have qualifications in STEM subjects and for those in training in specific and technical skills. Naturally, as demand rises, so too does the value of skills, and those who possess STEM qualifications find that they are in a much stronger position in today's competitive job market. I have no doubt that studying STEM subjects opens up a wide variety of exciting and rewarding career opportunities, and I know from successful

students in my constituency — Mrs Overend has already mentioned some — that those opportunities may range from positions in Dubai to the United States of America.

As the economy modernises and progresses in Northern Ireland, we see the natural expansion of our job market and, in particular, we see the increase of STEM-related industries. I specifically make note of the yearly 10% expansion of the digital sector in the North, and I find such statistics very encouraging. The expansion of such industries being taken advantage of depends entirely on the guidance that we provide to pupils on STEM-based subjects.

In February, the Department for Employment and Learning produced a report on the enrolments at higher education institutions during 2013-14. Unsurprisingly, less than 50% — 46·4% — of NI students were studying broad STEM-related subjects, and even less — 24·5% — of the North's students were studying narrow STEM subjects. The report also indicated that non-STEM-related enrolments remained among the most prominent in Northern Ireland — education, business and administration, and social sciences.

Last March, the Committee for Education debated another STEM in schools motion that asked the Committee to recognise the merit of several reports highlighting the importance of STEM subjects. Those reports included the Education and Training Inspectorate's (ETI) evaluation of the implementation of The World Around Us, referred to earlier by my colleague Mr Rogers; the Confederation of British Industry's 'Step Change: A new approach for schools in Northern Ireland' report, Momentum's digital sector action plan, and the Engineering UK 2015 report.

During those discussions, I recognised that all those reports held consistent themes. For instance, the Education and Training Inspectorate's evaluation of the implementation of The World Around Us in primary schools found that schools remain more confident about the quality of their provision in history and geography, in thinking skills and in personal capabilities. Nearly 50% believed that they did not include the progression of the relevant practical experiential skills in science and technology in their planning. Those schools cited various reasons for that, including competing priorities such as literacy, numeracy, assessment and the lack of access to training.

Just this morning, I spoke to a couple of very successful local employers who go to schools to invite them into their businesses, and they are investing in the training for those subjects in their businesses; they are not reliant on the education sector. Such is the demand for success in those businesses that they cannot wait, and they are doing it. I know of two very successful businesses in my constituency that are doing precisely that. That is why they are successful: they get on with it.

During the discussions previously mentioned, I recognised that all those reports held consistent themes. For instance, the Education and Training Inspectorate's evaluation of the implementation of The World Around Us in primary schools found that those schools remain more confident about their provision in history and geography.

The report argued for the need to encourage and support the full implementation of the science and technology strand of The World Around Us to bring about high-quality learning for all children.

Mr Principal Deputy Speaker: I ask the Member to bring his remarks to a conclusion.

Mr McGlone: Thank you. The need to investigate how primary schools can be supported in the delivery of The World Around Us through a variety of means is crucial.

Dr Farry (The Minister for Employment and Learning): The skills strategy 'Success through Skills — Transforming Futures' and the STEM strategy, 'Success through STEM' both highlight the need to increase the number of people with high-level skills and those who qualify from graduate- and postgraduate-level courses in science, technology, engineering and mathematics, the STEM subjects.

These will be essential if we are to achieve our economic aspirations of export-led economic growth. The strategies examine the skills we will need in the future to grow the Northern Ireland economy and highlight the increased demand for STEM skills. If we are to ensure a steady pipeline of STEM skills for the future, it is essential that our young people are encouraged to study STEM subjects at school, college and university. Recent forecasting also demonstrates that, in a lower corporation tax environment, the demand for those skills will intensify ever further. Potential investors will be attracted to Northern Ireland, not for our attractive tax structures but, first and foremost, for our people and their skills. Under that scenario, the demand for STEM skills is

forecast to account for 28% of total higher-level skills demand.

Skills provision, with a major focus on STEM, is now the most crucial component of our investment narrative. The business community, the education sector and my Department will all have a fundamental role to play if we are to achieve our STEM aspirations. A range of measures has been undertaken to promote STEM during this Assembly term by the wider Executive and through the efforts of my Department. Funding for an additional 700 full-time undergraduate places, specifically in STEM areas, was made available as a commitment under the last Programme for Government. To date, my Department has been able to exceed that target twofold, with over 1,400 additional places made available over the last three academic years: just over 1,000 in the universities and 353 in the FE colleges.

It is regrettable that we will not be able to build on those achievements in the incoming academic year. I was to fund a further 168 STEM undergraduate places in the 2015-16 academic year, but I am not now in a position to do that, for obvious reasons. Indeed, we are expecting to see significant reductions in student places as a result of the Budget situation. Nonetheless, both universities have committed to protecting narrow STEM places despite those budget pressures.

Similarly, significant progress has been made in supporting an increase in provision in economically relevant subjects at postgraduate level. In the past two years, my Department has supported an additional 234 postgraduate awards on top of a baseline of 495. All additional awards have been reserved for economically relevant subject areas, mainly STEM subjects, and I made the commitment, in my Department's higher education strategy, to reach 1,000 awards by 2020. Though it is disappointing that, as a result of the Budget settlement, we will not now be able to build further on these increases next year, I have, nonetheless, ensured that the current number of postgraduate awards will be maintained.

Our efforts have revolved around more than simply funding additional places and awards. Our universities and colleges are also committed to rebalancing their existing provision in favour of more economically relevant subject areas. We are working towards a goal of having at least 22% of all qualifiers from our higher education institutions in narrow STEM subjects by 2020, from a current baseline of 18% in 2008. Good progress has been made to date, with almost 21% of all qualifiers in the 2013-14 academic year in narrow STEM areas.

Of course, there is little point in investing in the provision of higher-level skills in Northern Ireland if our graduates then leave to contribute to economies elsewhere. Retaining graduates in Northern Ireland therefore depends on the availability of high-quality and sustainable employment opportunities locally. This relies on the success of our indigenous companies and also on attracting new investment to Northern Ireland. Retention problems do not begin with graduation. Every year, some 30% of our students pursue their higher education in other parts of the UK, and the majority do not return to Northern Ireland when they finish their studies. With very few students coming the other way, Northern Ireland is the only net exporter of students in the UK. In order to continue the pipeline, we often have to retrain those who have not studied STEM degrees. Conversion master's courses are particularly useful vehicles for graduates to upskill and reskill in areas more relevant to the economy. In the current academic year, my Department has supported 90 tuition fee scholarships for master's students in a number of STEM areas at Queen's and Ulster University.

In the current financial year, my Department is already facing unprecedented levels of budget reductions, and the indications are that finances will continue to be constrained during the next Assembly term. Indeed, further in-year reductions have appeared on the radar for this year. I will continue to call for the Executive to increase their investment in the provision of skills and, in particular, in STEM subjects, and will also seek to be more creative with the resources that we have.

At the moment, our universities are funded for their teaching based in the main on what they provide rather than on what they achieve. From 2015-16 onwards, I will be asking our universities to submit outcome plans, outlining how they intend to contribute towards the key strategic aims of the Department and the wider Executive in return for our investment. Among those strategic aims will be outcomes pertaining to the provision of STEM subjects.

Under my Department's new system for apprenticeships, apprenticeships will span right up to the PhD level. Students will have the opportunity to combine degree-level study with paid employment in a range of sectors, with a focus on those sectors most important to our economic growth. A range of pilot apprenticeships at the higher levels are already

in place in many STEM areas, such as computing, software development and engineering.

I have also recently launched a student finance consultation on support for part-time and postgraduate students, who, under current arrangements, largely have to finance their studies themselves. The consultation considers a range of options to better support those students through the student loan system, some of which are expressly focused on students in economically relevant subject areas.

The Department has led on the production and implementation of the STEM strategy and continues to take forward activities and initiatives to promote the uptake of STEM subjects and careers to young people in Northern Ireland. That has included continued focus on funding for successful campaigns such as Bring IT On and Tasty Careers, and the establishment of innovative academies in areas such as data analytics and cloud computing. DEL was also the largest funder of the inaugural Northern Ireland Science Festival in February 2015, which promoted science through over 100 hands-on events to all age groups. The festival had quadruple the expected audience figures and a total social media reach of over four million people.

The Careers Service also plays an active role in encouraging the uptake of STEM subjects and raising awareness of current and future job opportunities in STEM sectors. Careers advisers promote impartial careers advice to young people at key decision points in their careers. Part of that guidance involves the use of labour market information, which can demonstrate the potential benefits of STEM subjects and raise awareness of opportunities in STEM and growth sectors. The Careers Service recently hosted four careers information sessions specifically for parents of young people facing career decisions, including subject choices at GCSE and post-16 and post-18 options. Part of each session was dedicated to providing an overview of STEM and other growth sectors. Through an industry placement scheme, careers advisers spend time with employers in STEM sectors, giving advisers first-hand experience of working in STEM areas. The scheme was piloted in 2013 and, after its success, it was agreed to run the scheme on an annual basis as a key element of careers advisers' continuous professional development.

Recommendation 4 of the STEM strategy, which falls under the responsibility of business to take forward, is to address gender bias. In November 2012, to help business take forward that and other relevant recommendations, my Department funded the seconded post of STEM business coordinator. Significant progress has been made by the coordinator in the area of gender balance, in partnership with my Department and the Equality Commission. In November 2013, a report entitled 'Addressing Gender Balance – Reaping the Gender Dividend in Science, Technology, Engineering and Mathematics (STEM)' was launched. The report demonstrates the business case for gender diversity and contains several tools to help business engage with the issue, including a STEM CEO charter, good practice guidelines and case studies.

The STEM CEO charter, which enables STEM organisations to demonstrate their commitment to equal opportunity for women in their employment, recently had its thirty-seventh signature company or organisation.

6.00 pm

Organisations that have signed up to date include Allstate; Atkins; Asidua; Bombardier Aerospace; Intel; Liberty IT; Magellan Aerospace; Michelin; Moy Park; NACCO; Schrader; Seagate; Ulster University; Queen's University; and the Open University. That is almost a who's who of the major STEM employers in Northern Ireland.

The coordinator has also established a STEM employers' equality network to help employers to benchmark their practice against the 22 good practice guidelines and to identify areas of further development that they would like to support. The sharing of existing good practice by the STEM organisations is integral to the network.

To further highlight gender in STEM, the coordinator has worked with the three main daily newspapers and STEM businesses to produce four 24-page supplements at crucial decision-making times of the school year. Those supplements, which have been universally well received, have highlighted the world-class opportunities available in the STEM companies across Northern Ireland and have featured many female role models in STEM.

My Department also takes forward opportunities to encourage more females to study and pursue careers in STEM. For example, I am providing funding of over £70,000 through the skills collaboration fund for the Women in STEM — Upskill to Compete project. The aim of that project is to address the gender imbalance that exists within the advanced manufacturing and

engineering services sector. The project supports SMEs and larger companies to develop female employees in STEM roles, to promote STEM to schoolgirls and to establish a women's network to mentor and support girls and women who are progressing on a STEM career pathway.

In partnership with industry, I have established a computing and engineering scholarship programme that offers funding to support employer scholarships for undergraduates who are studying relevant degree courses. There will be 16 scholarships this year, with 10 in computing and six in engineering. Further employers and students will be recruited for the forthcoming academic year.

We have worked with our colleagues in the Department of Education throughout the implementation of the STEM strategy. It is vital that STEM skills are promoted from primary school through to higher education. The Department of Education has supported professional development for teachers of mathematics across Key Stage 2 and Key Stage 3, introduced a range of STEM intervention and business education programmes led by Sentinus and will have fully implemented the entitlement framework by September 2015.

CCEA is continuing to develop STEM curricular resources for primary and post-primary schools. In addition, it is continuing to develop new and more challenging GCSE and A-level specifications to meet the needs of further and higher education and employers.

FE colleges continue to be the cornerstone for training across all sectors, including STEM, and they play a crucial role in ensuring that those learners who are participating in courses are fully equipped with the relevant high-quality skills and qualifications. The emphasis on high-quality provision is driven by the colleges' focus on responding to local, regional and national priorities, as well as by employers' demands for upskilling and reskilling their workers.

Higher-level STEM skills are vital for the future of our economy. My Department continues to lead on those initiatives, and I outlined just some of the initiatives and activities that are being taken forward.

As the STEM strategy was originally published in 2011, it is now time to take stock of it and to refresh the way forward, taking full account of the changing economic and policy environment. It will be important to assess the effectiveness and impact of the implementation of the recommendations of the strategy as a whole within Northern Ireland's economic context.

It will focus on three areas. The first key area will be a detailed trend analysis. It is necessary to consider whether more needs to be done to better match the supply of specific STEM skills from our schools, colleges and universities to those sought by employers. We will examine statistical trends on relevant STEM subjects along the pipeline from GCSE through to higher education.

The second key area will be on gender. In 2012-13, 62·5% of STEM enrolments in our higher education institutions were male. Recommendation 4 of the strategy, which falls under the responsibility of business to take forward, is to address gender bias. The STEM business coordinator has already undertaken significant work in this area, but additional analysis will be required to consider what further actions might be appropriate or possible.

The final key area will be on how we define STEM and its subcategories. Do we retain the definition of narrow STEM, which is defined as biological sciences, physical sciences, mathematical sciences, computer science and engineering and technology? We will consider that and even the possibility of a more focused approach, concentrating particularly on subjects such as mathematics, computer science and core science subjects. The stocktake of the strategy will also involve reviewing international best practice and proposing new, focused, evidence-based actions, with an emphasis on integration with current programmes and initiatives and a greater coordination of activities.

Mr Weir: At the outset, I would like to highlight the final remarks that the Minister made. As many Members who spoke said, this subject has come up before — we have had a number of debates on it. The intention today was not to reinvent the wheel or, indeed, to try to produce something that was very much out of kilter with what has been done before. Much good work has been done. I particularly welcome the remarks of the Minister in indicating that what we were driving at was a refresher approach to make sure that what we had was fit for purpose. Indeed, the study that was indicated by the Minister on the concentration of some of those areas is the sort of thing that is very much in the spirit of the motion.

I welcome all the contributions from around the Assembly, and it was good that we found ourselves in vigorous agreement, particularly on the significance of STEM as we move forward.

Mr Buchanan referred to the very proud tradition that we have on STEM subjects in Northern Ireland. He mentioned, for example, the invention of the mobile defibrillator by Professor Frank Pantridge. As an invention, that is possibly the single greatest contribution to saving lives that anyone in Northern Ireland has produced. As we move forward, it is important that we do not simply rely on past triumphs but that we look to the future. As Seán Rogers said, it is important, particularly from educational and training points of view, that we stay ahead of the curve ball when it comes to developments in science.

We see the great opportunities that are there with the investment in and support for science. I am sure that the Minister will concur with me when I say that, today, we have seen the announcement of 32 new jobs in Denroy Plastics in our constituency. Those jobs are based particularly in the new aerospace industries, Denroy's contribution to that and the aeronautics that it is providing. Therefore, there is a very positive reason for us to back STEM.

Also in the spirit of positivity, it is important to acknowledge that a lot of good work has been done in this field. As has been highlighted, there are a lot of good projects, for example on the gender issue, and I know that Mrs Overend referred to a number of things that she has been involved in and has seen happening. While we have a dispute with the Department of Education on the reduction to its funding, we look to Sentinus, which was mentioned by a number of the Members who spoke. It is doing very good additional work in our schools, and one of the pities is that it received such a steep cut in funding.

While we can identify areas where we would like to see additional spend, much of it is not about additional spend but looking at the structures we have and how, for example, we can adopt strategies that try to close the gender gap and looking at the way we do things.

We are obviously looking for a holistic solution that involves the good work that is happening in DEL, the Department of Education, DETI and other institutions. Without doubt — it was mentioned by a number of Members who spoke — one of the key issues is very early interventions in science teaching. Particular mention has been made of the need to inspire young people at primary-school level. Indeed, if you look at the decisions that people make in life, particularly from academic or work points of view, you see that their first interest in what they later pursue in life is quite often sparked at a primary level.

One of the areas that we need to look at are some of the criticisms that have been made and the opportunities for improvement on the current delivery of The World Around Us. The recent ETI report on the addition of science with history and geography in The World Around Us indicated that the weak link was the teaching of science. That was not because there is a lack of ability amongst teachers, but a lack of confidence. Teachers often had a greater level of confidence on the history and geography sides and, consequently, the desire to go into areas in which they feel a greater degree of understanding and confidence was important. Therefore, that is an issue that we need to address.

We need to see whether, — for example, through CCEA — there can be additional templates and materials; whether we can look at increased professional development in that area; and whether we need to think more radically and look at a review of STEM to say whether we need to separate some of the sciences from The World Around Us and have a two-tier approach. There is a range of things that need to be considered as part of that. Again, good work is going on in that field. I saw one good example, which is not particularly financially driven, when I visited Stranmillis University College recently. Student teachers from Stranmillis with a particular science background were targeted and paired up in schools with experienced teachers who did not have a science background. The student teacher with a science background was able to learn the experience of teaching from a much more experienced teacher, while the teacher who had plenty of experience but little knowledge of science was gaining from the scientific knowledge and, indeed, from working as a team. That strikes me as being something that is not massively financially driven but that seems to be a common-sense approach.

The Minister mentioned careers advice. I think that some of this is about changing the broad cultural aspect and, indeed, the valuation of science degrees. Recently, a survey was done across the UK that indicated that around 44% of students who had gone to university felt that it was almost a bit of a waste of time and that they would not necessarily do it again. However, a message to be got out, particularly from a careers point of view, is that it was very noticeable that the satisfaction levels among those who had done STEM subjects was much, much higher. Around 66% of students were very pleased with their choice, so I think that we have to think a bit more widely about how we sell the message.

Many of us in the Chamber have been faced with that choice in our own life. Perhaps the more appropriate choice from a careers point of view, particularly at university, was to move to some of the professions, the humanities or the social sciences. I give myself as an example. Three out of my four A levels were in STEM subjects, but I ended up doing a degree in the social sciences. There may even be an accusation levelled that, had I gone down the STEM route, I would not be in the Assembly today, and there are many other good reasons why we should be backing the motion. I look around the Chamber, and I am struck by the number of our MLAs who are graduates whose background is in the humanities or social sciences. I believe that Mr McElduff fits into that category, as do Mr Attwood and Mr Farry. I think that, similarly, the leader of the Ulster Unionist Party comes from a humanities background, as does Mr Bell from our party. All five of them, had they gone down the STEM route, may not be in the Assembly today, so the case for greater emphasis on STEM subjects becomes more and more compelling by the minute.

Dr Farry: Will the Member give way?

Mr Weir: I will indeed.

Dr Farry: I draw to the Member's attention the fact that China traditionally draws its political leadership from the pool of engineers. I am not sure whether there is a lesson there for us.

Mr Weir: I suppose that, if we are trying to put the counterargument, the person who would certainly claim to be most versed in science in the Chamber, Mr Basil McCrea, is a science graduate, so there are downsides to pushing any particular subject.

All joking aside, I think that today we have had a debate in which there has been a considerable level of consensus. We have to be fair and acknowledge the good work not only that has been done but that is being done. If we can use this debate as an opportunity to encourage the refreshing of the approach, as the Minister indicated, we will have done a good day's work. It is a recognition that STEM subjects, on a holistic level, with cooperation between the different Departments, have to be given a greater level of emphasis and a greater level of encouragement. Although money will help, a lot of this is not about money but about changing attitudes, informing people and having better practices. Consequently, I believe that we have reached that consensus, and I commend the motion to the House.

Question put and agreed to.

Resolved:

That this Assembly notes the importance of the promotion of science, technology, engineering and mathematics (STEM) degrees for the future of the Northern Ireland economy; considers that there should be a greater emphasis on STEM subjects in the education system; and calls on the Executive to investigate innovative ways to promote the uptake by students of these degree programmes to encourage young talent to remain in Northern Ireland post their degree programmes.

Adjourned at 6.15 pm.

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