

# Official Report (Hansard)

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# Northern Ireland Assembly

Monday 5 March 2012

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

*Members observed two minutes' silence.*

## Matter of the Day

### Golf: Rory McIlroy

**Mr Speaker:** Mr Mike Nesbitt has sought leave to make a statement on Rory McIlroy becoming the world number one golfer, which fulfils the criteria set out in Standing Order 24. I will call Mr Nesbitt to speak for up to three minutes on the subject. I will then call Members from the other parties as agreed with the Whips. Those Members will also have up to three minutes to speak on the subject. As Members know by now, there will be no opportunities for interventions, questions or a vote on the matter. I will certainly not take any points of order until this item of business is concluded. If that is clear, let us proceed.

**Mr Nesbitt:** Yesterday, Mark Allen from Antrim won the World Open snooker championship in China. He won the final by 10 frames to one. On any other day, that would be a fantastic headline, but not today. The headline today is this: Rory McIlroy is the world's number one golfer. A 22-year-old from Holywood in County Down is a global superstar. He did it yesterday under the most intense pressure. Ahead of him, Tiger Woods was announcing that he was truly back. Rory had to listen to the roars of the crowd that were unmistakably evidence that Tiger was on a charge, the sort of charge that used to wilt the opposition, but not Rory, not yesterday.

On 19 September 2007, Rory was the world's number 876; today, he is number one. In a few weeks' time, at Augusta, he will attempt to win the Masters. If he does, Northern Ireland will hold three of world golf's four major trophies.

Rory is not just the world's number one; he is Northern Ireland's number one ambassador. Asked in front of tens of millions on live television yesterday how it felt to be the world number one, did he talk about himself? No, sir. He said:

*"it's great to win this tournament; it's got a long history. On behalf of all the players, I'd like to thank everybody involved and especially the Nicklaus family and the children's hospital. They do so much great work for everyone and, on behalf of the players, I just want to say thank you".*

What an ambassador. He did it with the support of his father, Gerry, and his mother, Rosie. His girlfriend was there, but we were not. I was in Valencia in 1982, reporting on Northern Ireland at the World Cup finals, when the late Harold McCusker lambasted the Tourist Board, the Industrial Development Board and everybody else who was not there to support the team. Thirty years on, I make this plea: let us stop making the same mistake.

The Minister with responsibility for tourism has said that she is reserving £0.5 million to promote and advertise the Irish Open at Portrush. I suggest that she starts today by buying a £233 ticket for BA flight 1526 from Heathrow to Miami tomorrow and that she sends a marketing executive to the Doral Golf Resort, where Rory will tee off on Thursday as world golf's number one player and Northern Ireland's number one ambassador.

On behalf of the Ulster Unionist Party, thank you to the McIlroy family and Rory's coach, Michael Bannon.

**Mr Weir:** Often, as has been said, matters of the day are about very troubling matters, but this is a day of celebration. As a fan of the green baize, I pay tribute to Mark Allen on his tremendous success at the World Open in China. We hope that that is a sign of things to come.

Today, the focus is on Rory McIlroy. Last night, he became not simply the world number one but the second youngest person in the history of the sport to hold that position — only Tiger Woods was younger. Rory's win came after a good deal of pressure. He led going into the final round

and held his nerve. It is a sign not simply of his skill but of his temperament that he held on to become world number one. He is following tradition, having been world number one on the amateur circuit and having won a number of tournaments, such as the Dubai Desert Classic, the Shanghai Masters and, most notably, the US Open last year. The manner in which he won the US Open vindicated his personality, as he came back after the difficulties of the US Masters to triumph.

As the Member said, he is an ambassador for Northern Ireland, particularly for North Down and his home town of Holywood. All Members from North Down are very proud of his achievement, not least the courtesy and dignity with which he carries himself. That is not simply a measure of his character; it pays tribute to his upbringing by his parents, Gerry and Rosie. We look forward to having him back in North Down soon at the unveiling of the plaque that will mark the entrance to Holywood and commemorate his achievements.

It is a bit disappointing that such a day of joy has been sullied by some of the remarks of the previous Member to speak, who tried to score points. There has, in fact, been considerable investment and support from Invest NI, including its advertising going live on the PGA tour this week and running through to June. Also, on 9 January, a reception was held in conjunction with David Feherty for 75 executives at the AT&T pro-am event at Pebble Beach. Invest NI will also provide hospitality at the US Open, putting us very much at the heart of world golf. Mention was also made of the Portrush bid.

Leaving aside the petty sniping of Mr Nesbitt, I would like to say that the House is united. My party is sending out a clear signal: well done, Rory, you have done us all proud.

**Mr Sheehan:** Go raibh maith agat, a Cheann Comhairle. This island has a wealth of golfing talent: Graeme McDowell, Darren Clarke and Pádraig Harrington. Now, Rory McIlroy is at the very top of the tree. If we remember a while back to his final-round collapse at the Masters in Augusta, many were saying that perhaps Rory did not have the mental toughness to get right up there, win a major championship and rise to the very top of his profession. Within a few short weeks, however, Rory won the US Open. It was an amazing performance, and it showed that top sportsmen need skill, talent,

commitment and dedication but also mental toughness, and Rory McIlroy has it in spades.

As well as that, we heard recently from Gary Player, one of the greats of golf, who said Rory McIlroy has more natural talent than any player he has ever seen. That is some tribute. We also heard the great Jack Nicklaus saying that Rory will be up there for many years to come. As has been pointed out, at 22, he is the second-youngest world number one, second only to Tiger Woods. On behalf of my party and the Assembly, I send our congratulations to Rory and to all who helped him scale that massive height to become world number one.

We also send our congratulations to Mark Allen who, as has been mentioned, won his first world ranking event in China yesterday. Not that I am parochial, but, since we are on sporting matters, I also congratulate the Antrim team on their 3-14 to 1-8 win over Offaly in the national league on Saturday night.

**Mr Attwood:** I join other Members, everybody in the North of Ireland, in Ireland and in many places beyond in congratulating Rory McIlroy. I also congratulate Mark Allen on his achievement at the World Open in China.

It is appropriate on a day like this to recognise all the golfing giants of this island over many years. I remember as a teenager going to Shandon Park Golf Club, where they used to hold the Ulster Open golf competition. My father used to leave me there in the morning, and the purpose of my visit was to follow Christy O'Connor Snr, who you, Mr Speaker, and I will remember as the greatest golfer of his time in Ireland and one of the greatest of European golf at that time. It is appropriate to recognise all the O'Connors, the Darcys, the Fehertys and all the many players of the amateur game who created a golfing legacy in this part of the world that people such as Rory McIlroy and others can now inherit.

This is a uniquely privileged moment in the history of sport in Northern Ireland and on the island of Ireland because of Pádraig Harrington, Graeme McDowell, Darren Clarke and now Rory McIlroy. Whether Rory McIlroy does, in the fullness of time, become the greatest golfer the world has ever seen, this is certainly the greatest moment that Irish golf has seen because of all those who contributed to the success.

As a somewhat less accomplished golfer, I can appreciate the difficulties of the game. However,

we can all watch with respect, pride and wonder at Rory McIlroy's achievements in recent years and months and over the past weekend.

**Mr Lunn:** I also join in the general congratulations to Rory McIlroy. His achievement is amazing, but it was predictable. This has been where he belonged for quite a number of years. I think I read recently that he still holds the course record at Portrush, where he knocked it round in 61, I think, as a 16-year-old amateur. It must be one of the few places in the world where the amateur record is less than the professional one.

### 12.15 pm

Pat referred to Rory's collapse at the Masters. I hope that we have heard the last of that word. That was not a collapse last year; that was a 21-year-old who led a major tournament for three and a half rounds and then the pressure got to him, as it has got to many golfers in the last nine of Augusta down the years.

It is terrific for him. When I was watching it last night, I noticed that the American crowds now scream "Get in the hole" every time somebody hits the ball. In Tiger Woods's earlier days, they used to scream "You're the man" or "You the man". I must say that they are not shouting that at Rory, but it is obvious that he is now "the man" in golf and will be for many years to come. He has proved his worth and will continue to win tournaments. He will not win them all. I think that some people expect him to win the Masters as well. That probably will not happen, but he will have some record by the time he has finished. I am glad that everybody in the House is sending congratulations to him, his coach and his family.

Mark Allen was also mentioned. That is a marvellous achievement as well, particularly given that he criticised the food, the smell, the venue and the table. He went on and won the tournament, which is excellent. He is a different character to Rory, but, hopefully, they will both be marvellous ambassadors for Northern Ireland for years to come.

**Mr Allister:** It is a pleasure to join in congratulating Rory McIlroy on his remarkable achievement. It has been predicted for some time, but the attainment of it is no less remarkable. We all salute him in that regard and comment on his maturity on and off the golf course. That betokens the man and is something that we look forward to seeing continue.

I also join in congratulating Mark Allen on his considerable achievement in winning the World Open in China. He comes from Antrim, and it is good to see that success as well.

When we salute the golfing genius of Rory McIlroy, we must also remember that this weekend Northern Ireland said goodbye to the comic genius, Frank Carson. I am sure that he will be long remembered in the House. We issue our total congratulations to the McIlroy family and our condolences to the Carson family.

**Mr Agnew:** On behalf of the Green Party, I congratulate Rory McIlroy. What more can be said that has not been said already, not just today, but in a previous Matter of the Day on Rory McIlroy? In fact, when I looked back to see what I said then, I saw how many times his name has been mentioned in the Chamber, often in relation to tourism. As a member of the Committee for Enterprise, Trade and Investment, I must say that there is nothing that the Assembly can do that will match the benefit that Northern Ireland will gain from the reputation of Rory McIlroy and the positive focus that he has put on Northern Ireland. Our role is to make sure that we make the best of that benefit and to ensure that, now that we are in the spotlight, we show our best face to the world.

I also add to the congratulations to Mark Allen on his tremendous victory. It is important to celebrate those who are at the top of their game, but it is also important to remember that the only way that we will have future champions is if we ensure that we get things right at grass-roots level — that pun was not so much unintended as unavoidable. At a time when budgets are stretched and finances are difficult, we must realise the benefit we get from not just sport but the arts. Indeed, we stood here recently to celebrate the success of 'The Shore'. Sport and the arts are key to how we enjoy life as a society. Today, we should remember all those who compete and gain benefit from the sport facilities that we have and remember the importance of those facilities going forward.

I finish by congratulating Rory McIlroy. I believe that he will have much more success in the future, and I wish him well.



## Ministerial Statement

### North/South Ministerial Council: Agriculture

**Mrs O'Neill (The Minister of Agriculture and Rural Development):** Go raibh maith agat, a Cheann Comhairle. With your permission, I wish to make a statement in compliance with section 52 of the NI Act 1998, regarding the seventeenth meeting of the North/South Ministerial Council in agriculture sectoral format. It was held in Armagh on Wednesday 8 February. Junior Minister Jonathan Bell and I represented the Executive, and I chaired the meeting. The Dublin Government were represented by Simon Coveney TD, Minister for Agriculture, Food and the Marine. This statement has been agreed with Mr Bell, and I make the statement on behalf of both of us.

The Council discussed developments in the debate on the reform of the common agricultural policy, and Ministers noted the most significant issues that have emerged to date and the next steps in the CAP reform process. These included the distribution of the CAP budget to member states, the movement to a flat-rate payment within member states and the possible introduction of a greening component to the pillar 1 budget. Ministers also noted recent developments in international trade negotiations, agrifood matters and climate change conferences.

The Council welcomed a presentation that had been made by Animal Health Ireland to the all-island animal health and welfare steering group, which included details of existing and potential future areas for cross-border industry co-operation. Ministers also welcomed an updated report on the delivery of the 2011-12 all-island animal health and welfare strategy action plan, including the completion of a scoping paper on all-island animal disease surveillance priorities; the continuation of close liaison during negotiations with the EU Commission on the proposed new EU animal health law; final preparations for the submission to the EU of applications for Aujeszky's disease-free status; and agreement by officials to seek to align dealer registration systems. A further progress report on the activities to deliver the all-island animal health and welfare strategy will be made to Ministers at the next NSMC agriculture meeting.

Ministers noted that the plant health and pesticides steering group had met in December

2011. Subgroups to implement the work programme have been convened, and a full progress report will be presented to Ministers at the next NSMC agriculture meeting.

Ministers also welcomed the significant ongoing cross-border co-operation in dealing with the challenges posed by outbreaks of phytophthora ramorum in Japanese larch forests and more recent outbreaks of phytophthora lateralis affecting Lawson cypress trees.

The Council agreed to hold its next agriculture meeting in June or July 2012.

**Mr Frew (The Chairperson of the Committee for Agriculture and Rural Development):** I thank the Minister for her statement. A presentation was made by Animal Health Ireland on all-island animal health issues. Was the Schmallenberg virus discussed? What problems still exist for an animal health and welfare strategy, given the lack of a credible eradication plan for bovine TB in Northern Ireland?

**Mrs O'Neill:** Go raibh maith agat, a Cheann Comhairle. I will update the House on the Schmallenberg virus. We raised it at the start of the meeting, and I am happy to run through some of the points. Since it is a new disease, it is important that we take every opportunity to alert farmers and people in the agriculture community to those factors.

We are currently carrying out targeted surveillance for signs of the disease. It is important to emphasise that the positive cases that are being reported are indicative of a spread that took place last year, rather than a spread that has occurred this year. Information about the disease is available on the Department of Agriculture and Rural Development and Agri-Food and Biosciences Institute websites, as well as signposted on the rural portals. I encourage farmers who are in any doubt to take the opportunity to look there. Among the things they should look for are birth deformities. Those will be obvious to farmers, and farmers will be looking for them, particularly now as we enter lambing season. I encourage all farmers to seek advice if they are in any doubt. It is important that we detect the disease early, if, in fact, we have it. I also take the opportunity to encourage anybody who is involved in importing animals not to import them from infected areas. That is very important.



The Member also raised a point around TB and brucellosis. As the Member knows, TB, in particular, is very emotive because it involves the whole issue of culling badgers. There is no doubt about it: TB is a complex disease. There is no quick solution or quick fix. If there were, we would have been able to do it. We are carefully watching what is happening with the court challenges in England and Wales. If, they withstand the legal challenge, I may have to reassess my position. I need evidence to back up any action that I take, so we have to be very mindful of those ongoing court challenges.

**Mr McMullan:** Go raibh maith agat, a Cheann Comhairle. Will the Minister give us more detail on her discussions with Simon Coveney about CAP reform?

**Mrs O'Neill:** CAP reform was a major topic at the meeting. We went through all the issues with greening and the definition of active farmer. We majored on the implications of moving to a flat-rate payment, with a particular emphasis on what that redistribution of payments would mean for farmers. We also discussed the nature of the CAP reform negotiations and how they would play out. We are lucky that Simon Coveney will, we hope, hold the presidency during the first half of 2013, and I think that that will be very important for us as we move through those intense negotiations.

Minister Coveney also reported on his discussions with the European Commissioner, Dacian Cioloş, when he visited Dublin on 19 January. I know that the Committee was present and listened to Dacian Cioloş, and I also had an opportunity to meet him. The CAP negotiations are intensifying as time goes on, and our relationship with Simon Coveney will be important over the next year.

**Mrs Dobson:** I thank the Minister for her statement. Will she tell us whether she believes that her proposals to move TB testing in-house will reduce the number and capacity of local private vets and, therefore, their ability to assist in tackling any local or cross-border outbreak?

**Mrs O'Neill:** I value the impact of our local vets. Over the past 10 months, I have spoken to many vets about moving to lay testing for TB and the savings that that would bring. I think that our vets will continue to play an important role and that this was simply an efficient manner in which to move forward.

**Mrs D Kelly:** I thank the Minister for her statement. In relation to international trade negotiations, has the Minister had any discussions on how the meat-processing sector might be assisted to obtain greater access to export certificates in order to export to China?

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

**Mrs O'Neill:** That is an issue. I met a local company that is having particular problems with exporting to China because of the nature of the certificate. In this instance, pigs reared somewhere in the Twenty-six Counties and slaughtered here cannot be exported to China. I have taken up the issue with the Minister of Enterprise, Trade and Investment and OFMDFM, and I am also in discussion with Simon Coveney, the Minister in the Twenty-six Counties. We are exploring a number of avenues to ensure that our trade is not disadvantaged.

**Mr McCarthy:** I thank the Minister for her statement, in which she mentioned the all-island animal health and welfare steering group. She will be aware that concerns continue to be expressed about the welfare of animals engaged in the entertainment industry, particularly circuses. Did or could that aspect of animal well-being surface at any of the meetings, or could the steering group take it on board to ensure that everything is properly dealt with?

**Mrs O'Neill:** The four items on the agenda are CAP reform, rural development, animal health and plant health. To date, the issue of non-farmed animals has not been raised at meetings. The legislation on the welfare of animals that came in last year did not include non-farmed animals, but, if the Member wants to write to me, I would be happy to explore that further.

**Mr Deputy Speaker:** I remind Members to try to address their questions to the statement.

**Mr Irwin:** I thank the Minister for her statement. Do her counterparts in the Irish Republic share our concerns about the possible greening component of the pillar 1 budget? Has the Minister had any other contact with, for instance, the Department of Environment, Food and Rural Affairs (DEFRA) about the greening proposals?

### 12.30 pm

**Mrs O'Neill:** Go raibh maith agat, a LeasCheann Comhairle. Broadly speaking, we hold very similar views to DEFRA and the Minister in the South. In general terms, the concerns are around getting

a proper balance between delivering income support for farmers and delivering for the environment. The proposals that are on the table seem to be too unwieldy and bureaucratic for farmers to manage. That is the point that we keep trying to put to the Commission.

We are absolutely committed to looking after the environment; that is vital to farmers' future livelihood. Our environmental standards are actually quite good. The point that we are trying to make to the Commission is that one size does not fit all. What happens on a farm in France is very different to what happens on a farm here. The Commission needs to be mindful of that in taking a firm position on the way forward.

**Mr T Clarke:** Minister, while others welcome the statement, I will just note it because it is very short. Given that the meeting had such a short agenda, would it not be better value for money to have a video link?

**Mrs O'Neill:** No, I do not agree. I found the meeting very beneficial. As I said, we talked about four key areas on CAP reform. You might not feel that it is a priority, but CAP reform is a massive priority for the farming community. Rural development is a massive priority for the wider rural community and in ensuring that we support the wider rural community. Animal health, plant health and the free movement of animals on the island to open up more trade opportunities are all key issues that we need to tackle.

I remind the Member that I have half an hour in which to make a statement. I am open to taking as many questions as possible, which is why I kept the statement to the length that I did. I also remind the Member that my door upstairs is always open if there are any other issues that he wants to take up with me.

**Mr Swann:** Did you or Minister Coveney raise any concerns about the fact that food security is not mentioned in the CAP reform? Is it intended that either of you will bring it to the table in the discussions?

**Mrs O'Neill:** Food security is always on the agenda. The proposals, as drafted, do nothing to enhance our food security. You have to keep putting that point to the Commission. What is it that it is looking for? Food security is apparently moving up the Commission's agenda, but that does not seem to be borne out in the current proposals. We are very concerned about food

security, and it is always on the radar of the discussion on the entire CAP reform.

**Mr Deputy Speaker:** I remind Members to check that their mobile phones are not causing interference. I am still picking up some noise.

**Mr Dallat:** I left my mobile phone at home today, so I am not guilty.

I welcome the fact that the meeting was held in that wonderful city of Armagh, which is second only to Derry city. Video conferencing would be no substitute for that.

I am sure that the Minister will agree that TB has cost millions of pounds and has been the subject of many worrying reports from the Audit Office. Bearing in mind that there are no TB targets in the Programme for Government, does the Minister agree that it is time to call time on TB once and for all?

**Mrs O'Neill:** I absolutely agree with you about trying to get to the stage where we can eradicate TB. We have made really good progress on brucellosis, but, sadly, TB is lagging behind. The problem is that there is no quick fix or simple solution, but we are actively working through that. It is important that the farming community can have confidence that I am taking every action possible to address TB. As I said, I am watching carefully what is going on with the court challenges in England and Wales, because that will feed into any move that I might make in the future.

**Mr Buchanan:** Can the Minister indicate what agreement, if any, has been reached by other member states on any of these issues? When does she anticipate that an agreement will be forthcoming?

**Mrs O'Neill:** The timetable that was set out by the European Commission is already starting to slip. We can see that things will not move forward as quickly as it had originally hoped. We hope that a decision will be taken in the early part of 2013, sometime between January and June, when the Dublin Government have the presidency. That is the timetable that we are working to.

Different member states are picking their battles on the issues that are important to them. We know what our issues are and what is important to us. I think that negotiations will intensify over the next 12 months, and I am happy to keep the House up to date on all that.

**Mr Allister:** I note that four weeks passed before this statement was made. Is that because there was nothing of substance to report? I note comments throughout the statement such as, “We discussed such and such”, “We noted recent developments”, “We welcomed a presentation”, “We welcomed an update”, “We noted such and such”. However, there were no decisions. The only decision that seems to have been taken at the meeting —

**Mr Deputy Speaker:** Can we have a question, please?

**Mr Allister:** The only decision that seems to have been taken at the meeting was to meet again in June or July. Is it correct that there were no decisions? If so, does that not indicate that it was a waste of time — a talking shop?

**Mrs O’Neill:** Again, if the Member thinks that CAP reform is a waste of time and a waste of a discussion, I certainly would not agree with him. Those issues need to be dealt with. The fact that the final decisions will be taken during Ireland’s presidency, while Simon Coveney is Minister, is key. It is about working across this small island that we live on for the benefit of the free movement of animals, of all animal health and welfare issues and of the fortress Ireland policy that has helped us in respect of bluetongue and all the other issues. There is massive potential and benefit to be had for the rural community.

## Executive Committee Business

### Marine Bill: Second Stage

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

*That the Second Stage of the Marine Bill [NIA 5/11-15] be agreed.*

I thank my colleagues in the Executive for their support in bringing the Bill to the Assembly and the Environment Committee for its work leading up to the introduction of the legislation. I also acknowledge the work of my predecessor, the Minister of the Environment, and that of my officials on the marine side in the Department who, I have to say, bring conviction to the cause of marine management and marine issues generally. All that needs to be acknowledged in the context of the Bill. I hope that all the relationships that have been growing between the Department and external groups, between Ministers, and between the Department and the Committee will deepen and strengthen as the Bill progresses on its legislative path. I believe that there are some hurdles yet to be jumped in respect of the content of this marine legislation. I also acknowledge the work of marine stakeholders. When the Bill was being prepared, I gathered together a cluster of stakeholders representing the marine interest, including people from NGOs and others from outside government who have an independent and challenging view of the role of government when it comes to marine issues. Their input heretofore and in the future will be very important in managing this in the best possible way.

It is widely recognised that the marine environment is not a limitless resource and that an approach based on sustainable development principles is needed. That is at the heart of the proposed legislation. All decisions in the marine area or those that may have implications for it must be made under the legislation in accord with marine policy statements and the eventual marine plan for Northern Ireland. In my view, the fact that all decisions in the marine area have to be made in that image suggests that marine management needs to be consolidated, brought together and made more coherent and cohesive by having an organisation that will take that sort of approach to marine issues. I will touch on that later in my opening remarks.

The Bill is about realising a vision for clean, healthy, safe, productive and biologically diverse oceans and seas. As Minister, I keep saying that our built, natural and archaeological heritage is part of the quality of the lives that we lead. In this part of the world, more than in any other part of these islands, we are blessed with a concentration of riches on the built, natural and archaeological side that reflects favourably on the quality of our lives and is at the heart of growing tourism spend. In my view, the marine environment can be part of that. How we manage and positively exploit the marine environment can be part of a strategy to grow jobs going forward and deepen the sense that this part of the world is renowned for, and can become better known for, being green and clean.

We already have the Marine and Coastal Access Act 2009, key parts of which extend to Northern Ireland waters. My Department is the marine planning authority for Northern Ireland offshore, which includes small portions of marine waters west and south of the Isle of Man. It is not simply the area of water 12 nautical miles out from the coast of Northern Ireland. We have also transposed the marine strategy framework directive, which sets the overall goal for the Governments of London, Wales, Scotland and Northern Ireland to have good environmental status in our European seas by 2020. The UK Government are committed, as we are, to taking forward that approach in a marine protected zone strategy.

The Marine Bill is the final piece of enabling legislation. In its current form, it has 48 clauses, five Parts and two schedules. It builds on the Marine and Coastal Access Act 2009 that was passed by the London Administration. It introduces a new management framework for Northern Ireland's marine waters, further eases the regulatory burden on marine industries and provides greater protection for the marine environment. It will establish a strategic system of marine planning in Northern Ireland's inshore region, which is our marine waters out to 12 nautical miles and also captures the waters of Strangford lough. It will introduce nature conservation measures that will seek to ensure that biodiversity is protected and international and European commitments are met.

If you think about it, Mr Deputy Speaker, Strangford lough is the most protected inland water in Europe, with more multiple designations than any other piece of water: 1,500 of our

2,000 species of life in the North of Ireland are located in Strangford lough. If that does not confirm the need for good marine management, I do not know what does.

The Bill will also introduce further reforms to marine licensing for certain electricity generating projects. That is vital, given that the London Government have recently issued their twenty-sixth call for marine licensing applications for gas and other explorations. Bearing in mind that licences may well be awarded in the latter part of this year or into next year, it is very important that the Bill captures the opportunities that may be developing for marine licensing for electricity generating projects. I will come back to that later.

It is also timely to note the likely costs of the marine plan that may arise from this legislation. Officials estimate that as we develop a Northern Ireland marine plan over a three- to four-year period, the total cost will be around £2 million, which will include staff time and other preparations for the plan itself. Thereafter, the management of the plan will be around £200,000 per annum for five years as we identify, designate and manage the marine conservation zones that are identified further to the marine plan and are part and parcel of the architecture of the Bill.

#### **12.45 pm**

There are key differences between planning at sea and on land. The marine area is three-dimensional and dynamic. Multiple uses of the same location, simultaneously or during different seasons, happens more often at sea than on land, and, by and large, the sea is a public resource with general rights for activities such as fishing and innocent passage. I am determined to take the opportunities that are presented by the Bill to ensure that the new approach to the management of our marine environment is the right one and that we learn from lessons elsewhere. In its current form, the Bill does not travel the road that we should follow to live up to the standards that I have just set, which are to have the right approach and to learn lessons from other jurisdictions. I will touch on that in the conclusion to my speech.

Part 2 and schedule 1 establish the Department of the Environment (DOE) as the marine planning authority for the Northern Ireland inshore region. Extensive consultation on the preparation of a marine plan is a key element, and I want it to be inclusive. There will be



ongoing consultation with other Departments that hold marine functions, related marine planning authorities in other Administrations, including the South, all those likely to be affected by marine plans, and members of the public. DOE is a member of the Irish Sea Forum, which brings together all who have an interest in the Irish Sea in all the jurisdictions that touch on the Irish Sea, so that we can better manage that part of our shared assets.

The preparation and publication of a statement of public participation in the plan is a requirement and an essential part of the process. Following public consultation on the plan, there is provision in the Bill for an independent investigation to consider relevant matters before the plan is finalised. Marine plans will also be subject to an assessment of sustainability and that will incorporate the strategic environmental assessment that is required under EC directive and other relevant assessments.

Once agreed by the Executive and published, all public authorities, including London and NI Departments, district councils, statutory undertakers and NDPBs, must take authorisation from or enforce decisions in accordance with the plan, unless relevant considerations indicate otherwise. Other types of decisions must be taken with regard to the plan. There is a difference between those two legal thresholds: taking authorisation or enforcing decisions in accordance with the plan is clearly a higher threshold than other types of decisions having to be taken with regard to the plan. There are also requirements for the Department to keep a range of matters that relate to marine planning under review, to periodically review progress with marine plans and to lay certain reports before the Assembly. Thereafter, plans will be amended as necessary. There is also a requirement to report to the Assembly on the effectiveness of individual marine plans and on marine plans in general. Those will be laid in the Assembly every three years and six years respectively.

Part 3 of the Bill deals with marine nature conservation. Northern Ireland's seas support around half of our biodiversity, including many threatened marine animal and plant species. Indeed, some of those species have only recently been discovered. For example — this is little known — 27 new types of sponges, which are unknown anywhere else in the world, have recently been discovered off Rathlin Island. On a visit to Rathlin Island last year, I

was privileged to see footage of some of those newly discovered sponges. It is no coincidence that the waters around Rathlin Island have been identified as a world biodiversity hotspot by the WWF. I hope that Members will agree that such important habitats and species may require managed protection.

Current priorities include a swathe of marine special protection areas for birds and marine special areas of conservation for habitats. Strangford lough, areas around Rathlin Island and Murlough Bay are all governed under special areas of conservation for habitats, and a number of new areas will be designated in the near future, including Red Bay, the Skerries and the Causeway area.

Traditionally, nature conservation in the marine environment has lagged behind land-based protection measures. That is, in part, due to dangerous working conditions, the specialised expertise that is required and, of course, the cost of equipment, training and suitable craft. I acknowledge that there are dangerous working conditions and that members of this government, through the NIEA — Northern Ireland Environment Agency — undertake dangerous activities when they dive to map out the seabed in order to bring to life the conservation measures and designations to which I have referred.

We have a responsibility under European law to designate areas in our seas to protect certain species and habitats that are considered to be of conservational importance at a European level. Although that EC measure is important, it does not go far enough. We need a mechanism to protect nationally important species and habitats as well, and that is why I intend to legislate for marine nature conservation measures in the Bill.

A new designation process, leading to marine conservation zones (MCZs), will be introduced. Those zones will have flexible boundaries, timescales and levels of protection. Equally importantly, they will take account of socio-economic conditions. They will be assessed on a site-by-site basis; some will have minimal protections and others will require high protection. I want to make it clear that, as we go forward, the views of fishing and other organisations with commercial interests will be taken into account. It is crucial that we get the balance right between conservation and other activities,

especially those that are potentially conflicting in the same part of the sea. Ideally, the designation of MCZs will be carried out in tandem with any marine plan.

The Bill will help to deliver on London's obligation to establish an ecologically coherent network of marine protected areas (MPAs) by 2020, which is a requirement under the marine strategy framework directive. The Bill defines the MPA network as comprising European marine sites; that is, special protection areas and special areas of conservation together with MCZs. It will also contribute to meeting our wider commitments under the birds and habitats directives. I hope that the Bill will be an argument, a defence and a rebuttal in the event of any infraction threat in the future.

As with the marine plan, stakeholder involvement will be an important element of MCZ designation. Stakeholders will be fully consulted before the designation of an MCZ. The Department of the Environment will take full account of any economic or social consequences of designation. The Department plans to develop detailed guidance notes to accompany Part 3 of the Bill that will further explain the designation process. The Bill also places a new general duty on Departments and other public authorities to help to further the conservation objectives that are set for MCZs. The introduction of such a duty will help to raise the profile and importance of marine diversity.

The Bill enables the Department to make by-laws to protect MCZs in the NI inshore region. By-laws will be used to prohibit or restrict otherwise unregulated activities that may be detrimental to the MCZs; for example, to restrict the use of jet skis in a particular area, or to define where leisure crafts can anchor. I stress that there have been examples where the interests of the Department and obligations under law have been reconciled with sporting and recreational use: the forthcoming understandings between the Department and the Royal Yachting Association concerning its use of Strangford lough are evidence of that. However, by-laws cannot be used to restrict activities that are already managed through existing legislation or which are the responsibility of other Departments.

There are, of course, provisions for new offences. Anyone who acts in a reckless manner that causes harm to an MCZ will be committing

an offence. Anyone who contravenes any by-law will be committing an offence. If convicted, fines of up to £5,000, based on the current amount of a level 5 fine, may be imposed. There is also a general offence of acts of deliberate or reckless damage to the protected features of an MCZ. That general offence is intended to deal with potential acts of environmental vandalism that will be difficult to predict and to control through by-laws.

Another key aspect of the Bill is enforcement powers to ensure that adequate protection is afforded to a marine environment. Those include the use of fixed penalty notices for minor offences. It is vital that the enforcement authorities, principally the Department, have the powers that they need. Therefore, there is provision for the Department to be given a suite of enforcement powers necessary to carry out its functions in the marine area effectively. For example, there is a power to access premises under the authority of a magistrate's warrant to investigate marine, nature and conservation offences. I stress that enforcement, be it in respect of marine, planning or environment, is the flip side of good planning. You cannot have good planning, whether on land or at sea, if you do not also have good enforcement. In that regard, I intend to escalate the enforcement activities of the Department across the range of its functions, as I have demonstrated in a number of cases over the past number of months.

Part 4 of the Bill deals with marine licensing. The Marine and Coastal Access Act 2009 introduced a new system of marine licensing that extends to Northern Ireland. The Act allows for the use of special procedures in respect of certain electricity works. The Marine Bill extends the application of those special procedures to marine licence applications in Northern Ireland. That will apply in situations where both a marine licence from DOE and a generation station consent from DETI are required and will allow for parallel consideration of applications for those consents. I stress again that although the Marine Bill introduces a new licensing regime, DOE and DETI are working together and will continue to do so on the best management of the issue. We will introduce administrative mechanisms that avoid duplication and aspire to an outcome such as that where a licence is required from DOE or consent is required from DETI, only one environmental impact assessment will serve both applications.

The aim of that provision is to simplify the process for licensing, where possible, to ensure consistency of approach throughout the UK and to remove any barrier to inward investment. The Minister of Enterprise, Trade and Investment and I were recently at an event at the Harbour Commission in respect of the SeaGen project at the narrows at Strangford lough. The people behind SeaGen have made the justified claim that modern tidal energy has its birthplace in Strangford lough. It is a now a world reference point when it comes to tidal opportunities and tidal technology. That demonstrates that the North can be at the cutting edge of renewables technology and that, the more that we exploit, in a positive way, renewable opportunities and technology, the better we will be able to create jobs, become self-sufficient in energy and, ultimately, potentially and arguably make renewables the single biggest economic opportunity that the North of Ireland has.

That said, I remain committed to the principle and the operation of a marine management organisation (MMO). That is not yet in the Bill, but I will continue to make the argument with my Executive colleagues that a marine management organisation should be part of the architecture of the Bill and part of marine policy and practice. The objective of furthering the sustainable development of our seas will be better served by integrating the marine functions that are currently splintered across Departments and their agencies. That is the thesis that informs the argument for an MMO. When the Executive approved the Bill to come before the Assembly, they noted that there would be further exploration of options in respect of the achievement of improved marine co-ordination. I welcome that statement as far as it goes, but I will welcome it fully only when it matures and evolves into the Executive endorsement of an MMO as the best way to give life and expression to that worthy intention.

There is a wide range of reasons —

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

**Mr Attwood:** I will.

**Mr Allister:** Can the Minister shed some light on what is likely to be the outworking of the relationship in regard to the governance of inshore waters, which will fall under his Department, and the governance of offshore waters, which, presumably, will fall under the Secretary of State's governance?

If there is an MMO for offshore waters, how does that leave the situation with inshore waters? Is there a difficulty that, when policy statements are devised for one, there could be conflict with the policy that is thought appropriate for the other? How does that dovetail?

**1.00 pm**

**Mr Attwood:** I thank the Member for his question. I found it difficult to decode whether he was in support of a marine management organisation or hostile to the concept. I have no doubt that Mr Agnew will be firmly in favour of an MMO, and I hope that Mr Allister was hinting, if not confirming, that he, too, would support the principle of an MMO.

I will answer his question. The conflict that he referred to in managing our inshore or offshore waters suggests, in my view, that the conclusion should be that waters that fall to the competence of the Northern Ireland Government, be it Strangford lough or inshore waters out to 12 nautical miles, would be better managed through an MMO to reconcile the potential conflicts that exist. Other jurisdictions in Britain have the model of an MMO. They recognise that, to capture all the interests, which, at times, can be competing, it is better to try to reconcile them by having all the relevant functions gathered together in the one place to be managed in the one place to have better outcomes. So, that is the model that I want to adopt, and I hope that Mr Allister was indicating support for that model.

Our management, however, will extend only to those waters that fall within our responsibility, which is Strangford lough and waters out to 12 nautical miles. Beyond that, responsibility falls to the London Government, save that small bit south and west of the Isle of Man. Given that London has responsibility for a vast element of the Irish Sea, there is, as I indicated, an Irish Sea forum and consistent and ongoing contact with the Department for Environment, Food and Rural Affairs (DEFRA) in London through Caroline Spelman. This Friday, I will be in Europe at the EU environmental council. I will be the first Minister of the Environment since restoration who has attended that gathering to give voice to the needs of the environment —

**Mr Deputy Speaker:** I ask Members to refrain from having conversations in the Chamber. The Minister is speaking on legislation. If you wish to have conversation, please go elsewhere.



**Mr Attwood:** I will visit Europe to give expression to the fact that I think that the environmental interest has to be greater asserted by the Northern Ireland Government on issues of marine management, not only in the European context but through our relationship with DEFRA. If you look at the direction of travel being deployed by Environment Ministers in Northern Ireland, Scotland and Wales, you will see that all three of us are becoming more and more assertive in our relationship with DEFRA to ensure that our own interests are protected and that our views on that area that falls outside our responsibility, including vast areas of the Irish Sea, are heard and acknowledged. I hope that that deals with Mr Allister's questions.

In my view, all that informs the narrative and conclusion that an MMO is a better way to manage the potential competing and conflicting marine interests. The best example of that in recent times is one that is well known to this House, because we had a debate on it, and well known to the Environment Committee in particular, because it occupies its mind: the ongoing situation with the modiolus modiolus in Strangford lough, the horse mussel biogenic reef. The potential still hangs over this Government that Europe will take infraction proceedings arising from its view that we have failed to manage Strangford lough and the modiolus threat as well as we can.

I commend the Bill to the House. I think that it is important legislation and that we are somewhat behind other jurisdictions in these islands. A Marine Bill, a marine plan, marine conservation zones and other elements that I may touch on in my reply to the debate constitute a strong and sound strategy moving forward. However, I would not want to conclude by saying to the House that there are still issues that the Executive, the Committee and Assembly Members have to get their heads around in terms of the content and architecture of the Bill. I hope that this is the start of that conversation, which, in my view, will lead to highly desirable outcomes.

**Ms Lo (The Chairperson of the Committee for the Environment):** As Chairperson of the Committee for the Environment, I welcome the Marine Bill, a Bill that is long overdue and that will, at last, bring us into line with the rest of the UK. The Bill will establish a new framework for Northern Ireland's seas based on marine planning, improved management for marine nature conservation and streamlining

of marine licensing. I welcome the fact that the Bill outlines the process for the Department to prepare, consult on and publish a marine plan, particularly the publication of a statement of public participation. That will allow interested parties to get involved at an early stage, which will, hopefully, ensure that the planning process runs more smoothly. It was an issue that the previous Committee welcomed when scrutinising the Planning Bill for our terrestrial areas, and it is something that the current Committee very much welcomes in this Bill.

I also welcome the powers within the Bill for the Department to designate marine conservation zones, although, as with any legislation, it will be the enforcement of that power that the Committee will be most interested in. The Committee notes that, through the Bill, the Department of the Environment will gain new powers of enforcement in relation to marine conservation zones. I hope that that will help to avoid the types of circumstances that we are now seeing with Strangford lough, which the Minister mentioned.

When the Committee was briefed by departmental officials at its meeting on 1 March, members asked questions about the cost and resource implications of the introduction of the Bill. Although officials were, admittedly, put on the spot during the meeting, we need some idea of the cost and resource implications of the Bill. We need to know that it is affordable and that proper resources can and will be allocated to its implementation. I am glad that the Minister, at the start of his speech, set out his plan for spending at the initial stage and over the next five years.

Given that the Bill introduces a whole new function that needs to be resourced, that of marine planning, and given that there will, undoubtedly, be increased costs due to the need for more monitoring and the new enforcement role that will be taken on, we need to make sure that we have the money and resources available for that, otherwise the Bill will have little impact.

**Mr Storey:** Given the Minister's concluding comments on MMOs, has the Committee given any consideration to the additional cost of such a structure as the Minister is keen on, albeit that some of his Executive colleagues are not supportive of that process? Has the Committee given specific consideration to any proposals, even the establishment of an MMO?

**Ms Lo:** As you probably know, I am fairly new to the Committee. I am not sure whether the previous Committee considered that, but, at the moment, we have not been looking at the inclusion of an MMO and therefore the Committee has not, as far as I know, discussed the issue of resourcing it.

We also need a proper timeline for implementation of the Bill. The previous Environment Committee scrutinised numerous Bills during the last mandate, but only now are we seeing them reach full implementation. We cannot allow this Bill to drag on. We need to see it being implemented as quickly as possible after Royal Assent. There is too much at stake for any delays to happen.

The Committee has long been concerned with the possible infraction proceedings from the failure to implement the wild birds directive. Officials have told members that the introduction of the Marine Bill will go a long way to helping the Department to meet its obligations under that directive. That is certainly to be welcomed.

As we all know, marine functions are currently spread over several Departments. The Committee is aware that the idea of a marine management organisation was considered for this Bill, but, ultimately, not included. Opinions differ within the Committee as to the benefits of having a single body to manage our seas. However, members are of one voice on the need for proper joined-up working between the relevant Departments.

In the absence of a marine management organisation, the Committee will want to know how marine functions will be co-ordinated and managed. Members were pleased to hear that an interdepartmental marine co-ordination group is in existence, and that discussions between Departments are ongoing. However, the proof of the success of that approach will be in the delivery of comprehensive protection of our seas while maximising their economic and social potential. We know that the Department of Agriculture and Rural Development (DARD) has different priorities in relation to marine life; fishing being the main one. However, if a Northern Ireland Marine Bill is to work, Departments must show a willingness to work together.

As well as ensuring that Departments work together to implement the Bill, we need to ensure that local councils are engaged in the process. As we know, planning powers are due to devolve to councils in due course. Although marine

planning will remain with central government, they will need to liaise with local councils to ensure compatibility with terrestrial planning, particularly where there is an overlap of responsibilities. Councils, along with every other public body, will be obliged to take the Marine Bill and marine plan into account, and, so, must play an integral part in their development. The statement of public participation is something that councils need to be kept fully aware of, and communication will be key.

Continuing on the theme of communication, we realise that marine life does not stop at the border. Northern Ireland must communicate regularly with the Republic of Ireland on marine issues. Officials have told the Committee that the South is some way behind with its marine legislation, but members were encouraged to hear that there has been liaison between officials and that built into the Bill is the requirement for the Republic of Ireland to be given notification of a marine plan.

Mr Deputy Speaker, at this juncture, if I may, I will add something from my personal perspective as the Member for South Belfast. I would like to place on record that, personally, I would like to have seen provisions for a marine management organisation included in the Bill. I feel that it makes more sense to house all marine functions in one independent body, rather than see them split across several Departments, as the Minister himself alluded to. I know that the Minister fought for that inclusion in the Bill and was not successful. However, I believe that to be an issue that requires further consideration. Therefore, I support and welcome the Minister's commitment in his statement today to continue to pursue that issue. We should perhaps introduce the Bill first, then, further down the line, have again the debate — or dialogue, as the Minister mentioned — about a marine management organisation. Hopefully, by then, the merits of such a body will be more apparent to all and we will be in a better position to establish it.

### **1.15 pm**

As soon as the House refers the Bill to the Committee, we will call for written submissions from interested organisations and individuals. Members will be extremely interested to hear their views. I look forward to a good ongoing working relationship with the officials to ensure that my Committee is able to scrutinise the legislation properly. On behalf of the Committee,

I support the principles of the Bill and look forward to scrutinising it closely at Committee Stage.

**Mr Hamilton:** I support the Marine Bill for many reasons, not least because it follows on from GB legislation. I also speak in favour of the Bill because we are very blessed in this part of the world; Northern Ireland is exceptionally blessed with a wonderful marine environment. I know that from the constituency that I represent. The Minister has, quite possibly, already mentioned Strangford more than even I will be able to manage in the debate. I, along with Miss McIlveen and others, represent a constituency that is exceptionally —

**Mr Weir:** It is just as well that Jim Shannon is not here.

**Mr Hamilton:** I think that Jim would be able to top us all with references to Strangford lough. I know that he is doing his bit in another place.

From representing that constituency, we know full well the wonderful marine heritage and environment that we have. Oftentimes, we take it for granted; we just expect everything that is there to be there. In fact, many of us do not even know exactly what is there. The Minister talked about some of the species that have been found recently and how much of what we have is unique, not just in the British Isles but Europe and the entire world. We are exceptionally well blessed with our marine environment. If we have a marine environment that is so exceptional, it is absolutely worth protecting. Anything proportionate that we can do to protect that and to build on existing protections has to be welcomed.

From other debates that we have had concentrating on Strangford lough, the Minister will know that I am a great believer in the need for balance in the protection of our environment, not least in the protection of our marine environment. Even though I support the Bill, I want to raise some issues of concern. Perhaps “concern” is too strong a word, but I seek clarity and assurance on some issues — some clarity has already been provided by the Minister in his contribution — principally around marine conservation zones. Those designations are not new in the world. If Jim Wells were here, he would tell us that we lecture other parts of the world, particularly Third World countries, about protecting the environment even though many of them already have designations that are similar to marine conservation zones and have had so for several

decades. We are a little bit late to the game in that respect. It is not just us; the whole of Great Britain is fairly late to the game. They are not unique; they are not the only marine designation that we have within our power. The Minister’s Department will put in place other designations, and this builds on that. I understand why they are being legislated for. Indeed, I support the legislation. Like other aspects of the Bill, if done properly and managed properly, good marine management should concern no one. Everyone should welcome good, sound, well-balanced and proportionate marine management.

The difficulty comes from stepping into the unknown with a new designation like that. There is a concern that, in trying to do good, we may be overzealous in the number of marine conservation zones that we designate and in the protections that are offered in those zones. When something new talks about protection, it is understandable that some interests in society will be concerned about what it means for them and their particular pursuit. The Minister has already stated that different layers and levels of protection will be offered in marine conservation zones, but it is important to stress that those levels of protection need to be developed with a scientific approach coming from the Department and with very good and thorough consultation with those who will be affected in our communities.

Clause 12(7) states that we should take account of the “economic or social consequences” of designations. It is imperative that those economic considerations are to the fore as well as environmental concerns. I have some concern that the explanatory note states that, in circumstances:

*“Where an area contains features which are rare, threatened or declining ... greater weight is likely to be attached to ecological considerations.”*

I do not think that anybody, including me, would dispute that a higher level of protection should be offered where a marine species is declining or threatened. The memorandum states “rare”, and I suppose that in such cases, and even to some extent in the aspect of “threatened”, we must establish what is threatening and what is causing decline. We need to be careful not to offer levels of protection that go so far that they prohibit certain types of activities that are perhaps not threatening or causing the decline of a species in a marine conservation zone.

Although I appreciate that in certain circumstances ecological considerations should be given greater weight, there may be circumstances in which there are issues about a particular species. However, whatever restrictions are put in place as a result of having a marine conservation zone should not be disproportionate. I think back to our debate and the ongoing discussion about the horse mussel community in Strangford lough. The Minister knows that my view is that some of the restrictions that we are being forced to put in place — they are not necessarily what we desire — are not proportionate. Particularly on the leisure front, there is consensus that the restriction on those leisure pursuits has not had any effect on the horse mussel community. Yet we are in the position of having that forced on us. We do not want to get into a situation with the Bill in which we are overzealous and start to restrict certain types of activities in an area when there is no proof that they are causing decline or threatening the marine species.

I talked about the size of conservation zones being overzealous. Look at what England has done: it designated 37,000 square kilometres of sea as marine conservation zones, which is about a quarter of its entire waters. There are concerns that that has an impact, particularly on those engaged in industry, principally fishing but others as well. It is important that the Minister, perhaps in his summing up, offers further clarity on how such zones will be designed and what industry and recreation will or, more to the point, will not be permitted.

Clause 14 concerns “consultation before designation”. However, it is imperative that consultation is meaningful. We all have experience of, and have become fatigued by, consultation with a preordained outcome. It is important that we seek to do this right and that we map out those zones through properly consulting many of the people about whom we have been talking: those in the fishing, energy or whatever industry. They perhaps know as much as the Department or its officials about what goes on. There is a need to marry all of those individuals, stakeholders and actors.

In looking into the Bill and at experience elsewhere, I am mindful that a certain Mr Attwood said something that I agree with, and that is not perhaps frequently the case. However, in these circumstances, I refer not to the Minister, but to Professor Attwood from South Africa. I do not

know whether he is any relation, but he spoke sense, so I was not sure whether he was any relation —

**Mr Weir:** No connection whatsoever.

**Mr Hamilton:** Obviously, no connection. Professor Attwood said:

*“Community and industry involvement in the establishment process is essential for the effective functioning”*

of such zones. That is absolutely right, and I do not think that anybody would disagree with that type of approach.

Obviously, other Departments would also be involved: DARD with fishing, the Department of Enterprise, Trade and Investment (DETI) with energy and perhaps the Department of Culture, Arts and Leisure (DCAL) with matters of leisure and recreation. I welcome the assurances that the Minister has already offered in clause 40 on electricity generation. The Minister has spoken frequently and did so again in the debate of the huge potential for offshore renewables in and around Northern Ireland. I accept, agree and think that it is only right that the administrative process is not duplicated and that we do not have two environmental impact assessments. However, that is only part of the issue. In trying to protect our marine environment, we should not step over a line and inhibit or perhaps prohibit the ability to develop that huge renewable potential.

There can be a competing tension between the two, and it often comes down to a matter of balance. However, we are on the cusp of something truly huge in Northern Ireland with our renewable energy potential and the ability not only to develop our own energy sources but to develop the technology accompanying that. The Minister referenced Marine Current Turbines and its successful project in Strangford lough at SeaGen. Given how advanced that technology is, it is not insignificant that German engineering company Siemens, one of the biggest companies in the world, has now bought a minority stake in that company. Siemens sees the huge potential of the technology, which was, as the Minister said, born in Strangford lough. In developing the protections in the Bill, we need to be careful that we do not overstep the mark and inhibit or prohibit the development of some of the technology and energy potential.



At a constituency level, I am concerned, as, I am sure, are other Members, that we are mapping and zoning out so much of Northern Ireland's territorial waters that it will have an impact on our fishing industry. Anybody who knows anything about the fishing industry knows that it is already hard-pressed, on its knees and feels constantly burdened by government regulation and legislation, either from Europe, Westminster or Stormont. If we map out areas at the levels that they undertook in England, whereby one quarter of its waters was zoned out, that would be a sizeable chunk of the Northern Ireland shoreline. Too high a protection level could have a negative impact on our fishing industry. We are trying to sustain the industry as best we can not only because of employment benefits for communities but because of the produce that is caught and our ability to sell it around the world. It is important that we do not overstep the mark and threaten the industry, which is, as I said, already in a desperate state.

DCAL's leisure and recreation policy must also be considered. Many people are attracted to Northern Ireland because of its leisure activities. They come to our shores to avail themselves of our fantastic facilities, and we need to be careful that, in zoning out certain areas, we are not restricting that type of activity.

There are different levels of protection, but there is always a concern that the default position can sometimes be a little too high in the level of protection that is offered. Consultation with stakeholders is important — from the energy industry, the fishing industry or the community through leisure and recreation activities, sailing clubs, and so on. All stakeholders involved in the process need to be brought together to ensure that any consultation is meaningful and considers wider factors so that we have the balance to which the Minister and I previously referred, and we do not simply go in one direction.

The Minister and the Chair of the Environment Committee referenced their personal desire for the creation of a marine management organisation. Colleagues and I remain unconvinced, to put it mildly, about that. That is not simply to do with setting up another quango — although that argument could be made — and the associated costs, particularly at a time when finances are obviously tight. There is a more fundamental philosophical point about concerns over a loss of power and democratic control. Some people argue for the creation of an MMO

that would be independent of government; it would sit outside government, and none of us in this place would have control over it. That is an exceptionally dangerous direction for us to travel. For many years, many of us have strived for devolution and to get power back into our own hands, and we do not want that being given up and given out to people who have no electoral mandate at all. Perhaps such people do not always have the same perspective and balanced view as many of us have. People can talk about the creation of such organisations and setting them up with government, but if they then start to take a position —

**Mr McMullan:** I thank the Member for giving way. I share his concerns about zone management. Does he agree that the Bill has exemptions and exceptions to keep people who may be outside the law in line?

**1.30 pm**

**Mr Hamilton:** I agree. I accept the Member's point that there are restrictions in the Bill. The point that I am making is about the bit that is not in the Bill at all, which is the desire of the Minister, the Chair of the Committee and, perhaps, other Members to see a single organisation to manage the marine environment in Northern Ireland. I am raising doubts about that.

They have offered their support for such an idea, but I am not so sure about it. I fear that the risk of our being over-zealous, with the legislation even as it stands, is greater if you set up a marine management organisation to do that work for us. The Bill is littered with references to the Department doing this, that and the other. I am happy for the Department of the Environment to do that work. I am happy for even this Minister of the Environment to do that work because he has shown, in recent weeks, a willingness sometimes to step away from officials' advice on environmental grounds and to take decisions in the wider interest of the people of Northern Ireland.

It is much better at all times, except in a few circumstances, to have democratic political control of such matters. The point that the Chair of the Committee made is right: we should be legislating for what we can all agree on, and this Bill is something that we can all agree on. If there is an argument for a marine management organisation to be set up, we will look at what happens in practice with this legislation.

At this stage, however, many of us remain unconvinced of the need for a marine management organisation and, therefore, do not support it. I am glad to see that the Bill has come forward without the inclusion of such a structure. Therefore, I can support the Bill as it is. We should look at the Bill in practice, see what happens, and perhaps look at it at a later stage. However, it will be a difficult argument to make, not least to go back to the first point about whether we need another quango, with all the associated costs and accoutrements.

I support the Bill and look forward to seeing it come through the Committee over the next number of weeks. We will become very knowledgeable about all the clauses. I support the Bill and encourage others to do likewise.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom fáilte a chur roimh an Bhille seo. I welcome the Bill and support its broad principles. I hope that it is about can-do rather than must-do. We are under a lot of European directives. However, if we are to bring forward legislation to the Floor of the House, it should be about something that we can achieve and have the resources to achieve.

This is a good opportunity for us to put legislation in place, but I hope that it is not like every other piece of legislation or planning — about economic benefits versus environmental concerns. It should be across the board; it should be addressed in that way.

I welcome the introduction of a statement of participation. I hope that the Minister will take the lead on that because as with any other piece of legislation that we brought forward, although we went to consultation, there have to be questions about whether that consultative process was right and of benefit. I hope that it would be about participation and, hopefully, we will come to a general agreement on a good piece of legislation. The Environment Committee should be well versed now in dealing with legislation, as we dealt with several pieces in the last mandate.

Although I look forward to the Committee Stage, the devil is in the detail. Obviously, I want clarification on a few of the Minister's points. The point was brought up about governance and marine governance. How will that be structured and how will it oversee the marine plan and the overall future direction of our local seas?

The Bill indicates that there will be no marine management organisation. I believe that the marine plan will be managed by an intergovernmental group. In the absence of a marine management organisation, will the Minister indicate how he proposes to work with local authorities, local groups, NGOs and people who, I hope, take from today the message that it is about participation, not just consultation? What credence will be given to their contribution and what opportunity will be given to them? The Minister indicated that he met a stakeholder group; I hope that credence will be given to those people's contributions.

In respect of marine conservation zones, I would like to know about participation and about data collection and work that has already been done. The Minister touched on that but how does he propose to go about that? The Member who spoke previously talked about designations. If we are looking at proper designations, we need proper information, and we need to be well informed to make those decisions. Outside bodies may have relevant data. Are you going to look at the information and the good work that those bodies have already gathered or is it all about the work of Departments and the information that they have gathered?

Existing legislation and regulations have been mentioned, such as the marine strategy framework directive, good environmental status and the wild birds directive, which was mentioned by the Committee Chairperson. How will the Bill marry those and achieve the standards set out in the regulations? How will it address the concerns of people who feel that the Bill may not go far enough in that respect?

You also talked about resources and you mentioned costs. Will the cost of those resources be met centrally or are you going to work with the local authority? Who is going to pay for all that?

We have been given some dates for implementation, but I have experience of legislation that has come through the House before. The Minister indicated that it would be 2014, so will he assure the House that when the Bill receives Royal Assent, it will be fully operational and the resources will be there? I know that there will be a roll-out of subsequent legislation. Therefore, we need to have the primary legislation in place to know exactly what we are going to introduce. We have experienced a number of problems with secondary legislation.

We have gone out to consultation on secondary legislation on a number of occasions, and it has held up the process. If we bring this piece of legislation through the Committee and the Assembly, I would appreciate it if that did not happen in this case.

I look forward to the Bill being passed. It is a smaller Bill, with 48 clauses. Given that we managed the Planning Bill in the previous mandate, I think that we can manage this Bill reasonably well. However, I ask the Minister to encourage the stakeholders and the people with an interest in this legislation to participate properly so that we get an opportunity to scrutinise the Bill properly. With that in mind, I support the broad principles of the Bill.

**Mr Kinahan:** This is a great day for Northern Ireland, and not just in relation to golf and snooker. We have a phenomenally important Bill coming through the House, which, hopefully, will manage our seas better and look after the resources that are there.

I welcome the Bill. It is essential that we have good marine planning. The Bill brings in the organisation that will organise it.

I also welcome the shared usage of conservation, energy and resources that all our fishermen and others have. Here, at last, we have a chance to welcome some form of compatibility between marine planning and terrestrial planning.

Finally, I welcome a last chance to get all the stakeholders together. One thing that we have seen continually through the Committee is that, often, stakeholders, numerous as they are, feel left out at some stage. It is vital that we pull them all together today.

I congratulate the Department and the staff for the brief, and I particularly congratulate the Minister for getting it through the Executive and here today.

As does everybody else, the Ulster Unionist Party wants to see tourism thrive. Likewise, we want to see renewable energy, the trawling industry, angling, sea fishing and all those marine pastimes and businesses thriving. We want to see the minerals thriving, but we want to see the environment survive as well as thrive. That is why I feel that today is a great day.

There are some concerns. The first, which many of you touched on, is the lack of a marine management organisation. Yes, we

have an intergovernmental group that will pull it all together, but when you read through the legislation, it seems that it does not have a lot of power or the teeth necessary to take us to where we need to go. It may be interesting to note that the previous Committee wanted a marine management organisation. However, we are into a new Committee and a new Assembly. I am also concerned that there does not seem to be a formal independent advisory committee that can bring forward, with no political leaning, what it feels is happening on the maritime side on the seas and on the seabed. There also seems to be a lack of timescales and frameworks against which to enforce matters. One of the biggest problems of all is that we do not seem to have a good view of the cost or resources that are needed to put it all in place. We know that there is a carrier bag levy in a very tight budget, but we do not have much vision of anything else. It concerns me that this legislation is going to be a lawyer's dream.

I will take you back to there being no management organisation. Consider that we have to pull together five Departments: the Department for Regional Development has the ports, water, sewerage; the Department of Culture, Arts and Leisure has fishing, licensing and sports; the Department of Enterprise, Trade and Investment has tourism and the business side; the Department of Agriculture and Rural Development has the fisheries; and the Department of the Environment has responsibility for this Bill, pollution and all other matters that come on board. Those are the five key Departments, yet all the others will have some part of it as well.

We have got to follow international and EU law. We also have to link ourselves into the United Kingdom — to England, Scotland and Wales — and we must fit what we are doing to Ireland. Furthermore, we must include the councils at every stage. We need a strong body that can pull all that together. We also need that body to have the knowledge. It must have knowledge of flora and fauna and relationships with the tides and the seas. We must also have a full understanding of how it links to the rivers, the loughs, the fresh water areas and the sea water areas. I wonder why it does not include Foyle and Carlingford loughs.

We must also have a body with the skills for business and an ability to understand the livelihoods that go on on the sea, and we must ensure that we do not damage those. Of course,



we must balance that with knowledge of the energy that we can get from our seas, whether it is wind, wave power or others. So, we need a body, preferably an independent body, that has that knowledge.

When I was a councillor in Antrim, we had the Lough Neagh Advisory Committee, which had specialists from all corners. We learned about gravel extraction, balanced against eel fishing, jet skis and birdwatching. I could go on. That was a perfect example of an advisory committee, with academia, sporting knowledge and business all in the one place. That is the sort of body that we need to ensure is put in place somewhere with this legislation.

What went wrong in previous debates on river pollution is that we struggled to get the four Departments to pull together, so what will it be like when we try to pull together cross-national bodies as well? We need to have an organisation, whether for marine management, which we would favour, or another strong departmental body. It must have teeth so that it can deal with issues within certain timescales.

#### 1.45 pm

As we all know, when we raise questions at Committee, we often get half answers and have to ask another question or delays mean that it takes months to get an answer or a briefing. Adding all the different bodies involved to that equation would result in something that is cumbersome and slow, and I hope that we do not put in place an organisation like that. It is our job as Assembly Members to try to put in place a dynamic and efficient organisation. That is why I feel that we need an advisory committee.

As I said, there are few timescales and few frameworks. We need some timescales for enforcements. We need a review system. The Bill specifies reviews every three and six years, and I welcome that. However, how will that review system apply? It concerns me that, once or twice in the past, petitions of concern were used as a way of blocking environmental work rather than for their intended purpose of protecting against sectarianism.

We know very little of how much everything will cost. We know that the sea is warming, but we need specialists to tell us by how much and what will happen in the future. We need specialists to tell us about fish stocks, whether of sea bass, lobster or shrimps. We know that

jellyfish have swarmed once or twice and that starfish are taking over Strangford lough. Today, we hear that there are 25 newly identified types of sponge. There is so much that we do not know that we need specialists to educate us, but the cost of that information concerns me. We must know the global effects, and we need specialists to help us there, too. We all know that two scientists will probably give two different points of view. We must, therefore, have some form of independent advice. That is very likely to cost us, and it could be a bottomless pit.

I want to touch on one or two other matters. I have concerns about councils' aversion to taking risks. We need councils to be part of the new body. However, they will not have specialists to advise them. In dealing with terrestrial planning, they will need advice, help and resources. It concerns me that the document asks for public authorities to take action that "best furthers" or "least hinders" conservation. The phrase "least hinders" bothers me, because there lies a way of doing the minimum. We saw that in Strangford lough when there was no contact between us and Europe for four years. We did very little, and it looks as though we may pay for that.

Clause 7 mentions the reporting duty, which I touched on. I think that we should put something in the Bill to make it impossible to block environmental matters so that we can deal purely with the matters in front of us.

Clause 8 refers to challenges to the validity of marine plans being made within six weeks but gives no end date. That means that you can challenge a marine plan and it will remain challenged. We need dates to close things off. One large, wealthy energy company could delay all matters for ages.

Clause 12 states that the Department must take account of "social or economic consequences". However, when it comes to a point at which agreement cannot be reached and one Department is battling with another, the matter is likely to come before the Executive. I would like the Minister to clarify that.

When it comes to clause 13 and marine designation, I wonder how we will actually mark or designate the areas and patrol them, night and day. Again, that creates extra and higher costs.

I would like the Minister to clarify something in clause 14. Once you have published a notice of

designation, the Department has 12 months to work with it. If the Department does not make a decision, it states in our brief that it must start again. That is another cost, and it seems to me to be a waste of time. Surely we must use the work that was done in that 12 months.

**Mr McMullan:** I thank the Member for giving way. Does the Member agree with me that when you talk about getting all the main players to sit at the table to look at the organisation and management of the Marine Bill, the one body that is left out is the actual owner of the seabed, namely the Crown Estate? You talk about some of the bigger bodies being able to keep litigation going for a long time because they can afford to do that. We need to know, once and for all, what role the Crown Estate will play in marine management.

**Mr Kinahan:** As I understand it, the Crown Estate is subject to all the same rules as the rest of us. If you read the Bill, you will see that it states that. I sometimes wonder whether anything that has “crown” written in it is subject to being attacked by your party.

Clause 20 lays out the duties of public bodies. Again, we come to the issue of “best further” and “least hinder”. On the back of that, you get a huge risk of legal action and the problem of bigger bodies having more money and being able to fight it.

Clauses 30 and 31 deal with fines. If you breach by-laws, the fine is up to £5,000, whereas if you do reckless damage, the fine is up to £50,000. During the previous Assembly mandate, we made £100,000 the top limit of fines for damaging historic buildings or protected trees. It concerns me that when you put figures into a Bill, they sit there for years and years. As the value of money changes, the fines become more paltry. We should have some sliding scale or look at doing it differently and have much higher levels of fines. We should ensure that the fine fits the crime, not just in respect of the money made or the legal cost but so that it acts as a punishment. We need to ensure that we get that into the Bill. If you think of all the huge European fines that we get, we should save ourselves money by having that in place.

**Mr Weir:** I thank the Member for giving way. I agree with him about ensuring that we get a punishment that fits the crime. I point out that the reference in clause 31(4)(a) to the fine not exceeding £50,000 is one of two options.

If it were felt to be a more serious case with a conviction on indictment, clause 31(4)(b) provides the opportunity to go beyond that level of fine. However, I appreciate the general point about ensuring that we have sufficient levels of fines to act as a deterrent.

**Mr Kinahan:** I thank the Member for his intervention. I understand that, but I feel that once you put a figure in the Bill, that tends to be the limit that lawyers work around.

Part 4 deals with generating stations. It intrigues me that two different applications for permission will be looked at in parallel and at the same time. I would like the Minister to clarify that, because I can see one company blocking another and slowing it up by applying for the same permission at the same time. We have to put something in place that stops that and protects businesses.

In the schedules, we need to fit the terrestrial plans to the regional development strategy and to councils’ new planning system. Yet again, we have no time frame. We need timescales or it will never work.

In respect of fixed monetary penalties, paragraph 4(2) of schedule 2 states that substantial changes must be consulted on. Again, we have this word substantial, but what does it mean? I hope that we will look at that in more detail. I can see lawyers using that word to delay matters.

The Ulster Unionist Party is very much behind the Bill. However, there are lots of issues that concern us. We long to see the Bill in place and better consideration of our environment, but not at the cost of people’s livelihoods. It is one step. We feel that there needs to be some form of marine management organisation and independent advisory committee. We must get there quickly and put timescales in place. The Ulster Unionist Party supports the Bill.

**Mr Dallat:** We heard about the Crown, but I suspect that the half crown is the bigger issue. For those who use the decimal system, a half crown is worth 12·5p. The details of the Bill have been gone over, so I just want to generalise them in the hope of putting into perspective just how important the Bill is. Two aspects of life have always intrigued me: what is in space and what is under the water. One of the greatest motivators that I ever had the privilege of meeting was a lady called Helen Sharman. For those interested in space: she

was one of the English ladies who made up the team that went to the Mir space station. Her delivery about what she saw in outer space left no one in any doubt about the fact that there is something fascinating in space beyond what we understand. My experience of what is under the sea is very similar. Although I do not claim to be a deep sea diver, I did work for a salvage company for a couple of years, and that created an opportunity for me to go beyond the baths on William Street in Derry to see what was beneath the water in Lough Swilly. Upon reflecting on the wonders of the nature that I saw there, I would be loath to put any limits on what we need to do to protect marine life in all its forms.

With the experience of that privilege far more years ago than I am going to tell you lot, I welcome the Second Stage of the Marine Bill. I regard it as a very significant step forward in a planning process that will encourage the general public to have a better understanding of how important the issue is. I think that it is a very important part of the process in respect of informing people about the marine areas and stimulating interest in what is there and what needs to be protected. Above all, we have to generate confidence in what we are doing. Much of what I heard this afternoon has been very positive, but there have been some negatives as well.

I think that it has been said that the success of the Marine Bill is the responsibility of not just the Department of the Environment, though I accept that it has a lead role, but — I am sure that I do not need to mention them — the Department of Agriculture and Rural Development, the Department for Regional Development, the Department of Enterprise, Trade and Investment, the Department of Culture, Arts and Leisure and a whole plethora of other organisations that have been alluded to. We obviously need to continue to consult with those people and to have their support. That is central and crucial to what we intend to do.

We have to keep reminding ourselves of the 2015 deadline by which the UK and Ireland must achieve good ecological status in coastal and transitional waters out to one nautical mile, as required by the water framework directive. From recent debates in the Chamber, we know, of course, that the key element in marine planning is how to manage competing interests in the marine area.

Therefore, it is essential to ensure that all material considerations are taken into account, and we must assess the anticipated benefits and adverse affects of proposals, be they economic, social or environmental. Above all, the overall goal must be sustainable development in the marine area.

## 2.00 pm

I welcome the fact that the Bill provides for a designation regime that is flexible to the needs of the habitat or species requiring protection. Although the level of protection will vary, I hope that it will always err — if at all — on the side of protection rather than expose the marine environment to any unnecessary risks. I welcome the provision of designated marine nature conversation sites, which will protect nationally important marine wildlife and habitats and will be based on the use of best available scientific interest. Of course, one day I will look forward to the other. I have little experience of Strangford. I have used the ferry a few times as a tourist down to soak up the wonders and beauty of that part of Northern Ireland, but I certainly know a lot more about Lough Foyle and, as I said, Lough Swilly. In that respect, fishing and other organisations, commercial responsibilities and other socio-economic interests have to be taken into account in the process of identifying and designating marine nature zones. As I said, there is no time to dally in the implementation of the key elements of the Marine Bill, and I am happy that Strangford is designated or planned to be the first. I am sure that others will follow.

*(Mr Speaker in the Chair)*

I made reference to fishing, and I acknowledge and take note that the zones will not be used as a fisheries management tool and will not impinge on the objectives of the common fisheries policy. I welcome the undertaking that there will be effective engagement with the key stakeholders and that all potential maritime conservation zones will be subject to full consultation and will take account of the common fisheries policy.

There are many other aspects of the Bill that I would like to refer to, but I realise that Question Time is coming shortly. It is sufficient to say that this historic legislation will benefit mankind for many years to come. As I said, the fact that it will raise public awareness of the need for such a Bill is a success in itself. It is then up to

others who have the responsibility to implement and do the job.

I know that I have not been able to paint the picture of the wonders of the world beneath the waves in the same way that Helen Sharman painted a picture of space for me many years ago. However, I hope that Members will appreciate that the Bill is probably one of the most important Bills that will go through the House during this period. I encourage and support the Minister and everyone else who can help him to make this a Bill that future generations will be grateful to this packed House today for. Of course, I have been slightly facetious there, as I know that Members are at Committee meetings and so on and are equally interested and involved in making the Marine Bill a success.

**Mr Weir:** I do not know whether anyone in the packed Gallery was made aware that John Dallat or I would be speaking today; people have exited stage left. I will leave that to the better judgement of others. It is important that, having had a tour of space, among other things, we bring the Bill back down to earth.

When Danny Kinahan indicated his initial support for the Bill, he said that this was a great day for Northern Ireland. It was then slightly interesting that the bulk of his speech included a range of individual concerns, which, perhaps, slightly tempers the notion of how great it is. However, I agree that it is a significant Bill for Northern Ireland and one that I broadly welcome.

I will not reiterate the points that were made, particularly by Mr Kinahan and others. However, we need to take extreme care to ensure that all the details are correct. I think that it was Mr Boylan who referred to the devil being in the detail. I am reminded of Mr Nesbitt, a Member in a previous mandate, who often said that salvation was in the small print. Whether we take the more pessimistic or optimistic view, it is undoubtedly the case that we need to drill down into many aspects of the Bill and ensure that they are correct.

It is important that we put everything in place to protect our marine environment. All my life, I have lived close to the coast in Northern Ireland. As one who grew up close to Ballyholme beach, I know that we must have proper and, as Mr Hamilton said, balanced protection. That should unite the House.

The Bill is significant in the direction that it takes things and how it scopes things out. Much of the Bill will act as an enabler for crucial actions in the future. As mentioned, the marine planning provisions in the Bill are important, and the implementation of the statement of public participation will also be highly significant. It is vital that what seems to be a good way of encapsulating the wide range of interests and allowing those voices to be heard is followed through in practice. Leadership from the Department is important, and we have seen examples in which the lack of a joined-up approach has had to be corrected. That is particularly the case with Strangford lough, where a more integrated approach at an earlier stage could have paid dividends and not left us in the current situation. Having a statement of public participation — meaning genuine participation and consultation — will be vital.

In looking at the Bill, we are not operating on a blank sheet, as work has been ongoing throughout the UK. It is important that we ensure that what is put in place meets the specific needs of Northern Ireland, but we must not try to reinvent the wheel or disjoin ourselves from the rest of the United Kingdom. There are good things that we can work on with colleagues in other jurisdictions. We should always seek to give the maximum protection to our marine environment.

The Minister referred to the marine conservation zones. He mentioned that there will not be a one-size-fits-all approach, and that is important. Different levels of protection are needed, and flexibility must apply. As my colleague highlighted, we also need to critically examine the activities that can take place. At times, as a reaction to the protection of certain zones, activities have been banned that, from a practical point of view, do not in any way harm the marine environment. It is important that we get the maximum buy-in.

The first of my final two points is on the issue of having an MMO. The Chair of the Committee touched on the notion that the best way to move forward is through a Bill with the greatest consensus. I suspect that the House will come back to the issue of having an MMO, and it is important that we do not get the two issues muddled up. Some of us on this side of the House would, at best, have reservations about the need for an MMO, and we are not convinced by the argument for it. I appreciate what has been



said about the complexities of the organisations that will be involved, but I do not think that we should simply create a separate, stand-alone body. Indeed, in many ways, handling those issues is what the lead Department is for, and we should not set up another potentially costly quango. In the week that we buried Frank Carson, the Minister's catchphrase is about those who know the difference between being in government and being in power. Obviously, I have slightly misquoted him, but that is an oft trotted-out phrase of the Minister. It is important that, when decisions are taken, the Ministers who take them are ultimately answerable to the House. Therefore, I have a degree of reservation that, whatever structures we put in place, we do not simply have something that is at arm's-length and is not properly accountable to the Assembly.

On occasions, Ministers have to take decisions that will not necessarily get consensus. A good example of that, on which I would support him publicly and privately, was the Minister's recent decision about the golf course in north Antrim. He weighed up the various interests and came to what I believe was quite a sensible solution. However, I am also aware that that opinion would not be universally shared. If that decision were simply left to an outside quango, the ability of any Minister to take a rounded view on what is good for the community as a whole may disappear. Consequently, it is important that Ministers who take decisions are held accountable for them and we do not look to simply shove difficult decisions to an arm's-length body, where, if we do not like the result, we can shrug our shoulders and say that the decision was out of our hands. That is an important issue.

I suspect that, in the passage of the Bill, a wide range of issues will be raised, as Mr Kinahan pointed out. If we can concentrate on getting those details right, we will have done probably several weeks of good work. As one of the veterans of the Committee for the Environment, along with Mr Kinahan, Mr Boylan and others, I am glad that the Bill seems to be a reasonably manageable size. Given the amount of detail on which we will need to drill down, I suspect that a considerable amount of scrutiny will still be required, but the Committee has a reputation for dealing with fairly large pieces of legislation in the past, and it is important that that is done.

I will be interested to hear clarification from the Minister on a point that I raised in Committee,

to which, at this stage, there appears to be no particular answer. It is important, whether it is in the Minister's remarks today or relatively soon, that we start to get ballpark figures for the Bill's price tag. That is important for two reasons. First, it is crucial that any piece of legislation, particularly one as significant as the Marine Bill, can be supported or rejected on the basis of having our eyes open about the costs. That is a vital component of the process. Secondly, one of the major problems that we have found is not so much the passing of the legislation but its effectiveness and its implementation. The Committee for the Environment has, at times, been presented with good legislation that has gone through but been followed by complaints from lobby groups or interest groups in a particular field that support has not been given for implementation and that the money is not there and nor are the officials. It is important that we get a handle on the full cost of the implementation of the Bill, so that we can ensure that there is a commitment to deliver on it. Consequently, I await the Minister's response on that. None of us will want him to simply pluck a figure out of the air, but it is important that, as the debate moves on, we get a clear indication of the cost of implementing the Bill, so that we can proceed with our eyes open.

I look forward, with others, to drilling down into the detail of the Bill to ensure that we get something that is fit for purpose for Northern Ireland, serves our entire community and ensures that the habitats in our maritime zones are properly protected in a balanced way. I support the motion.

## 2.15 pm

**Mr W Clarke:** Go raibh maith agat, a Cheann Comhairle. I wish to speak in favour of the Marine Bill. The Bill's context and framework allow us to produce information and data on the many uses of our marine environment and, in turn, the best use of what is a great asset. I come from a coastal community and constituency, and I am very aware of the precious nature of our marine environment. It is precious not only for habitat but for the commercial fisheries in Kilkeel, Ardglass and Portavogie, where people make their living out of the marine environment both on the sea and the land. When we discuss conservation zones, we have to bear it in mind that people require to make a living from the sea.

Marine planning makes sense and is long overdue, and it is important that the Department of the Environment consults the other Departments that have responsibilities for fisheries: DARD, DETI, DRD and DCAL. I like that joined-up approach. Too often, there is a great frustration among the general public when they do not see Departments working together, so it is refreshing and very welcome. My colleagues talked about Strangford lough, and a lesson has to be and has been learned about Departments working together much more closely instead of operating in silos. If Departments had worked together, we would not be in the situation where we may face infraction fines over the modiolus modiolus issue on Strangford lough. That points out to us that we need to work together, and marine planning gives us that opportunity.

There are a number of conflicts regarding the different sectors. I talked about the fishing sector, and there are mineral sites where gravel and sand extraction takes place and water-based tourism. The Minister touched on the fact that there is great potential to create many hundreds, if not thousands, of jobs in activity tourism and renewable energy. On the island of Ireland in general, we want to be known for the green, clean image that the Minister articulated earlier.

Many Members touched on resources. We need a clear figure. The Minister talked about £2 million over three or four years, but there is also the issue of resources for local authorities to carry out their enforcement duties. We need to get some idea about what resources will be made available. As was said earlier, a figure for that cannot be plucked out of the sky, but we might get into that type of detail in Committee.

Climate change and rising sea levels is a big issue, and that must be factored into our marine plan. Coastal erosion is also a big issue. Danny Kinahan said that new species were coming to our waters. Our marine environment is ever-changing, and that is probably also linked to climate change.

Without going on too much longer, I welcome the opportunity to work on the Marine Bill, at least for three weeks, before I finish in this arena. It will be an exciting Bill, and we want really good legislation. We want to work with the Department and the Minister to get that good legislation, and our communities deserve that. We have waited a long time for it, so we want to get it right.

**Mr Nesbitt:** I support the Bill. It strikes me that it is an ambitious Bill, as, indeed, it should be. We are trying to do on sea what we have tried but spectacularly failed to do on land, which is to bring together a variety of strands of government. Back in my days as a journalist at UTV, I became very excited by the prospect of the Belfast metropolitan area plan (BMAP) only to find that my excitement was, to say the least, a little premature.

I wish the Minister well as he attempts to co-ordinate no fewer than five of our devolved Departments: Environment; Agriculture and Rural Development; Culture, Arts and Leisure; Enterprise, Trade and Investment; and Regional Development. For me, it illustrates the nature of how we do government in this country. We often describe it as government working in silos, which are, of course, vertical, and the Minister is trying to introduce a horizontal element, bringing all matters marine across a variety of government Departments and being cognisant of the need to link in with what is happening in the Republic of Ireland, England, Scotland, Wales and the European Union.

In assessing the legislation, I ask myself, "Does it paint a picture of what success looks like?". I accept that the three aims of marine planning, conservation and licensing for electricity-related projects are clear, but, for me, it does not exactly paint a picture or, if it does, it is a sketch rather than a full-blown oil painting. For example, Strangford lough, which the Minister referred to many times, is, of course, at the centre of my constituency. It is, as the Minister said, the most protected marine environment that you could hope to find. However, what would success look like on foot of the introduction of this Bill? For me, it would mean that Strangford lough was protected, productive and well promoted.

I noted, when we were talking about golf, that the Minister referred to going to Shandon Park to watch Christy O'Connor Snr. Indeed, I did that many years ago, and, to borrow an advertising phrase from those days, I would like Strangford lough to be promoted as somewhere where you could "Work, rest and play". It should be vibrant, varied in its usage and properly valued. How do we achieve that? I note that we took some steps 10 years ago to protect the modiolus modiolus, yet we have not revived and revitalised that biogenic reef and are still engaged in arguments over the validity of scientific research. For me, that illustrates the challenge facing the Minister

and his Department. Somebody will commission scientific research; that will lead to a report; the report will end with recommendations; and recommendations will lead to actions such as, for example, a ban on dragnet fishing. However, the fishermen will not accept that science as impartial and objective evidence, and they will then commission their own research, which will lead to reports and end with recommendations and, perhaps, counteractions. So, the question is this: will the implementation of this legislation be conducted in a manner that will allow all interests to buy into the planning, the conservation and the licensing of electricity-related projects?

As the Minister knows, an electricity-related project is under way on Strangford lough. SeaGen, a world leader in tidal generation renewables, is generating more electricity than was at first thought, with no identified downside by way of environmental impact. That is all being done in the most protected marine environment that you can find, yet it is successful. In other words, have we not helped the marketing drive for those who are developing these new renewable technologies? If we are developing an international reputation in this area, if the world of renewable energy has half an eye on what is happening in Strangford lough and if the world is, as it is, seeking alternatives to fossil fuel, here we have economic potential, economic opportunity and an economic challenge to grasp the opportunity to create a renewables corridor and to become a UK centre of excellence for renewables and their development. I have called before for such a corridor, starting at Belfast harbour, where £50 million has been invested in the logistics facility for DONG of Denmark, which will develop the offshore wind farms in the Irish Sea. The South Eastern Regional College is developing an expertise in environmental studies, and the fleet in Portavogie could be revitalised to service the supply chain. This is all about economic regeneration and opportunity. My question is this: will the Bill max out the potential to develop those economic regeneration opportunities? Will the legislation help or hinder that? Will it enable it or will it emasculate it?

We should look to develop seabed tidal energy as the most reliable and predictable of our renewable energy sources. I hope that the Bill will allow that to happen not only in Strangford lough but around our shores. I therefore urge the Minister to reassure the House that nothing

in the legislation will mitigate our ability to max out the potential for developing renewable energies and establishing ourselves as an area that is regarded as a UK centre of excellence.

I hope that we avoid repeating what we seem to have done to the fishing fleet, members of which perceive there to be one-way traffic when it comes to legislation — always out to bash them, to hinder them, to impede them and to take away their right to earn a living, always over what they believe to be contested science. I understand that the Strangford Lough and Lecale Partnership is consulting on the future of the lough, hoping to achieve buy-in from all — a microcosm, perhaps, of what the Minister is attempting to do.

Finally, I will say a word on implementation. I know that my colleague mentioned his concerns about a marine management agency. This party says no to further quangos and no to further NDPBs. Five Departments are involved. We must look at that under the overall review of the number of Departments, MLAs and the rest in the coming months. What we need is a lead Department with legal responsibility. If we are to go further and look at an NDPB, my party would need to be convinced, and, to convince us, we would have to adopt a policy such as a policy of two out for every new one in.

I hope that, as the legislation develops, the Minister will lead the drive to paint a picture of why the legislation will be good news for those with an interest in Strangford lough, our inshore waters and all that the legislation is designed to cover.

**Mr Speaker:** As Question Time begins at 2.30 pm, I ask that the House takes its ease until that time. The debate will continue after Question Time, when the next Member to speak will be Patsy McGlone.

*The debate stood suspended.*



2.30 pm

## Oral Answers to Questions

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

#### Victims and Survivors Service

1. **Mr McCallister** asked the First Minister and deputy First Minister how the board members of the new Victims and Survivors Service will be appointed. (AQO 1446/11-15)

**Mr P Robinson (The First Minister):** We are on schedule to establish the new Victims and Survivors Service by 2 April. We are committed to ensuring that it is established in a manner that will provide for and support people's needs. The formation and make-up of the board will be an integral part of the new service, and it is important that we ensure that we have the best possible people in position. We have agreed that, in addition to a chair, there should be four board members. The Victims and Survivors Service falls outside the statutory remit of the Commissioner for Public Appointments for Northern Ireland. However, we intend to ensure that the spirit of the commissioner's code of practice is applied to this appointment. The service is a delivery body; its focus will be on delivery, effectiveness and corporate governance. The chair and board members will be committed to ensuring that the Victims and Survivors Service is capable of providing support for all victims and survivors of the Northern Ireland conflict in a sensitive, co-ordinated, outcome-focused and efficient manner.

**Mr McCallister:** I am grateful to the First Minister for that reply. In reflecting on his answer and the need for this to happen in a sensitive and co-ordinated manner, I want to know how he will ensure that measures are put in place so that no former terrorists can sit on the board.

**Mr P Robinson:** Membership of the board will be a joint decision for the Office of the First Minister and deputy First Minister (OFMDFM). That is my way of ensuring that.

**Mr Campbell:** The First Minister has outlined the structures. Will he clarify how he expects those who will work within the structures to

liaise, co-operate and work with others in the victims' sector?

**Mr P Robinson:** Any time of transition can cause confusion about how a system will operate. Essentially, there are three strands. The first is advice. At present, we have three victims' commissioners. We will look at that issue on the basis of the KPMG report and determine whether that is the appropriate number. I think that the deputy First Minister and I have a view on that. The commissioners are to be informed by a victims' forum, which will have a direct relationship with stakeholders. The second strand is policy determination. We have a victims' unit in OFMDFM, made up of officials; they will take the advice that they get from the commissioners and move the policy on as a consequence. The third strand is delivery: what the new service will do. It will be overseen by a board and assisted by assessors, who will look at the individual needs of victims and those of groups.

**Ms Ruane:** Go raibh maith agat, a Cheann Comhairle. Céard a dhéanfaidh an tseirbhís seo. What functions will the new service have?

**Mr P Robinson:** I could give a very long answer to that, but the key component is that it is setting the operational strategic direction for the organisation in the commissioning of services to meet the individual needs of victims and survivors. It will also be responsible for decisions on procurement issues. Moreover, it will ensure that the general guidelines laid down by OFMDFM are fully adhered to and that the service operates within the limits of its strategic and operational plans. It will also ensure that the service complies with any statutory or administrative requirement for the use of public funds. In addition, it will ensure that business is carried out in accordance with the code of conduct and will be directly responsible for monitoring and directing the chief executive and his or her staff.

**Mr Eastwood:** Will the First Minister and the deputy First Minister press the Secretary of State to ensure that the Irish Government are invited to play a central role in creating a comprehensive mechanism for dealing with the past?

**Mr P Robinson:** We have had discussions already with the Secretary of State at a party level. I am sure that the Member and his colleagues have already put that view to the Secretary of State. Dealing with the past is as important as it is sensitive. Unfortunately, there is not a

universally agreed way forward in that respect. Each of the parties will have some difference, at least on nuance, as to how it should be dealt with, but I think that all of us recognise that we have to remember that there are people who are still suffering very much as a result of a long campaign of terrorism in Northern Ireland. We have to be aware of their desire to have not just the truth told but justice.

## Foreign Direct Investment

2. **Mr Ross** asked the First Minister and deputy First Minister for an update on their efforts to attract foreign direct investment.  
(AQO 1447/11-15)

6. **Mr T Clarke** asked the First Minister and deputy First Minister what plans they have for 2012-13 to attract inward investment.  
(AQO 1451/11-15)

**Mr P Robinson:** With your permission, Mr Speaker, I will answer questions 2 and 6 together.

In support of the economy Minister, the deputy First Minister and I will participate in a number of visit programmes in the coming months, including to North America, India, Dubai and even China. Inward investment plays an important role in growing the Northern Ireland economy. We welcome the opportunity to support Invest Northern Ireland's activities in overseas markets. Our first overseas visit of the year will be to North America, where we will meet a number of potential and existing investors and key business influencers in Washington DC and Canada. North America is, of course, a significant source of foreign direct investment (FDI), and we will take the opportunity to reinforce the message that we have a superb track record in assisting inward investors to grow and thrive in Northern Ireland. We will also share that message with the highest levels of the Obama Administration. We are scheduled to meet President Obama and Secretary of State Clinton around the St Patrick's Day celebrations.

We also plan to lead an Invest Northern Ireland trade and investment mission that is scheduled to visit India and the United Arab Emirates in April. The visit will be part of Invest Northern Ireland's Opportunity India campaign and is the first mission to visit the market in 2012. Indian companies are major investors in the United Kingdom and a growing source of FDI for European countries. Again, we will communicate

the message that the Northern Ireland Executive are pro-business and committed to growing the economy. We will continue to look for opportunities to support the economy Minister and Invest Northern Ireland in the effort to attract quality inward investment.

**Mr Ross:** I am sure that the First Minister agrees that Northern Ireland is punching above its weight in attracting inward investment. He mentioned the forthcoming trip to the United States. Will he highlight some of the successes that our Ministers have had in the United States? Does he believe that there are opportunities elsewhere, particularly if we are successful in our ongoing negotiations about corporation tax?

**Mr P Robinson:** The deputy First Minister and I, on every occasion that we have gone to the United States, have met potential corporate clients of Invest Northern Ireland, and, on every occasion, we have succeeded in being able to bring jobs back to Northern Ireland. I hope that that pattern continues. The United States has been a very supportive market for Northern Ireland. Indeed, if you look at the Invest Northern Ireland figures, you will see that, over the past four years, there has been more investment from North America than any other part of the world. It is a very important market for us, but we have to recognise that China is the second largest economy in the world — some say that it may well be the largest economy before very long — and that India is a growing and thriving economy as well. It is important that we get into those markets. It is always much more difficult to get into markets where there is a greater difference in culture, but, already, Invest Northern Ireland has been involved in India and is at the early stage of involvement in China. We hope to assist its operations in both of those places.

**Mr T Clarke:** Will the First Minister join me in congratulating the successes of Rory McIlroy and Mark Allen over the weekend? They have brought success to Northern Ireland. Does the First Minister believe that that sporting success can lead to foreign direct investment for Northern Ireland?

**Mr P Robinson:** So much of investment is about how people feel about a location, and if people feel that this place is disposed to be friendly and has many of the attributes that they look

for in their own lifestyles, you will find just how welcoming it is to potential investors.

The deputy First Minister and I, and I am sure the economy Minister as well, have had few engagements with business people without a golfing input in the surrounding social chit-chat. I am delighted that Rory McIlroy has achieved his lifetime ambition of becoming the planet's number one golfer, which it seems strange to talk about when he announced it when he was 10 and achieved it at 22, following his victory in the Honda Classic in Florida. Everyone is very proud of his achievements, and his success is well merited.

I also place on record my congratulations to Mark Allen from Antrim on winning snooker's World Open title in China. That was his first ranking tournament victory. I hope that it is the first of many.

Invest Northern Ireland plans to be involved in a range of golf-related activities to promote investment in Northern Ireland. For a third year, Invest Northern Ireland will be involved in corporate hospitality at the US Open, which will be held in San Francisco. That corporate hospitality will be on each of the four days of the competition. Beyond the US Open, Invest Northern Ireland is advertising on the www.pgatour.com website this week. Indeed, I hear from our colleagues at Tourism Ireland that it has produced a new 60-second commercial featuring Rory McIlroy, which will air on the Golf Channel this week. It has that excellent commercial line from Rory who says how much he loves being from Northern Ireland. All of that helps the image of the Province as far international investors and tourists are concerned.

**Mr A Maskey:** Go raibh maith agat, a Cheann Comhairle. Will the First Minister update us on the devolution of air passenger duty (APD) and how that may impact on investment?

**Mr P Robinson:** That is another example of our successful visits to the United States. We were visiting Chicago when it became clear that Continental Airlines would move out of their Northern Ireland operation because of the APD burden. The deputy First Minister and I met Jeff Smisek, the chief executive of United Continental. We followed that up with discussions with the Secretary of State, the Minister of State and the Chancellor of the Exchequer, from whom we eventually got agreement that he would devolve APD to

Northern Ireland. The Executive indicated in the draft Programme for Government that, as soon as those powers are made available to us, we will zero rate long haul flights.

**Dr McDonnell:** I thank the First Minister for his glowing comments on inward investment, and I welcome the increasing focus on the Middle East and Far East. Are there any plans to extend representation of the Northern Ireland Bureau-style operation to the Far East, as I think was mentioned and committed to in a previous Programme for Government? Are we yet at that stage or is it too early to think about a bureau somewhere in China?

**Mr P Robinson:** We already have an operation in Shanghai run by Invest Northern Ireland. Indeed, it has been looking at how to upgrade its presence in China. The deputy First Minister and I had the honour of meeting China's Vice-President, Xi Jinping, during his visit to the Irish Republic. Our meeting was kindly facilitated by the Taoiseach, and we had the opportunity to talk about the potential of a visit later this year. Invest Northern Ireland is looking at a trade mission in the autumn or winter of this year, and that is probably the best time for us to accompany that trade delegation.

2.45 pm

### Barroso Task Force

3. **Mrs Dobson** asked the First Minister and deputy First Minister for an update on the recent progress made by the Barroso task force.

(AQO 1448/11-15)

### EU Commissioner for Research, Innovation and Science

7. **Mr Dallat** asked the First Minister and deputy First Minister when they last met with Máire Geoghegan-Quinn, the Irish European Commissioner for Research, Innovation and Science, who oversees an EU Commission budget of £80 billion.

(AQO 1452/11-15)

**Mr P Robinson:** Mr Speaker, with your permission, I will ask junior Minister Jonathan Bell, whose birthday it is today, to answer the question.

**Mr Bell (Junior Minister, Office of the First Minister and deputy First Minister):** Thank you very much, Mr Speaker. With your permission —

**Mr Speaker:** We wish you well.

**Mr Bell:** Thank you very much. With your permission, I would like to take questions 3 and 7 together.

The First Minister and the deputy First Minister last met with Commissioner Máire Geoghegan-Quinn on 9 December 2010 in Brussels when they committed to a renewal of the Barroso task force. Since the presentation of the Executive's European priorities to Commissioner Hahn at the opening of the Peace Bridge in Londonderry, the cross-departmental Barroso task force working group has made significant progress. I will quote some of that progress. About £3 million has been secured in EU non-structural funds, and applications have been made for a further £33 million of assistance. The Department for Employment and Learning (DEL) has applied for joint funding of €460,000 from the Progress programme for a skills and jobs project. A DEL fund worth some £80,000 supports universities in applying for the seventh framework programme. DETI/Invest Northern Ireland have identified ways of improving Northern Ireland's business access to its successor programme, Horizon 2020. A central budget for EU secondment has delivered four new desk officers in our Brussels office. As a result of the contact with Commissioner Hahn, an official in DG regional policy is working on urban development. A full report will be provided to the Executive following the end of the financial year.

**Mrs Dobson:** I thank the junior Minister for his answer. I also wish him a very happy birthday. Have the UK and Republic of Ireland Governments yet made a request to the European Commission for a Peace IV programme?

**Mr Bell:** We have been active in progressing Peace IV. We would clearly welcome a further round of EU Peace funding. All of us are of the view that the work of peace building is not yet complete. The recession has created further challenges, particularly among young people, where unemployment is increasing, and there may be fewer opportunities for education and training. In all the meetings that the First Minister and the deputy First Minister, and also that Martina Anderson and I, have taken part in, we raised the issue of Peace IV. In pursuing the issue, we will seek to ensure that Peace IV provides additional funding to the region and does not merely replace other European Union funding sources. We have raised the issue at the joint ministerial council in Europe

and also directly when we met the relevant commissioners in Europe.

**Mr Dallat:** Given that it is the junior Minister's birthday, and it is customary to give out pressies on such occasions, will he perhaps tell the House a bit more about the benefits that might accrue from the appointments of the four desk officers in Brussels?

**Mr Bell:** I appreciate the Member's good wishes. His question refers to a potential €80 billion under negotiation. As I understand it, that figure will now be €87.9 or €88 billion of a total fund. The key areas will be competitiveness and employment and social inclusion, and work has already been undertaken. Europe is already profiling some of our work, particularly with our elderly people, innovation and technology and climate and energy. Three of the four desk officers are in post, and the fourth will arrive imminently. The Executive have set proposals for an additional 20% drawdown, so it will be in the region of an additional €64 million because we will go outside established funds to track that extra money down. Now that we have people in place in the European office, we will seek progress on those four key areas.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a chuid freagraí. Breithlá sona duit freisin. I thank the junior Minister for his answers, and join in with the happy birthdays to him.

There is an impression that, sometimes, perhaps we are not optimising the opportunities for funding from the European Union. Indeed, that can vary even from council to council. Will the junior Minister outline the comparative figure between the Executive and the Dublin Government?

**Mr Bell:** I thank him for the birthday wishes. Nobody has put them to me quite like that before, so thank you very much.

We must always be careful about comparing European Union funding allocations to Northern Ireland and the Republic of Ireland. Anybody looking at the detail would realise that that should be approached with caution. Obviously, Northern Ireland is a region of a member state — the UK — and its allocation of European Union funds is determined directly by internal negotiations, whereas the Republic of Ireland receives its direct allocation as an EU member state. The Republic of Ireland's economy is also



structured differently to ours, and the numbers of large companies and organisations able to take part in European networking are different. Therefore, it is a comparison that needs to be approached with extreme caution.

**Mr Douglas:** Thank you, Mr Speaker, for giving me an opportunity to ask a question. Will the junior Minister, as I wish him a happy birthday, inform the House of any additional work that the Office of the First Minister and deputy First Minister has carried out to maximise the benefits of European engagement?

**Mr Bell:** The key area is looking at where there are additional opportunities to benefit Northern Ireland, particularly in relation to new funding partnerships. In October 2011, the Office of the Northern Ireland Executive in Brussels hosted a seminar on regional partnership on smart specialisation. As a direct result, DETI is in active discussions with several potential research partners, particularly looking at innovation strategy and our research and development strengths in Northern Ireland.

DEL participated in a contact seminar in Estonia in September on matching labour market and demands, which explored potential project ideas and future partnerships. DEL also established an EU framework support fund of £80,000 per annum to encourage universities to apply for funding from the framework 7 programme for research and innovation. Junior Minister Anderson and I met the European Commission in Brussels to discuss how we could contribute to and benefit from the European Year for Active Ageing and Solidarity between Generations 2012, particularly given the leading role of our own new Commissioner for Older People. Our social cohesion thematic group, led by OFMDFM, will also be taking forward that work.

### **OFMDFM: Constitutional Convention**

4. **Mr A Maginness** asked the First Minister and deputy First Minister whether there are any plans for their Department to be involved in the forthcoming constitutional convention in the Irish Republic. (AQO 1449/11-15)

**Mr P Robinson:** We understand that the Irish Government have decided to establish a constitutional convention and are in the process of determining the arrangements for it. Therefore, that is a matter for the Irish Government.

**Mr A Maginness:** I am disappointed with the response of the First Minister. There is a unique opportunity for Northern Ireland, through the Office of the First Minister and deputy First Minister, to have a direct input into the reshaping of the Irish constitution. I would hope that the First Minister will reconsider his answer in a positive way in order to reshape the constitution and give the people of Northern Ireland an input into doing that.

**Mr P Robinson:** Maybe the Member has not been following the same reports as I have, but my understanding is that the Irish Government are intent on inviting parties to make a submission. Therefore, the Member will have an opportunity, if he wants to take it up.

For my part, I want to have the best possible relationship with the Irish Republic. We have processes set up from St Andrews, which are being reviewed and will, obviously, be a matter for the Executive to determine. We clearly want to have a good relationship, but what the Irish Republic does with its constitution must be a matter, in the first instance, for the people of the Irish Republic.

**Mr Humphrey:** I thank the First Minister for his answer, which I warmly welcome. Rather than concerning ourselves with developments in the Irish Republic, in light of developments in Scotland, does the First Minister believe that there may be some value in considering a constitutional convention with the Scottish Government with a view to strengthening the constitution of the United Kingdom?

**Mr P Robinson:** One of the major constitutional differences between the Republic of Ireland and the United Kingdom is that the Republic of Ireland has a written constitution, and, therefore, the purpose of its constitutional convention will be to determine what questions, if any, it intends to ask of the electorate in the Republic. The United Kingdom has a living constitution that breathes, grows and develops as time goes on. It changes by determination of the Houses of Parliament or by precedent over time; it has changed significantly over the years and will continue to do so.

Developments in Scotland will be a continuing area of discussion. Whether it forms part of a convention or discussions with the Government of the United Kingdom, I hope that its purpose will be to strengthen the link between Northern Ireland and the rest of the United Kingdom.

**Mr Speaker:** Before I call Mr Allister, I warn all Members that supplementary questions should relate to the original question.

**Mr Allister:** The First Minister is probably aware that they have been considering a constitutional convention in Zimbabwe. Does he agree that it would be as irrelevant for OFMDFM to consider meddling and making representations to Zimbabwe as it would be in respect of a constitutional convention in that other foreign country, the Republic of Ireland?

**Mr P Robinson:** I will not get into the legalese of it all, but the Member will know from the 1949 Act the standing of the Irish Republic in relation to the United Kingdom. However, it will not be my intention to meddle in anybody's constitutional affairs, other than those of the United Kingdom.

### Police Ombudsman

5. **Mr Givan** asked the First Minister and deputy First Minister for an update on the appointment process for the Police Ombudsman.

(AQO 1450/11-15)

**Mr P Robinson:** The deputy First Minister and I have statutory responsibility for making a recommendation on the appointment of a new Police Ombudsman; we agreed arrangements for the appointment process late last year. The process is being conducted in accordance with the principles and code of practice of the Commissioner for Public Appointments and is subject to regulation by the commissioner.

The position was widely advertised in December, with a closing date for applications of 20 January. The selection phase of the process is well under way, and the appointment panel has now interviewed eligible candidates.

**Mr Givan:** I thank the First Minister for his response. The First Minister will know that the office has been plagued with controversy since its inception, not least on the Omagh report and other reports accusing the police of blame, which was entirely refuted. Therefore, does the First Minister agree that the individual appointed needs to be someone of the utmost integrity who will command the support of all stakeholders, including the police, in exercising their duties? What are the operating functions in that office?

**Mr P Robinson:** Nobody will be in any doubt about how difficult that post is for anyone to hold. Indeed, at one stage, it was even considered that someone of judicial standing might be the most appropriate person to hold it. The deputy First Minister and I refused to be involved in the process until we were given a list of people whom the panel believes to be suitable. We have been told that a large group of about 30 people wanted to be considered for the position of ombudsman. The panel interviewed about a dozen people, and we await its report.

I pay tribute to Al Hutchinson's work as Police Ombudsman and in his former role as Oversight Commissioner. In the most testing of circumstances, he has played a major role in policing in Northern Ireland, and I wish him well for the future and thank him for his contribution to Northern Ireland.

3.00 pm

## Health, Social Services and Public Safety

**Mr Speaker:** Question 15 has been withdrawn and requires a written answer.

### Suicide Prevention Implementation Group

1. **Mr McCartney** asked the Minister of Health, Social Services and Public Safety why the suicide prevention implementation group has not met its target of reducing suicide and self-harm.

(AQO 1461/11-15)

**Mr Poots (The Minister of Health, Social Services and Public Safety):** The Protect Life strategy was launched in the midst of unprecedented increases in suicide rates, which have had an almost immediate impact on the potential for achieving the 15% reduction in suicides. The reduction target is based on a three-year rolling average. Therefore, it will not be known for definite until September 2013 whether the target has been met. However, given recent trends in suicide rates, it is most unlikely that that target will be achieved. Suicide is a societal issue, and many wider social factors beyond the remit of the Protect Life strategy influence suicide levels in our communities.

The Northern Ireland Audit Office has noticed that the suicide rate alone is an unreliable indicator

of health patterns and has acknowledged the difficulty of assessing the impact of Protect Life on suicide levels. In view of that, new objectives and measures are being developed. They will allow for a more balanced assessment of the impact of Protect Life, while retaining the overall goal of a reduction in suicide. Those will be set out in a refresh of the strategy, which is to be published next month.

**Mr McCartney:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer. In understanding the complexity and sensitivity of the issue, can the Minister outline whether he is confident that the measures that he has in place will ensure that the 15% reduction will be met in the coming years?

**Mr Poots:** Regrettably, as it appears at this moment in time, that will not be the case. There may be a range of reasons associated with that. However, actions that have been taken have been helpful and, I trust, will prove to be helpful in the work that is being done.

The Protect Life strategy was published in 2006, and the reduction target was set against a lower suicide rate recorded before 2005. There were sharp rises in local suicide rates. In fact, the rate is around double what it was six years ago. Clearly, that is a major issue that we need to tackle and address. We need to have greater connectivity across the groups, and we need to spend the resources that we have more wisely. We also need to work very closely between the statutory and voluntary sectors. The voluntary sector is a very willing community, which wants to do something about the suicide rate. We need to make best use of that willingness to ensure that we get better results.

**Ms P Bradley:** I thank the Minister for his answer thus far. As most of us know, alcohol and drugs can be a major contributory factor in the number of suicides. Will the Minister tell us what he is doing to address alcohol and drug misuse?

**Mr Poots:** I launched the New Strategic Direction for Alcohol and Drugs, which is a cross-sectoral strategy to reduce the harm caused by alcohol and drug misuse. We are allocating around £8 million to its implementation each year. It seeks to direct action across five pillars: prevention and early intervention; harm reduction; treatment and support; law and criminal justice; and monitoring, evaluation and research.

We are particularly concerned about the price of alcohol. We are working very closely with Scotland and the Republic of Ireland on the issue. I am delighted to see that David Cameron has come on board and appears to be overruling Andrew Lansley in terms of bringing it in for the rest of GB. Let us hope that we can make a real impact. Around one third of people in the United States of America who took their own life were found to have alcohol in their system. It is known to be a depressant, and it has a considerable impact. Our psychiatrists indicate that there is considerable negative impact as a result of harmful consumption of alcohol.

**Mr McGlone:** Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as ucht na bhfreagraí sin. I thank the Minister for his responses to date. What work has been carried out by the suicide prevention implementation group with students of secondary-school age? That is very valuable work.

**Mr Poots:** The suicide prevention group meets on an ad hoc basis, and it responds to issues that require cross-departmental action. There are representatives of the schools sector on that organisation and a fairly close working relationship has been established. We have people who go into schools to discuss suicide issues with young people and to seek to give them some guidance and direction on that. So, a considerable amount of work is being done through the cross-departmental working group and the suicide prevention implementation body.

## Women's and Children's Hospitals, Belfast

2. **Mr G Kelly** asked the Minister of Health, Social Services and Public Safety for an update on the new women's and children's hospitals at the Royal Hospitals site, Belfast. (AQO 1462/11-15)

**Mr Poots:** The new critical care building at the Royal hospital site is due to be completed at the end of October 2012. Following a period of clinical commissioning, it is anticipated that the building will become operational on a phased basis between May and July 2013. The top three floors of the building will house postnatal beds and maternity outpatients together with the new maternity building linked to the critical care building. That will be the new women's hospital. The new maternity building will be completed in 2014. The children's hospital will be delivered as a separate project, and as



a first step in the process, I have asked the Belfast Trust to complete a strategic outline case by April 2012, which will outline the options for the delivery of this much-needed project.

**Mr G Kelly:** Thank you for that answer. Bearing in mind that the Belfast Trust has a proposal to make the unit in the Mater Hospital a midwifery-led one, which is looked upon in north Belfast as a downgrading of its use, will the Minister guarantee the workers there that there will be no job losses, and also guarantee the future services of the Mater as a front line hospital?

**Mr Poots:** A number of issues arise from that. First, it is considered that the best maternity services for the people of Belfast can be provided at the Royal Jubilee Maternity Service site, given the economies of scale in the staffing of that facility and having the appropriate people there at all times to cover the needs, because babies do not come between nine and five each day; it is a 24-hour task. However, I have made it absolutely clear to the Belfast Trust that, in the first instance, the building needs to have the capacity to do that. I understand that that is the case. Secondly, the existing building needs to be maintained in an acceptable way until the new building is opened. That was not the case last week when we heard about the issue. I do not believe that that should happen again, and I do not reflect on it very positively. Thirdly, we must ensure that other aspects of care, not just the obstetricians, and so forth, are fit for purpose throughout the system. So, in all of what is going out to the public now, those matters need to be addressed to our satisfaction in order to move this matter forward.

**Mr Humphrey:** How much of a priority does the Minister consider a new regional children's hospital to be? Would he consider encouraging ministerial colleagues to support a flagship project for the Executive? Should more capital funds and resources be made available from the Executive?

**Mr Poots:** I should declare an interest in the children's hospital, as someone I know quite well works there. Nonetheless, I have visited the site as an individual and as Minister, and it is blatantly obvious that it is not the type of facility that we want for our regional children's hospital in the future. As I indicated, I asked for a piece of work to be done by April this year to look at identifying ways forward.

We do not have it set out in the Budget as things stand, but I believe that we must identify a way to deliver a children's hospital and to commence work on that facility, because what we have at the moment is not fit for purpose to lead us into the future. I am committed to identifying a solution for the children's hospital. There has been £8 million set aside to develop this, starting in 2014-15. However, I need £200 million, not £8 million. That will not take us anywhere. There was little point in setting that amount of money aside in the first instance.

**Dr McDonnell:** I thank the Minister for his good news on the potential opening of the new Royal hospital site, particularly the maternity side. May I ask the Minister to comment on the bottlenecks that will still exist even after that? A couple spring to mind. First, there does not appear to be a dedicated scanner in the children's hospital. Secondly, at the mundane end, there needs to be an increase in car-parking facilities. Anytime I try to park at the Royal Victoria Hospital, it is a nightmare. Will some mechanism be put in place to ensure that the plant, with the new buildings and all the rest, is allowed to function to its fullest capacity?

**Mr Poots:** I thank the Member for his two questions. I will deal with the car-parking issue first. Clearly, there has been a problem at the Royal hospital for a very long time. Reviewing our health service gives us the opportunity to transfer some of the work that is done at the Royal site to some of our smaller hospitals. The Royal hospital needs to be a centre of excellence. It needs to be the centre of excellence for trauma, emergency care, emergency operations, and so forth. It does not need the site to be clogged up with people coming into clinics that could be easily conducted at other sites. The Belfast Trust has to look at how the site can be rationalised as the specialist hospital.

I am continuing to look at the issue of the MRI scanner. Obviously the issue is less about buying the scanner than the running of it. I have asked to see a copy of the business plan to see whether we can find a way forward. Specialists are facing delay in the evidence base for children's conditions, and that should give us all concern. Therefore, we need to look very closely at addressing the issue of having a dedicated MRI scanner.

## Belfast City Hospital

3. **Mr McGimpsey** asked the Minister of Health, Social Services and Public Safety whether he can give an assurance that there are no plans to sell Belfast City Hospital. (AQO 1463/11-15)

**Mr Poots:** I can confirm that there are no plans to sell Belfast City Hospital.

**Mr McGimpsey:** What discussions, if any, concerning the Belfast City Hospital site, including the tower block, the cancer centre, the renal centre, the medical school and the blood transfusion centre, have taken place with the private sector in respect of sale and lease back, a private finance initiative, public/private partnership or any other financial arrangement with a view to raising money to address health service needs?

**Mr Poots:** If those discussions have taken place, I am not aware of them and have not approved them. I do not have any intention of going down that route.

**Mr Dunne:** Following the enforced closure of the A&E at Belfast City Hospital, how has the Royal Victoria Hospital emergency department fared in comparison to previous years? What has been the impact on the Ulster Hospital at Dundonald?

**Mr Poots:** There have been particular pressure points over recent weeks. Actions have been taken to deal with those in the Royal and the Ulster Hospital. Aside from the specific pressure periods, the numbers of excess waits at the Royal, the Mater and across greater Belfast have often been less than the total in previous years, when Belfast City Hospital was included in the network totals. The clinical leaders have reported the benefits of concentrating extra staff on the Royal site. They believe that they get better outcomes for patients by having the appropriate levels and skills base at the site to deal with the issues that come before them.

**Mr Speaker:** Order, Members. Before I call Dolores Kelly, I will say that a number of Members certainly know what they are doing. Their supplementaries do not relate to the original question in any way. Let me say — I warn all sides of the House — that, should it happen continually, Members will be asked to take their seat and I will move on. Members are obviously not heeding the warnings.

**Mrs D Kelly:** In relation to the waiting times for A&E admissions and the impact on the Ulster

Hospital at Dundonald, does the Minister have any assessment of the impact on waiting times of the closure of A&E at the City?

**3.15 pm**

**Mr Poots:** When compared with January 2011, there was an increase in the number of new and unplanned review attendances in the individual emergency care departments in the Belfast Trust area and in the Ulster Hospital. The Royal Victoria Hospital reported the most notable increase of 1,689 attendances, which is a provisional figure. The Ulster Hospital showed an increase of 286 attendances. So, there obviously were additional pressures. For whatever reason, additional people had to be hospitalised this year, which created problems. Sometimes, what comes out in A&E figures is not that there is a problem in A&Es but that there is a problem with capacity at the hospitals. Those issues need to be addressed by ensuring that patient flows are good, that more patients are discharged in the morning period, which will allow better flows from A&E, and so forth. All those issues are constantly being updated and reassessed.

**Mr Speaker:** Once again, before we move on, I want to say that I can understand why the Member went down the road that she did with her supplementary question. It was certainly in reply to the Minister's last answer. I am just clarifying that issue. Although the Minister decided to answer the supplementary question, I certainly question whether it was related to the original question. I am just warning the whole House.

## Community Pharmacists

4. **Mr Wells** asked the Minister of Health, Social Services and Public Safety what role community pharmacists will play in the evolving new healthcare model. (AQO 1464/11-15)

**Mr Poots:** The 'Transforming Your Care' proposals envisage a changing healthcare model that will move the care of patients as close to home as possible. The focus on community-based care is an opportunity for community pharmacists to strengthen their role in improving medicines management for patients, particularly those with long-term conditions; helping to minimise waste; contributing to avoiding unnecessary hospital admissions due to medicines-induced morbidity; and preventing conditions deteriorating by improving concordance. It is a model of care

based not on prescription volume and product supply but on health outcomes for patients and on working as a member of the integrated primary care team. The proposals also hold an expanded role for pharmacists in the arena of health promotion in community pharmacy settings and the wider community. That should embrace a community development approach to health and well-being, for which there is good practice and evidence through the existing Building the Community-Pharmacy Partnership programme.

Given the accessibility that community pharmacy provides to the population, it is uniquely placed to support the delivery of health improvement measures, taking into account its unique opportunity to interact with patients and the public to influence health and well-being. Subject to negotiation, it is intended that a new community pharmacy contract will be put in place that will allow pharmacies to offer help to patients in a range of areas such as medicines management, smoking cessation, health screening and medication reviews in care homes, all of which are very much in line with the proactive community-based approach set out in 'Transforming Your Care'.

**Mr Wells:** The Minister is aware that crucial discussions took place between community pharmacists and his departmental officials on Friday. Is he in a position to outline how much progress has been made, given the apparent impasse between the two parties and the difficulties between the Department and pharmacists in recent weeks, which, of course, have led to various court actions? Can he bring us up to date on the current situation?

**Mr Poots:** I thank the Member for his question. That is something that has caused me a considerable degree of angst. It happened in the previous mandate, and with the judicial review, I was not able to get involved in identifying a solution. Since early February, we have been able to get our teeth into things. I met Community Pharmacy Northern Ireland (CPNI) on 14 February, which was the earliest opportunity that we had after the final order was made in respect of the judicial review. Since then, there have been several further meetings between representatives of CPNI and my Department's permanent secretary. We are making good progress. We have had less than a month to deal with the issue, and I hope that we deal with it in less than a month.

**Ms S Ramsey:** I agree with the Minister that community pharmacy is an important component of healthcare. Can you state whether you are going to appeal the ruling of the judicial review? I appreciate that negotiations are ongoing and that you may not be able to go into detail.

**Mr Poots:** We are considering appealing the findings of the judicial review. However, it is more important to find a new and sustainable way forward for community pharmacy, and I believe that that can be achieved through dialogue and negotiation. Some of the issues relating to the judicial review would have an impact on other Departments. I am discussing those matters with the Departmental Solicitor's Office and the Attorney General to find the best response that we can make on behalf of the Northern Ireland Government. However, that does not and should not prevent us from reaching a negotiated settlement with the pharmacists on a way forward.

I see this in two spectrums. First, we need to deal with the here and now and the existing problems that pharmacists have in the service that they provide. Secondly, we need to look to the future and how pharmacists can help us with 'Transforming Your Care' in bringing care closer to home and in moving the hub of care to the home as opposed to the hospital. I believe that pharmacists have a great future and can greatly assist us in providing excellent care very close to people's homes.

**Mr McCarthy:** Last week, the Health Committee discussed community pharmacy, and I have a file that contains examples of how stressed and strained community pharmacy is out in the country. They have provided an excellent service for years and years. Unless and until the Minister does something immediate —

**Mr Speaker:** Can we have a question?

**Mr McCarthy:** How soon can the Minister get above what is going on at present and give the community pharmacy service that is there the confidence to carry on with the good work that it has done?

**Mr Poots:** I thought that I had already dealt with that question. I said that I had less than a month to get to grips with the issue, and I hope to get to grips with it in less than a month.

**Mr Cree:** Are there any training implications in the enhanced role for community pharmacies and how does the Minister intend to manage that?

**Mr Poots:** There is a huge untapped skills base of highly qualified people, and we are not making best use of them as things stand. Too much of a pharmacist's time is spent dispensing drugs. We need to change that and have pharmacists on the front line, providing a service. There is a considerable number of services that pharmacists can be involved in, and we wish to negotiate with the pharmacists how they might play that greater role and how they might help us in delivering our aim, which is to take people out of a hospital setting, as far as possible, and deal with them in a community setting. There is a considerable skills base already, and if further training is required in certain areas, we can look at that. However, we are dealing with people who are very well qualified to do considerably more than what is being asked of them or what they are allowed to do.

## Carer Support

5. **Mr Kinahan** asked the Minister of Health, Social Services and Public Safety what support his Department offers to people who care for family members. (AQO 1465/11-15)

**Mr Poots:** Carers are individuals with their own needs, and they need real choices, based on their circumstances. A carer's assessment is the gateway to assessing support services. My Department has introduced the regional carer's support and needs assessment tool, which facilitates the assessment of each carer and provides them with opportunities to discuss their own specific needs, allowing trusts to identify any support services that they may require. In response to assessment, a range of support can be put in place, including the provision of information and advice and putting carers in touch with support organisations or more traditional support such as respite.

**Mr Kinahan:** I thank the Minister for his answer. Will he give his overall assessment as to how much he believes carers save the public purse in Northern Ireland each year? Does he believe that the current carer's allowance of £55.55 for a minimum of 35 hours, or £7.95 a day, reflects that?

**Mr Poots:** It is hard to put a figure on the scale of the work that carers do. I want to make it clear that if we were to ask the statutory

sector to do what is being done by carers, this country would be broke; we simply could not do it without carers. Therefore, it is important that we first listen to carers. That is important in identifying the needs of individuals, as carers will know more about the circumstances and the condition of the individual and how best to treat that condition than anyone else. We should also ensure that carers are involved in care plans and are offered appropriate respite so that they are sustained and remain able to carry out the wonderful service that they provide.

**Mr Irwin:** What changes are expected for carers following the Compton review?

**Mr Poots:** 'Transforming Your Care' places a strong emphasis on improving the choice and control of care for individuals and their families. We expect to see that developed over the coming year through initiatives such as direct payments and the personalisation agenda, which will place service users and carers at the centre of their own service design and planning. We will also consult carers and patients as partners in care and increase their independence and flexibility. The Health and Social Care Board is implementing the recommendations of its report on respite care, which are aimed at improving the consistency of approach and access to respite across Northern Ireland.

**Mr P Ramsey:** Minister, this morning in Parliament Buildings, there was a book launch for 'The Hidden Voices of Kinship Carers'. At that event, we heard personal stories about the dilemmas and the complexities that are faced by kinship carers when they take on siblings or nieces and nephews. Like me, will the Minister acknowledge the huge contribution that kinship carers make across Northern Ireland? Does he accept that there is a need for proactive programmes of activities that will give support to kinship carers across Northern Ireland?

**Mr Poots:** That was very ingenious. I was with the folks who provided the briefing this morning on kinship care. We intend to look at the adoption legislation to see how we can legislate to facilitate a greater role for kinship carers. We see that as a way forward. To be perfectly honest, I do not think that keeping children in care homes delivers the best outcomes. We need to look at other methods, and kinship care is fairly high up there in how we will respond.



## Omagh Enhanced Local Hospital

6. **Mr McElduff** asked the Minister of Health, Social Services and Public Safety to outline the services that will be provided at the new enhanced local hospital, Omagh.

(AQO 1466/11-15)

**Mr Poots:** Phase one of the business case for the new enhanced local hospital in Omagh has been approved and will cost £80 million. It will provide the following services: an intermediate care ward and palliative care facility; an urgent care and treatment centre; a cardiac assessment facility; a day surgery unit; imaging and diagnostic services; outpatients' services; clinical investigation services; a children's centre; a women's health unit; renal services; allied health professionals in a range of disciplines; accommodation for a GP practice; a GP out-of-hours service; a health and care centre; and a range of support services, such as medical records, pharmacy and pathology.

**Mr McElduff:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his answer. Is he fully aware of the success that is the cardiac assessment unit at the Tyrone County Hospital? Will he commit to developing that facility further and to providing all the necessary support for it into the future?

**Mr Poots:** I am well aware of the success of that service. Indeed, Donna, the nurse who leads it, was commended the year before last by the Royal College of Nursing for her leadership in taking that initiative forward. It has been such a success and has provided such a good service that our former colleague Dr Deeny, who was previously critical of things, wrote to the newspapers in support of what was happening there.

**Mr Byrne:** Will the Minister confirm that, as originally envisaged in the business plan, there will be a mental health facility in the new hospital? Thank you.

**Mr Poots:** We are looking at the provision of the mental health facility in phase two. The cost of that facility will be about £23 million, and the provision of inpatient acute mental health care and addiction services is under review by the Health and Social Care Board. A separate business case, setting out the final proposals under phase two, will be required and is not part of this £80 million development scheme.

Nonetheless, we will look at that provision in due course.

**Mr Speaker:** That concludes Question Time.

**3.30 pm**

**Lord Morrow:** On a point of order, Mr Speaker. We have just come through another Question Time, and I wish to raise the issue of questions that were submitted in writing but remain unanswered. Practically 90% of the questions submitted to the Department of the Environment are not answered on time. As a matter of fact, I have had a question outstanding with that Department since last September. Can you do anything at least to encourage Departments to facilitate Members in carrying out their duties as MLAs here? We do not ask questions for the sake of asking them; we ask them to ensure that we can carry out our function successfully as MLAs. Is it acceptable that one Department now runs at nearly 90% late? It will soon be that it will not answer any questions on time at all. I suspect that its next move will be to refuse point-blank to answer questions.

**Mr Speaker:** I thank Lord Morrow for his point of order. I am always happy that Members raise such issues in the House, including the issue of late answers to written questions. As Lord Morrow will know, as does the Business Committee, I have written to the First Minister and the deputy First Minister about that matter, as well as other Ministers. I have also sent a letter to the Committee on Procedures, asking it to look at the situation.

As Lord Morrow knows, I have no real power to resolve the issue. I always encourage Ministers, especially the First Minister and the deputy First Minister, through the Executive, to look at this issue alone. A number of Members have raised it in the House. It is only through frustration that Members have no option but to come to the House to highlight the issue. I intend not only to write to the First Minister and the deputy First Minister about the matter but to speak to them about it when I meet them again. It is a big issue, and we must try to resolve it.

**Mr Dallat:** On a point of order, Mr Speaker. You will remember that, during questions to the First Minister, parallels were drawn between the Republic of Ireland and Zimbabwe by the Member for North Antrim Mr Allister. Do you agree that that was, at best, disgraceful and, at worst, appalling, given that Zimbabwe is guilty of

tens of thousands of murders and has famine on a desperate scale? It bears no relationship to the Republic of Ireland. This should not have happened in the House.

**Mr Speaker:** I hear the Member's point of order. Oh dear, if I were to get involved in every issue and comment that Members made in the House, I could probably write a book about them. Members from all sides of the House will know that I do not generally get involved in comments that Members make, except when unparliamentary language is used or comments are made that go beyond the debate. It is very difficult to sit in judgement on the point of order that the Member rightly makes. It is certainly not for the Chair to judge on comments that are made generally in the House, especially in the cut and thrust of debate.

## Executive Committee Business

### Marine Bill: Second Stage

*Debate resumed on motion:*

*That the Second Stage of the Marine Bill [NIA 5/11-15] be agreed. — [Mr Attwood (The Minister of the Environment).]*

**Mr McGlone:** Gabhaim buíochas leis an Aire as ucht an Bille seo a thabhairt os ár gcomhair inniu. I thank the Minister and his officials for their hard work in bringing the Bill before us today. It deals with the protection of the marine environment, potentially for many years to come. Such a strategic, plan-led system is important to us all as we seek to preserve, conserve and, indeed, sustain that marine environment.

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

The Bill touches on a number of issues. Officials gave a presentation to the Committee for the Environment last week, and I was glad to hear about the positive working relationship that they have established with other Departments. Let us hope that that continues, because there will be tremendous overlap with the responsibilities and duties of other Departments. The Bill raises issues specifically on matters that are the responsibility of other Departments and, indeed, the responsibility of the Department of the Environment itself. The Bill says that the Department has to take all reasonable steps to ensure compatibility between a marine plan and any related terrestrial development plan. That, clearly, has consequential effects on development plans and area plans, as they may be known in those areas, and planning policy statements. There may well be a read-across or implications that are internal to the Department with the development of a Marine Bill. I am sure that the Minister will take those comments and views into consideration as the Bill evolves.

Specifically with regard to the strategic plan-led system to inform people, stimulate interest and generate confidence in the process and the decisions that we make in the marine area, I have one cautionary word at this point. When we come to sea or, more importantly, land in Irish waters or in Ireland, it is important that all sensitivities around land ownership are fully acknowledged as part of the consultation

process and that proper consultation takes place with commercial or other business interests or, indeed, other voluntary and community interests. I am sure that the Department will do that. Co-operation will be key, as will be the introduction of Bills.

The marine plan to identify the relevant activities in certain areas, look at changing economic and social trends and an area's resources and changing ecosystems will have to take into account interests that may sporadically arise around the shore, on the shore or offshore. Those interests could be as far-ranging as fishing interests, quarrying interests or, indeed, other renewable energy interests, as well as the normal conservation and environmental interests that impact on the development of the marine offshore and that bit of it that is onshore. As we heard on Thursday, other Departments, including DARD, DRD, DETI and DCAL, have all had a significant input during the preparation of the marine policy statement.

**Mr Campbell:** I thank the Member for giving way. He touches on an issue that has been raised by several Members during the debate, which is the complexity of a Marine Bill and of trying to ensure that it works fluently and to the benefit of everyone concerned. Does he agree that the success or otherwise of the Bill will, to a large degree, depend on each of the relevant Departments working cohesively to deliver a Bill that people will trust and rely on for generations to come?

**Mr McGlone:** Absolutely, and I thank the Member for his intervention. That will be key to it. Not only that, but Departments and external bodies, including voluntary organisations, landowners, businesses and other social interests all have an input into how a marine management organisation comes together and performs its full functions to ensure that there is collaboration. They all have an input into the working of the Bill. As I mentioned at the start, good co-operation and collaboration will be the key to the success of the Bill and the future of the marine environment.

I was seeking to expand on that very point about the Departments. Their work does not stop within our jurisdiction. The Department of the Environment has liaised and co-operated with officials at the Department of the Environment, Community and Local Government in Dublin, and, indeed, the SDLP will meet Minister Phil

Hogan very shortly. The Bill will be among a number of issues raised with him of key environmental concern and benefit to us all. We do not and should not forget that, although the North is important to us all, it is but a small bit of this island, and the conservation and preservation of the marine environment has to consider and factor in real and important all-island consequences.

Other issues have arisen, including managing competing interests in the marine area. We have already mentioned that a key part of that must be collaboration between Departments and external bodies, as all will fill the role in the marine management organisation.

It is important to consult key stakeholders on the marine conservation zones. You were at a recent meeting of the Environment Committee, Mr Principal Deputy Speaker, at which we saw that people travel along different pathways to get to the one point. I am talking about modiolus modiolus and the debate between local conservation interests — some regard them as not local but regional conservation interests — and fishing interests. Perhaps — I say “perhaps” — a different approach could have reached a point of accommodation more quickly. Therefore, that consultation and how it is managed will be vital.

I turn to the time frame for the delivery of the network of marine conservation zones. We have heard that Strangford lough is set to become one of the first. It may provide us with some concept of how best to revisit the issue of consultation with and collaboration between all the interests on that lough. It may provide us with a new starting point at which those interests, which became competing interests but should not have, will have an opportunity to start afresh without notes being fired off to Europe. Maybe people from the one region could work more closely together to achieve a very positive outcome.

That brings me on to my next point: effective engagement with key stakeholders. I have sought private reassurances — I am sure that the Minister will elaborate on this, too — that it will not become a fisheries management tool but that fisheries' interests will be worked with as part of the management and the way forward.

We have heard about how important the marine management organisation is. The key issues are to avoid duplication of effort and expenditure;

to work collaboratively between Departments; to engage in research; to ensure that there is one focus point for management; and to make sure that we have good collaborative working. There is the potential for management by silo. Thankfully, we heard that we will not take that negative route. That is not where any of us want to go. While a sectoral approach exists, it would prove very useful for the marine environment if all the interests were to work together in that marine management organisation. I am sure that the Minister will elaborate on how that will deliver marine planning and deal with licensing, enforcement and the management of migratory fisheries or other such zone management issues. Key economic, social and environmental interests all merge into one as we seek to conserve and preserve and develop our marine environment and, indeed, positively to develop it.

With such matters, there will always be debate on what the cost might be. I will ask my colleague to elaborate on that. To me, however, it is not a cost but an investment in the future of our marine environment to ensure that we, as legislators and politicians, leave to the people of this island a positive legacy of a clean, bright and developing marine environment in which things are nurtured and sustainability not only remains static but improves.

### 3.45 pm

**Mr Allister:** The Bill — it is not unique in this — leaves a number of unanswered questions. The first unanswered question arises from the very first line of clause 1:

*“In this Act the ‘Northern Ireland inshore region’ means the area of sea within the seaward limits of the territorial sea of the United Kingdom adjacent to Northern Ireland, including the bed and subsoil of the sea within that area.”*

The question that that immediately raises is this: does that definition include Lough Foyle or any part of Carlingford lough? The Minister has been clear that there is no doubt that it includes that almost inland lough, Strangford lough, but he has not yet given us the benefit of his opinion as to whether or not the Bill extends to Lough Foyle, for example. Of course, historically and legally, in proprietary terms, Lough Foyle falls within the control of the Crown Estate. The historical and legal position is that that extends not only to the seabed but to the high water mark on the Donegal side. It seems to me, from reading the Bill, that it does not even attempt to

extend itself to Lough Foyle. Is that right, or am I wrong about that? Will the Minister expound on that for us?

Clause 1(5) states:

*“The boundaries between the parts of the territorial sea of the United Kingdom adjacent to Northern Ireland and the parts not so adjacent are to be determined by reference to an Order in Council under section 98(8) of the Northern Ireland Act 1998”.*

Of course, there is such an order; I have a copy of it in my hand. It is the Adjacent Waters Boundaries (Northern Ireland) Order 2002, but it does not answer the question of where the boundary is — if there is any — that applies to Lough Foyle or Carlingford lough. Clause 1(5), by making reference to the order made under section 98 of the 1998 Act, does not really take us any further. Is it the situation that, whereas Strangford lough will be regulated, either by light touch or heavy touch, any part of the waters of Carlingford lough and Lough Foyle are beyond the remit of the Bill — by design, it would appear? We need to know what the Minister says about the geographical extent of the Bill in respect of the inshore waters to which it purports to extend.

Irrespective of precisely where the Bill extends, does the Minister accept that it does nothing to change the ownership of the seabed or the foreshore and that that still lies within the Crown Estate, or is that contention challenged? I notice that, in last week’s ‘Londonderry Sentinel’, there was fresh controversy about the extent of ownership and who has the ownership of Lough Foyle, with the Republic of Ireland Minister claiming that the Foyle shore is Irish, as he gives consent to a discharge within it. The newspaper properly pointed out the historical and legal position, which, in fact, probably prevented the infrastructure for the Kelvin project coming up Lough Foyle because of the dispute about the ownership of it.

If we are to have a Marine Bill, we need clarity from the Minister and the Executive about whether or not it extends to either Carlingford lough or Lough Foyle. If it does not, why not? Those are issues that the Minister needs to explain to the House as the Bill proceeds. Clause 2(2) says:

*“Where a marine policy statement governs marine planning for the Northern Ireland inshore region, the Department must seek to ensure that every part of that region is within an area for which a marine plan is in effect.”*



In clause 2, we have a statutory duty, almost, on the Department to “seek to ensure” that every part is covered. Yet, we have, it would appear, this lacuna around whether Lough Foyle and Carlingford lough, in the first instance, ever even come within the ambit of the Bill. I repeat that we need confirmation of the position as the Bill will be applied.

Some of the wording in the Bill puzzles me. Staying with clause 2, I note that the first such phrase arises in subsection (5). It has just set out what a marine plan is. Subsection (4) says that that:

*“must identify (by means of a map or otherwise) the marine plan area”.*

Subsection (5) goes on to say:

*“Unless relevant considerations indicate otherwise, a marine plan must be in conformity -*

*(a) with any marine policy statement”.*

And so it goes on. However, what are the words “Unless relevant considerations indicate otherwise” meant to mean? Whose standards does one apply to whether there are relevant considerations to indicate that the marine plan need not be in conformity with the marine policy statement? I do not think that we can draft and pass a Bill that is as vague and uninformative as that, with a let-out clause to say that there are certain circumstances, which are not specified, in which a marine plan may not have to comply with the marine policy statement. So, what does it mean when it says:

*“Unless relevant considerations indicate otherwise, a marine plan must be in conformity -*

*(a) with any marine policy statement”?*

Is that a totally open-ended statement to be interpreted on a whim based on whatever the particular circumstances are? Are there any parameters for how it is to be interpreted? By whose standards is it to be interpreted? “Unless relevant considerations indicate otherwise” just does not tell me anything about the circumstances in which, definitively, you can decree that a marine policy does not have to conform with a marine policy statement.

I want to tie that observation to some of the content of the Bill in relation to the capacity for legal challenge. One can see straight away just how open to legal challenge the meaning and interpretation of phrases like “Unless relevant

considerations indicate otherwise” would be. That makes it very germane to enquire how challengeable, under the Bill, issues are that inform the content or otherwise of a marine policy statement. Are they or are they not challengeable under clause 8(4)? It would seem not, and I will explain that now.

Clause 8 is an interesting one. It has to be read with clause 9. On the validity of marine plans, it tells us:

*“(1) This section applies to—*

*(a) any marine plan ...*

*(2) Anything falling within the ... subsection ... is referred to in this section as a ‘relevant document’”.*

So, a relevant document is a marine plan. It goes on then to say:

*“(3) A relevant document must not be questioned in any legal proceedings, except in so far as is provided by the following provisions of this section.”*

The section allows an aggrieved person to make an application to the High Court if the document:

*“is not within the appropriate powers”*

— in other words, if it is ultra vires — or if:

*“a procedural requirement has not been complied with.”*

Those appear to be the only grounds on which a marine plan can be questioned in any legal proceedings. Straight away, we seem to have a lesser facility for judicial challenge under the Bill than we would have in common public law. Under judicial review, which seems to be ruled out by the clause, you could challenge a plan on the basis of what is called Wednesbury unreasonableness: the proposition is so unreasonable that no reasonable body, Minister or Department could have come up with it. The fundamentals of judicial review are that there is either procedural irregularity or what I have called Wednesbury unreasonableness. The effect of clause 8 and clause 9 seems to be to give a lesser opportunity for challenge than exists even under judicial review. Is that the intent of the Minister? Indeed, is that compatible with the article 6 duties under the European convention, where one has to have the right to a fair hearing to make your case? If you are an aggrieved person under a marine plan and you are told by clause 8 that your hands are tied behind your back in respect of aspects that

would be available to you otherwise, that raises the question of whether it is article 6-compliant. The Department needs to look at that.

The very issue of being able to challenge on procedural grounds is further diminished by what we read in clause 9. Whereas clause 8(4) says that an aggrieved person may make an application to the High Court because a procedural requirement has not been complied with, when we go to clause 9(3) and clause 9(4), we discover that it is not as simple as that. In order to succeed in court, you have to show that substantial prejudice is the reason for failing to comply with a procedural requirement. Clause 8(4) seems to give the aggrieved person the right to bring a High Court challenge if there is a procedural requirement that has not been complied with, but clause 9(3) and 9(4) say that he can succeed in that challenge only if he can show not just procedural irregularity but substantial prejudice by reason of procedural irregularity. Why is that? Why are the rights of an aggrieved person further diminished? At a stroke, his right to challenge on unreasonableness grounds has been removed, and even his right to challenge on procedural grounds is further diminished by raising the bar and saying that he must demonstrate substantial prejudice before he can succeed. You are not even guaranteed to succeed then, because clause 9(4) says that the court “may”, in consequence of the substantial prejudice, “quash the relevant document”. The bar is raised, and there is no guarantee of remedy. At that point, it is wholly at the discretion of the court whether you are afforded a remedy.

In clause 8 and clause 9, there are serious issues that need to be addressed. Why are we trimming back the already substantially reduced facilities under judicial review? If that can be done legally, the legislation seems to suggest that that will be the case.

Why are we trimming that back and raising the bar on the one surviving ground of what equates to a judicial review challenge, the procedural irregularity, by saying that that will only succeed at the discretion of the judge if you demonstrate substantial prejudice? There are issues there that need to be addressed.

#### 4.00 pm

I come back to clause 6, which provides for decisions affected by a marine plan, and states that a public authority, as defined in clause 46:

*“must take any authorisation or enforcement decision in accordance with any appropriate marine plan, unless relevant considerations indicate otherwise.”*

There is that phrase again. What does it mean that “unless relevant considerations indicate otherwise” the public authority must take enforcement action? In whose eyes must it be relevant to “indicate otherwise”? Is it simply in the eye of the beholder? Is it in the eye of the public authority? Is it an objective or a subjective test? If it is simply in the eye of beholder, the Department or the public authority, it would appear to be just a subjective test. So I caution against putting into the Bill language that is so imprecise in meaning.

When you look at what is a public authority, does it include the Loughs Agency? Maybe the Minister will tell us. On the face of it, clause 46 may lead one to think that it does not. Is that because of this lacuna in relation to Lough Foyle? Perhaps not. That loose phraseology about “considerations” indicating “otherwise” needs to be tightened up.

Clause 6(4) states:

*“An ‘authorisation or enforcement decision’ is any of the following...the determination of any application...for authorisation of the doing of any act which affects or might affect the whole or any part of the Northern Ireland inshore region”.*

Issues such as the salmon nets off the north coast immediately come to my mind. Where in the Bill is the supremacy that determines whether the rights or powers given under the Fisheries Act (Northern Ireland) 1966 —

**Mr Principal Deputy Speaker:** I ask the Member to take his seat for a moment. I am sure that the debate is interesting to Members, but I remind the Member that the Second Stage debate is on the general principles of the Bill. The close, clause-by-clause scrutiny is for another stage. I ask the Member to take that into account.

**Mr Allister:** An important general principle of a Bill is whether it makes sense, adds up and whether it opens issues that are unanswered. I think that clause 6(4) raises questions of whether, for example, salmon net licensing will become a function to be exercised by a public authority. It may be that the Minister can shed some light on that.

Part 3 of the Bill concerns the designation of marine conservation zones, and here we come to a degree of difficulty that affects the entirety of the legislation. I am mindful that the Bill in its current form is due to the Marine and Coastal Access Act 2009, which was introduced at Westminster and is part of the matrix for all of this. The 2009 Act was the brainchild of the Labour Party and many parts of it were opposed by those who are now the Conservative Government. We have a Fisheries Minister whom I have heard say that, when it comes to marine conservation zones, his will be a light-touch approach.

If we are to have a patchwork of control that means that inshore waters are to be subject to an MCZ made by the Environment Minister in Northern Ireland — likewise the marine policy statement and the marine plan for inshore waters — but an MCZ for offshore waters beyond the 12-mile limit is to be made by the Secretary of State in Westminster, are we not courting the utmost conflict and difficulty because the reality is that, when you cross that line, you may well face total disparity in what is expected short of 12 miles and permitted beyond 12 miles?

Here is my biggest concern: when those who earn their living at sea — the fishing community that fishes the Irish Sea — go out to fish, they may be faced with more zealous, enthusiastic, heavy-touch regulation from the Environment Minister of this House up to the end of the inshore line and, beyond that, a lighter touch from the Secretary of State for Environment, Food and Rural Affairs. We should not shrug our shoulders about that and wait to see what happens. Why would we be in the business of putting structures and mechanisms in place that allow that to happen? Indeed, according to the Bill, there might be an MMO within the offshore but no MMO within the inshore.

Surely there is logic and sense in considering how to coalesce and ensure that the applied regulation is as uniform as it can be, a light touch and a heavy touch are not applied to the same Irish Sea and fishermen are not in the position in which they do not know what they can do here as opposed to what they can do somewhere else and are also subject to the most difficult self-policing. Does that not raise a challenge to the very fundamentals of the Bill? Why are there disparate, localised marine plans when we could have the certainty

of unified, some might say centralised, marine plans that would apply throughout the waters, inshore or offshore? However, the Bill is built on the foundation blocks of doing our own thing, never mind what might be just beyond the limit nor the difficulties that that creates for the fishing community. For me, that is a substantial concern about the Bill's *raison d'être* and why it is going in that direction.

The Minister touched on the following issue. Will he tell me whether I am right in my reading of clause 11(4), reading across to clauses 13(3) and 13(4), that Rathlin Island in my constituency could be included in a marine policy area? Given that it is an island, perhaps sharing a number of the features of the waters around it, could Rathlin Island, under clause 11(4), be part of the policy area? Perhaps the Minister can put my mind at ease, or perhaps he will confirm my fears.

I now turn to the enforcement section of the Bill. Clause 31 talks about a “person without lawful excuse” doing a prohibited act. I assume from that, and the Minister will tell me if I am wrong, that the onus of proving that it is no lawful excuse lies with the prosecution and to the standard of “beyond all reasonable doubt”, and that that would be part of the proofs that those prosecuting would have to take.

You then turn to clause 32(4), and you read:

*“It is a defence for a person who is charged with an offence under section 31 to show that ... the act which is alleged to constitute the offence was ... an act done for the purpose of, and in the course of, sea fishing, or ... the effect of the act on the protected feature in question could not reasonably have been avoided.”*

Will the Minister confirm that I am right to conclude that when that defence is raised, whereas the onus is on the defence in the raising of it, the standard of proof is only on the balance of probabilities and that the fisherman charged, for example, with a prohibited act, whose defence is that he was fishing and that he could not reasonably have avoided it, has to show that that is true on the balance of probabilities, and he does not have to show that beyond all reasonable doubt? With regard to how other legislation is normally framed, that is probably right, but I think it important to have that confirmed by the Minister.

I express some concern about clause 32(5). Clause 32(4) is the clause that I have just

read, about the right of a fisherman to raise a defence that he could not reasonably have avoided the damage caused. However, clause 32(5) then says:

*“The Department may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (4).”*

That, I must say, is a most draconian and inappropriate inclusion in this Act. You set forth a legitimate, lawful line of defence, passed as primary legislation in this House, but then you tuck into it, at clause 32(5), a provision that allows you, at a later date, to put your pen through it. I do not think that that is the right way to make law, particularly touching upon the rights of the individual that are enshrined in article 6 and everything else. So, I would like some amplification as to why the Minister thinks we need clause 32(5). It seems to me to be a clause that is most definitely open to abuse — not that I am suggesting that this Minister would abuse it, but it has been known from time to time for Ministers to abuse their position. Better to take temptation out of the way than to take the risk, and so I wonder why clause 32(5) is in those terms.

Those are some observations, but I come back to a fundamental issue. We are creating a process of legislation that will impose on the users of the sea, particularly fishermen, a great disparity of expectation and lack of uniformity as to what they are allowed to do where. Those are fundamental issues. Having raised those points, I look forward to the Minister’s response.

**Mr Agnew:** I am working on a private Member’s Bill, and I think I might run it by Jim before I present it to the House. I do not envy the Minister in having to respond to some of Jim’s points. Equally, I am glad that it is the Finance Minister, Mr Wilson, and the DUP’s Miss McIlveen who are marking my homework. I am not sure that I would like to give Jim Allister the red pen for my work.

#### 4.15 pm

To come back to the debate, I have an interest in this issue as leader of the Green Party in Northern Ireland and as a father. My young son, at three-and-a-half years old, has already got quite a keen interest in marine life, thanks particularly to the programme ‘Octonauts’. Recently, I have been watching the BBC series ‘Planet Earth’ with him, which is presented by

David Attenborough. We have watched a number of the ones that look at our oceans and seas, and David Attenborough inspires our wonder in the many species that live on and off our planet. However, all too often, Attenborough laments that those species, of which he articulates his wonder, are in decline, more often than not due to human activity. In fact, approximately 200 plant and animal species are lost every day, mostly due to human activity. I mention that programme because it reminds us of the treasures that we have but also cautions us about what we could lose.

The Marine Bill presents Northern Ireland with an opportunity to preserve and enhance the marine life in our seas. For that reason, I welcome the Bill’s Second Stage today and the discussion on these issues. There are, of course, various interest groups that have an interest in the Bill, such as conservation groups, the fishing community, the offshore renewables industry, the tourism industry and the shipping industry.

We need to seek a balance of needs. To date, we have not got that right. We recently debated the issue of *modiolus modiolus* in Strangford lough; a species so great it had to be named twice. Despite the various designations in Strangford lough, we have failed to properly govern it and have seen a decline in that species, a species that most other life in the lough relies on.

It is important that in governance, we look not just to the needs of now but the needs of future generations. My mum always taught me to leave things how I had found them, often when referring to tidying up after I had made a mess. To some extent, that principle is at the core of what sustainable development is all about. An often-cited definition of development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. In that regard, business as usual is not an option.

We have strong evidence of where we are failing to protect the species and habitats that currently exist, and the decline in numbers of many species is the best example of that. Indeed, only 4% of our seas is protected. I mentioned Strangford lough as being the most protected area that we have, yet failures have been highlighted in relation to that area. So, we need to go some way to improve our management of our marine environment.



Cathal Boylan stressed that this should not be a conflict between economic and environmental needs. If we are willing to look at the longer term and not just the here and now, we can do that. Look at Wales: the Government there have worked alongside the fishing industry in getting marine protection that is beneficial to conservation and to the long-term sustainability of the fishing industry. When it comes to the renewable energy industry, I am as keen as anyone to promote renewable energy so that we see growth in that industry, jobs created and independence in our energy needs. However, we have to balance that with the need to conserve and protect biodiversity and habitat. To be fair, the renewable energy industry has a pretty good track record, certainly with onshore wind and working with the likes of the RSPB and the Department of the Environment to ensure that the development of that industry does not compromise the need to promote and enhance biodiversity.

In fact, there is no better project than SeaGen in Strangford lough, where all efforts have been made, including cross-working between the industry, the Department of the Environment and others, to ensure that it has not been detrimental to marine life. I remember that there were fears that the marine turbine could chop up dolphins, which was a legitimate concern because there were a lot of unknowns. I also heard the contrary view that the turbines would just sweep the dolphins along, and it would be almost like a playground ride for them. I am not sure that that is quite the case, but we have been able to show that marine life and offshore renewable energy technologies can go hand in hand.

The Bill has the potential to provide certainty to the renewable energy industry. The absence of a Bill and clear guidance on what we can do and where is detrimental. Clarity about the direction in which we are heading will give greater certainty to those seeking to invest in offshore renewables.

Coming back to the issue of protection, I intended to mention this when I spoke about Strangford lough. During the modiolus debate, the Isle of Man and Lundy Island's strong protections were mentioned. In fact, their going further than simply being permissive has allowed fish stocks to repopulate and brought benefits that conservationists as well as the fishing industry like to see. So coming back to Cathal Boylan's point, I feel that there does not have to be a

conflict between economic and environmental needs. Good governance will benefit all.

The Bill legislates for the production of marine plans and the creation of marine conservation zones. It is key that the two go hand in hand. There is fear in the environmental sector that although we may get a marine plan quickly, the marine conservation zones are still a long way off. A plan not based on conservation zones may not bring as much value as it could.

Equally, we have yet to see the nature of marine conservation zones and whether they will provide strong or less strong protection. There are highly protected areas in other UK legislation. To some extent, if those terms are not defined, they are just words. We need certainty about what terms will mean. What will a marine conservation zone mean? Will we, for example, have non-disturbance areas or no-take zones? Hopefully, the Minister will address those issues in his response, and we can also progress them as the stages of the Bill progress. Good governance is key, and the Bill is, perhaps, an acknowledgement that the governance of our marine environment is not as good as it could be.

The complex nature of the issue has been highlighted. The Departments and agencies that have an interest and, to some extent, a role in governance of our marine environment are many and varied. For example, DOE has responsibility for the protection of the marine environment and for combating climate change, to name just a few; DETI has responsibility for offshore renewables, undersea telecommunications and tourism; DARD has responsibility for sea fisheries and aquaculture; DCAL has responsibility for wild salmon fisheries; and DRD has responsibilities for ports and the disposal of sewage. So many Departments and agencies are involved that we are often left unsure as to who governs and who has responsibility for the protection of those areas. Where there is confusion, good governance can often fail.

That brings me to the issue of marine management organisations. I do not want to disappoint the Minister by not mentioning them, as he suspected that I would mention them. We have heard a lot of questions being asked about the cost of marine management organisations, and, rightly so, because finances are not limitless. We should always do a cost-benefit analysis of any proposal, but it is important to highlight the

costs that we are already incurring as a result of the current governance structures, which, in my view, are quite unwieldy.

Tony McCusker, a former deputy secretary of DOE and former director of policy with DARD, produced a report in which he estimated the cost of managing a marine environment to be around £7.1 million per year. His assessment of what it would cost for a marine management organisation was around £650,000 upfront, but by rationalising the number of agencies that have responsibility for our marine environment, we could save around £250,000 per year. So I would be interested to hear what advice the Minister has received in respect of the cost of an MMO and whether he agrees with those figures. If those figures are accurate — Mr McCusker has certainly high-level experience in these matters — then, as well as providing good governance, a marine management organisation may well be cost-efficient.

Before an MMO has even been established or we have even discussed what it would look like, it has been dismissed as a quango. We hear that term every time we want to knock a particular body. People say, “It is just a quango.” It is as if by saying that quangos are a bad thing, it means that this must be a bad thing. The same people who lambast quangos will defend and promote Invest NI, which is a very expensive quango with very plush offices in Belfast. The question is: does the benefit that it brings justify the cost? Rather than just saying that it is a quango, we have to look at what benefit a marine management organisation would bring, what the costs would be and whether a cost-benefit analysis will come out favourably.

As the Minister highlighted, we cannot have good governance without enforcement. It is important that any legislation and whatever bodies are required to enforce the legislation are sufficiently resourced. That means the Department of the Environment being sufficiently resourced and the Minister ensuring that the resources are adequately targeted in the right areas.

#### 4.30 pm

Under the legislation, there is a proposed maximum fine of £50,000 for breaches of the regulations. That would be a significant deterrent for most people. Mr Weir suggested that, in certain circumstances, we may be able to go beyond £50,000. I would like more information on that from the Minister. If so, in

what cases could we go beyond that amount? I am concerned about the proposals to drill for oil on and around Rathlin Island. When it comes to the oil industry, I fear that £50,000 would be seen as a necessary and acceptable cost of its working. If we look at the oil spill off Florida, the damage that was caused there and the billions of pounds in costs that were incurred by the company involved, £50,000 seems quite small. I have concerns about that. I think that £50,000 would be considerable for most users of our seas. However, when we have so many proposals for petroleum licences, I would want to ensure that we would have sufficient regulation to deter any poor-quality use of our marine environment or the damage or destruction of our environment.

I welcome the tabling of the Bill. To be fair to the Minister, he has outlined that we are already behind other regions of the UK. Mr Allister pointed out that England, Wales, Scotland and Northern Ireland will have separate pieces of legislation. It would have been preferable had we been able to go along with the Westminster timetable. As a new Member, I am not fully aware of the reasons why we did not do that. It would have been preferable, but we are here now, and it is about getting the best legislation.

We are behind the UK, and the UK Government — England and Wales, I should say — are already under significant pressure from the European Union to get their marine protection zones in place. Therefore we are at a considerable disadvantage, as we are a couple of years behind.

As is so often the case when we discuss these issues, we end up referring to possible infractions from Europe. It is regrettable that we often need that threat to motivate us. In these issues, we should be proactive in protecting the species in our seas. Mr Hamilton cautioned against going too far and being too restrictive, but we have been too permissive to date. If we continue with lax regulation and continue to allow destruction, we will have to be more and more restrictive in the use of our seas. It is better to tackle these issues early so that we do not have to go too far in future. The sooner we act, the better the outcomes will be. As I said, good governance of the marine environment can be beneficial to conservationists and industry alike.

We have a responsibility to the here and now, but we have a responsibility to future generations as well. I want to be able to tell my son that

when I was in the Assembly, we did everything that we could to promote and enhance the biodiversity of our seas and to prevent biodiversity loss and decline.

**Mr Attwood (The Minister of the Environment):**

I thank Members who contributed to the debate. This is a very important stage of the Marine Bill before it goes into Committee. It is an opportunity to scope issues on the policy or on the political side, because some of these issues end up being political and party political calls. Also, technical and legal issues were raised, particularly by Mr Kinahan and Mr Allister.

I hope to be able to answer Members in my response and that those answers will help to examine the scope of the Bill and to identify areas where we need to create certainty in the Bill if people feel there is no certainty at the moment. Mr Weir made the point that we have to get the details right, technically and in law, to ensure that we are performing within vires. We also need to get it right for future generations, as Mr Agnew said, and identify any issues in the Bill that will need to be addressed in its future stages.

I acknowledge and thank all those who contributed. There were some very thorough contributions, and I welcome thorough questioning and accountability. On a day when there have been a number of congratulations and best wishes offered to people outside the Chamber, I think it is only timely to convey best wishes to Mr Agnew for this week when his second child is expected. I hope that everything goes well.

I will deal with some of the specific points raised by Members and some of the general themes that were touched on in no particular order, but I will start with the comments of Anna Lo and Mr Boylan. They rightly pointed to the inclusion of a statement of public participation in the Bill, which is a very important principle. As Mr Boylan captured in his contribution, there is a difference between consultation, of which there is a lot in this part of the world, and participation, of which there is much less, in developing public policy.

The purpose of consultation is for it to be of such a quality and scale that it is participation and that it is not ticking boxes and consulting for its own sake. I think that the statement of public participation in the Bill is a model that we need to deploy more widely as we go forward, not least in local government reorganisation and

community planning. If there is no participation, planning — whether marine, community or commercial development — is a lesser creature than it should be and less fit to meet the needs of our community.

A number of Members, including Anna Lo, Mr Agnew and others, touched on enforcement. Good planning without good enforcement is not a good system. Whether it is environmental, marine or wider planning enforcement, if you do not have the resources and structures in place to pursue it, there will be places and times where planning does violence to the community and to its interests. I have tried to make it clear to officials that we must be robust on a case-by-case basis and that we need to identify how to enforce the range of enforcement issues on a more robust basis.

The environmental crime unit, which could have relevance in respect of the Marine Bill, the marine plan and marine conservation zones in the fullness of time, is a model that, in my view, needs to be escalated across the Department to ensure that the Department is seen to be fit for purpose on planning where there are still challenges and fit for purpose on enforcement. People — whether rogue fisherman, rogue developers, rogue farmers or whoever — must understand that if they are on the wrong side of the law, the weight of the law will come down upon them. I want to give that reassurance.

There were a number of comments in respect of the marine management organisation from Mervyn Storey, Anna Lo, Mr Agnew, Mr Kinahan and his colleague, who dissented from his view — he has joined us now — and, I understand, spoke on behalf of the party. Mr Agnew captured the issue very effectively when he pointed out that whatever the financial costs of an MMO, the financial risks to the public purse in the North, never mind the financial considerations, are acute.

The House debated the potential for infraction proceedings arising from the modiolus issue in Strangford lough four or five weeks ago. I made the point that that may yet come to bear on the Government in the North and that in the United Kingdom, infraction fines start at £8 million, with daily interest charges and penalties thereafter. Given the scale of infraction fines that are to be faced on agriculture, if the Agriculture Minister concluded that better management of agriculture through an agricultural management organisation could mitigate the risk of those

finer in future, I think that the Agriculture Minister might be minded to go in that direction.

Step back from the marine issue. Step back from the issue of fishing interests and all others who value and have an interest in marine issues. Given the scale of environmental regulation from Europe, the financial impact alone of potential infringement suggests to me that there is a financial imperative to interrogate the option of an MMO, never mind an environmental reason. The weight of environmental regulation will not decline or diminish over the next 10, 20 or 30 years; it will escalate. I will touch on this in reply to some of Mr Allister's points, but the Bill, its consequences and the actions of the devolved arrangements are all of a character and scale that, at times, you must make strategic leaps to deal with where we are and where we are going to be. In my view, an MMO becomes a more feasible option given those circumstances.

I am very mindful of what Executive colleagues have said in our conversations on this matter. To come back to issues that were raised by Mr Hamilton and Mr Weir, I believe that you can create a model of MMO that does not carry the costs of other non-departmental public bodies. As I have said before, when I came into DOE, I suppressed the deputy permanent secretary's post, saving in excess of £100,000; money that could then go to other activities of the Department. We can identify ways of managing organisations that reduce cost without any loss of service. In fact, I believe that DOE is more fit with one less deputy permanent secretary. The senior management will be more strategic and stand back from the noise of the day to work through, in a more systemic way, how to respond.

#### 4.45 pm

There are opportunities to model an MMO in a way that is not as cost burdensome as some people suggest. Yes, we have to develop a business case to give reassurances if required. Beyond the business case and the true cost of an MMO, we have to stand back and answer the question that Mr Weir put in his contribution about the consequences of the lack of a joined-up approach. He said:

*"a more integrated approach at an earlier stage could have ... not left us in the current situation."*

That was his commentary on the threat of infringement proceedings due to the modiolus issue in Strangford lough. I think that that is

an eloquent argument: the way that we have managed marine issues to date, including those relating to Strangford lough, has put us on the wrong side of potential infringement proceedings costing £8 million, and it could have been different. There are ways of doing things differently that do not need an MMO. However, the reality has been that the territoriality of Departments in protecting legitimate business and wider interests, which is understandable, has sometimes got in the way of our managing significant issues and threats and of mitigating the risk of such threats. Arguably, that has not been the case in respect of the modiolus issue, and so on and so forth, in respect of a litany of other possibilities as we go down the road.

Anno Lo raised a question in respect of the timeline for implementation. I indicated that we are working towards a number of standards. The UK Government, on behalf of themselves and the devolved regions, have said that they want to achieve good ecological status by 2020: that is the aspiration. My view is that working towards that outcome, the Marine Bill, the marine conservation zones and creating that architecture are all time-limited. We are not working towards 2020; we are working towards 2014 and 2015, in order to bring all that to fruition.

In that regard, I want to deal with one or two points that Mr Allister raised. He said that he heard some London Minister say that there is going to be a light touch. I am sure that they might have sent out the message that there is going to be a light touch compared with that of the Labour Government, which might have more warmly embraced the direction of travel in Europe. However, regardless of whether the words "light touch" were used, the evidence confirms that they are actually going for more than a light touch. So, what is the evidence that they are doing so? First, they have signed up to good ecological status by 2020, the details of which I accept have yet to be worked out. Secondly, it was not the Northern Ireland Government, the Welsh Government or the Scottish Government who identified five potential sites in the Irish Sea for a conservation zone regional project; it was those in DEFRA, Caroline Spelman and all the officials who will be at the environment Council meeting in Europe this Friday, which I am attending.

So, on the one hand we are being told that London is going for a light touch. However, on the other hand, the evidence, besides some



worn, meaningless phrase issued by some anonymous Minister from DEFRA in London, is that we are signing up to good ecological status and to looking at five potential sites in the Irish Sea for a conservation zone. With the Northern Ireland Government, we have also signed off on new zones with marine special status around Rathlin. I confirm that Rathlin will be captured — this is the good news for you, Mr Allister — by the reach of the Marine Bill, and rightly so. The damage done to some of the seabed off Rathlin Island, in the context that we discovered 26 species of sponge unknown in any part of the world until now, demonstrates that we have some particular obligations around Rathlin and that you can moderate the activities of fisherman through sustainable fishing, which provides incomes for those fisherman and, at the same time, protects that asset.

Mr Allister, if we send out a message to the world that we want people to come to enjoy what is arguably our single greatest built asset — the Causeway Coast, the land that stretches from Rathlin Island, through Ballycastle, Ballintoy, Portrush, Portstewart, Coleraine and Magilligan — and spend more of their tourist moneys, and at the same time send out a message that we do not care about the water between Ballycastle and Rathlin Island and the water beyond Rathlin Island, we are sending out a false message to people in the North, never mind all the tourists whom we want to come to the North.

I will deal with some of the other issues that Mr Allister raised. I confirm that Strangford lough, Carlingford lough and Lough Foyle will all be subject to our territorial responsibility and the reach of the Marine Bill and any activities that arise thereafter. It is the case, and we have had this debate on the Floor of the Assembly before, that the Crown Estate is responsible for the seabed and that it is a reserved matter under the Northern Ireland Act 1998. Nonetheless, as the Loughs Agency manifestly demonstrates, the responsibility for certain issues is devolved to the Northern Ireland Government working, it so happens, with our sister Government in the rest of this island. The legal ownership of the Crown Estate, including the seabed, rests with the Crown Estate, but the control of the seabed, how we manage it and manage licences that might be given for offshore renewable energy falls to us. Therefore, there is no tension here. I do not know the point that Mr Allister was trying to make around that, if it was not just politics. The legal situation as to who owns and who

controls it is clear. The legal authority that we have in respect of all of that is quite clear.

**Mr Allister:** To keep it to Lough Foyle, what is the Minister saying about the extent of control? Is it the entirety of Lough Foyle or is it a midway point? That is what I would like the Minister to be clear about.

**Mr Attwood:** Mr Allister knows the answer to that question. He knows that there is ongoing discussion between the respective Governments about where boundaries in Lough Foyle begin and end. He knows that. He knows that that is the answer that I was going to give to him, yet he wants to make constitutional points when everybody else in the Chamber made points about the marine environment. I do not think that legislation should become the victim of a constitutional argument about where a line begins and ends in Lough Foyle. I do not think that that is good government, good politics or good for the marine environment. I am not making this point to Mr Allister, but there is a danger that we end up being somewhat indulgent around points of law when we should be indulging the needs of marine management and the environment.

Mr Allister made other points — other good points. These are the better points. I do not want to diminish — *[Interruption.]* Sorry?

**Mr Hamilton:** Could you frame that comment?

**Mr Attwood:** I said to John Dallat recently that if there were 10 John Dallats in the SDLP, we would be a much more efficient organisation. I believe that if there were more minds like Mr Allister in the Chamber, even though he goes off on these flights of fancy, the Chamber would be much more efficient at interrogating legislation. I say that very cautiously, Mr Wells. However, everybody brings something to the table here, and Mr Allister brings a forensic mind, even though, in my view, it ends up with him going down some dead ends.

He was right to raise all the legal points that he did. He is right to seek answers and he will get answers. He is having the conversation with me, but he is also having the conversation with the Attorney General and the Departmental Solicitor's Office, and Mr Allister knows that there will be a battle of legal minds to get rebuttal, answers or adjustments to the questions that were rightly raised. On that point, I will ask my officials to scope out the Hansard report

and to write to the Committee on all the issues and points that I do not address today. Given my performance on questions for written answer, it may not be feasible for me to write to everyone on every point that was made. However, we will capture all the points, collate them and reply to the Committee on all the matters raised.

I do not intend to deal with all the points that Mr Allister raised in his analysis of the Bill. However, there was an inconsistency, and subject to my reading of the Hansard report, I think that he may have misread clause 9(3) of the Bill, which states:

*“Subsection (4) applies if the court is satisfied as to any of the following—*

*(a) that a relevant document is to any extent outside the appropriate powers;*

*(b) that the interests of the applicant have been substantially prejudiced”.*

It is not, as Mr Allister said, that subsection 4 will apply if the court is satisfied with both conditions. It will apply if the court is satisfied with any of the conditions.

I will turn to some of Mr Allister's more substantive points, and he made a good point about the exception in clause 32(5), namely the power of the Department to amend that section:

*“so as to remove, or restrict the application of, the defence”.*

In my view, that defence was primarily a sea fishing defence. I am advised that the answer to his question — it is subject to my further interrogation — is that the sea fishing defence largely relates to controlled fishing practices. Given that those practices change, not least because of the common fisheries policy and the adjustments that might be sought therein by the European Union, the power to amend is necessary. However, that power is, at all times, subject to the oversight of the Assembly, because it is subject to the affirmative resolution of the Assembly. There appears to be a prima facie tension in the legislation, in that it creates what seems to be a hybrid defence of having reasonable cause and proving it beyond the balance of probabilities — I will check that one out as well — but also provides for the Department to amend or remove that defence. So Mr Allister asked a fair question, but my answer at the moment is that the changing nature of European law and practice when it comes

to the common fisheries policy led to clause 32(5) as drafted. I will come back to each and all of the matters raised by the Member in due course. I may also come back to Mr Allister in due course, but I will see about that.

I want to turn to some of the points raised by other Members. Mr Hamilton was worried, and rightly so, that we were stepping — as he put it — into the unknown and that we could end up being overzealous with the number of MCZs and the scale of protection that they afford. I think that that was essentially his point. There are a number of good answers to those concerns. As we know, the first MCZ will probably be designated at Strangford lough within a year of the passing of the legislation. That tells the tale that MCZs will borrow from current designations and will, if you like, escalate to MCZ designation. There should not be any threat in that, and it should be confirmatory in character and create certainty. In the fullness of time and because of how we manage Strangford lough, some other controls may be required, and the outcome of the modiolus issue may lead to that conclusion. However, the point is that areas likely to be subject to MCZs are already subject to habitats and birds directives.

### 5.00 pm

There are a lot of other reasons why the concern identified by Mr Hamilton may not prevail. First, the science around all this is systematic and demanding. The survey evidence that is undertaken by the Department is not just survey evidence that we have undertaken by ourselves; it is informed by a lot of other reports, including reports from AFBI and DETI, the State of the Seas report, reports on habitats directive monitoring and the Northern Ireland UK marine science study. All that evidence is not arbitrary; it is evidence-based and has had full interrogation and very careful assessment. Only then do we get to the point at which designations arise and at which MCZs, in particular, will complement the existing site protection measures for European marine sites. They are not, to borrow a phrase from Mr McGlone, a fishing management tool. That is not the purpose of the MCZs. Nor, indeed, is it the purpose of other designations in the marine. Their purpose is not to impinge on the objectives of the common fisheries policy. However, as we know from modiolus, we have some challenging choices to make. It may be that we will choose to act in a way that may

reconfigure the fishing industry in that part of the world for other reasons, but MCZs will not drive a coach and horses through the heart of the fishing industry and other commercial marine activities.

Mr Hamilton also raised the issue of the tension between energy and wave power and said that we had to get the balance right. Mr Agnew also touched on all of that. I confirm that, as far as I know, the Professor Attwood to whom he referred is not related to me, but it does confirm that the Attwood clan's reach is international, and is all the better for it. He probably spells his name with one t.

**Mr Hamilton:** He spells it with two t's.

**Mr Attwood:** Is it two t's? Then he is from the plebeian part of the family.

I make it clear that the opportunities that we will have to sell marine renewable technology on one hand and exploit it on the other will be very challenging and exciting, and Mr Hamilton captured that. However, it is about more than that. Not only will science soon confirm that we have opportunities for tidal and wave power and onshore and offshore wind, but evidence will begin to emerge of opportunities for geothermal activity in this part of the world. I am not talking simply of opportunities that may or may not exist in Ballymena or Ballymoney, where some testing may be going on; geothermal energy will be an opportunity in the future.

The point of it all is that, unless we actively manage, there will be active risks. That is why, when it came to the potential for fracking in Fermanagh, I called Tamboran in two weeks ago to have a conversation and to remind it that it was not to create press headlines without acknowledging the interests of the community down there on the one hand and the interests of government on the other, not just on the DETI side but also on the side of DOE, which, ultimately, will be responsible for the environmental and planning issues surrounding any Tamboran exploration or future drilling. We need to manage all those issues, which means managing marine wind opportunities. That is why I have instructed officials that, whatever about the content of the Bill, we need to have an active management process up to and on the far side of the granting of any licences that might emerge out of the current round of issues.

Finally, I will confirm for Mr Hamilton that there will be various levels of protection. This is not going to be a one-size-fits-all approach. There will be light-touch MCZ management or management of the marine, and there will be a heavy touch where the evidence and science confirms that that should be the case.

I also endorse what Mr Agnew said in reply to Mr Boylan's comment about balancing economic and environmental concerns. Although there are times when the economic imperative can be too dominant in respect of planning policy — I refer to my suppression of PPS 24 in that regard — I also want to make it clear that you can get the balance right. In respect of article 31 approaches, you can reconcile the environmental and the economic; Runkerry is a good example.

I confirm what I said earlier when not all Members may have been in the House. The costs of the marine plan are anticipated to be in and around £2 million, perhaps £1.9 million, with an annual cost after the first four or five years of £200,000. That is a separate cost from any potential costs around the MMO, which I referred to earlier.

I welcome Danny Kinahan's comments. He said that this was phenomenally important. Sometimes, I in particular cannot see the wood for the trees but, for the reasons that I outlined earlier, the legislation is phenomenally important, especially if it is enhanced by an MMO and demonstration marine zones, which is another clause that I am minded to put in the Bill and which, I think, the Executive will be minded to agree to. We have a great asset with the marine, and we can better manage it. It can become part of what the North of Ireland represents: green and clean protection of our built, natural, archaeological and marine life. That is very important.

The Member raised a number of very good points. He said that the previous Committee endorsed an MMO, and he raised the issue of having an independent advisory committee. There may well be an argument there. There are a lot of independent advisory structures around the Department on the built and natural heritage side, and there is a lot of input into the Department from the marine stakeholder forum, the marine task force and various others. You may have a point that that should be built into

the body of the Bill so that, on the far side of the legislation, that becomes more relevant.

I acknowledge the point that the Member made on costs, particularly on the issue around specialists. On a related issue, the second survey of built properties, in which Mr Kinahan will have a particular interest, was in some jeopardy during this financial year because of a lack of money. The second survey, which scopes out our built heritage to determine what is to be listed or delisted and what should stay listed, is an important piece of the function of DOE and the economic development of the North of Ireland. That costs money, and, although we are able to put more money into it, the wider point is on what the specialist cost will be in terms of marine plan and MCZs. You may well be right that the costs of that will be higher than any of us anticipate.

I welcome John Dallat's welcome of the Bill. I am of a generation that remembers the guinea, the thruppence and the sixpence, as you will, unlike some of our colleagues. His comment about his experience of talking to someone who had knowledge of the extraterrestrial, if you like, captured, in a human and personal way, what we are trying to do through the Bill. As he said, it is important that future generations will be grateful to this packed House even if, sometimes, we cannot understand the full impact of what we are doing.

As I said, Peter Weir made a useful speech. He said that there are significant details to get right on balance protection, but, whether he meant it or not, he seemed to draw the conclusion that an MMO was a useful way to go.

I wish Willie Clarke the best of luck in his future political career after he leaves us in three weeks' time. My party colleague Margaret Ritchie will be leaving us in three weeks' time as well, and I wish her all the best going forward. I note what Mr Clarke said.

Mr Nesbitt, who has now left us, rightly made the point that his welcome of BMAP a number of years ago was a little premature. However, he made the telling point that five Departments have an interest in the marine and that it is a difficult undertaking to manage and reconcile all the issues in a horizontal rather than a vertical way. Whether my Executive colleagues concur with me or not about a marine management organisation, horizontal management of the marine will be an essential standard. Continuing

to have vertical management of issues of the marine or of wider important public policy matters will defeat good government and the wider interests of the North. I also welcome his comments about renewables and the argument for a renewables corridor. That is absolutely spot on, and we should work towards it.

I have not touched on many of the points that were made by Mr Boylan, Mr Hamilton, Mr Storey, Mr Kinahan and others. I will respond through the Committee to all those matters in the fullness of time. This is important legislation that will redefine the character of what Northern Ireland represents in all its tourist offering and in its commitment to protecting the environment as part of the quality of our lives and because of our international and other obligations. I commend the Bill to the House.

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Marine Bill [NIA 5/11-15] be agreed.*



## **High Hedges (Fee Transfer) Regulations (Northern Ireland) 2012**

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

*That the draft High Hedges (Fee Transfer) Regulations (Northern Ireland) 2012 be approved.*

As Members know, the regulations are made under section 4(4) of the High Hedges Act (Northern Ireland) 2011. The Act requires that the regulations be laid in draft and approved by resolution of the Assembly.

Public consultation on the draft regulations took place between 28 June and 20 September 2011, and 88 responses were received, the majority of which supported the principle that the hedge owner should bear the costs associated with investigating a high hedge complaint. The regulations implement the desire of the previous Assembly that the hedge owner rather than the complainant should bear the costs associated with high hedge complaints. If a complaint is made to the local council about a high hedge and the council decides that the hedge is acting as a barrier to light — I stress that it must act as a barrier to light — and meets the criteria of the High Hedges Act, it will issue a remedial notice requiring the height of the hedge to be reduced. When that notice takes effect at least 28 days after the issue date to allow time for any appeals to be lodged, the complainant will have any complaints fee refunded, and the council can then charge the hedge owner a fee to cover the administrative costs associated with investigating the complaint.

Councils have the discretion to set the level of the complaints fee up to a maximum of £360. They can also decide not to charge any fee or to offer reduced fees for certain groups of people. They also have the discretion to set the level of fee to levy on the hedge owner up to that maximum. In addition to the fee, the hedge owner will have to bear the costs associated with performing the remedial work and the ongoing maintenance to prevent the problem reoccurring. The remedial notice is registered as a statutory charge on the land, so that future owners will be aware of their responsibilities to maintain the hedge. I ask the Assembly to approve the regulations.

**Ms Lo (The Chairperson of the Committee for the Environment):** The issue of fees for high hedges disputes was heavily debated by

the previous Environment Committee when taking the High Hedges Bill through Committee Stage. The arguments for councils charging the fee for the service were varied. On one hand, some felt that it was only right that someone making a complaint should have to pay for work that the council would do on their behalf. That would encourage parties to sort out their high hedge problem before going to the council, help to deter malicious complaints and avoid the majority of ratepayers paying for a service from which they would not benefit. However, some councils told the Committee that they did not want to charge for the service because they do not charge for their other environmental services and the charge would contradict that principle. As a result, the Committee was content that the legislation should allow councils to choose whether or not to charge a fee and how much that fee should be. Its one proviso was that there should be an upper limit on how much a council could charge. That was because the Committee had seen evidence of the prohibitive fees charged by councils in other jurisdictions. Legislation capping the fee has now been laid and is welcomed by the Committee.

### **5.15 pm**

Members also took the view that complainants should not have to bear the cost of making a complaint if that complaint is subsequently found to be valid. Members felt that that would be unfair and would go against the widely accepted principle that innocent parties should not be out of pocket. It would also contradict the “polluter pays” principle. The Committee felt strongly that the cost of the complaint should be borne by the hedge owner if a complaint is upheld, so it recommended that, if a council charges a fee for providing a high hedge complaint service, it should be required to refund that fee for successful complaints. That would also ensure that a complaint fee would not deter someone from complaining if genuinely troubled by a high hedge. However, members recognised that that would place the burden on all ratepayers for a service that only a fraction of them were likely to use, so the Committee also recommended that the Bill should be amended to make provision for a complaint fee to be passed to the hedge owner in the event of a complaint being upheld. That is more or less what the statutory rule we are considering today does. It does not compel councils to recoup money from hedge owners, but it gives them the opportunity to do so should they wish.

Members recognise that, although not quite what was originally envisaged, that flexibility will be useful when a council wants to exercise discretion or concessions for hedge owners where appropriate.

On balance, therefore, the Committee is content that the draft rule supports the principle that the innocent party in any high hedge dispute should not end up paying the fee. It should also encourage high hedge owners to sort their problems out with their neighbours long before the issue is taken to council. Prevention rather than cure was always the overall intention or aspiration of the High Hedges Act (Northern Ireland) 2011. The Committee considered the draft rule at its meeting on 23 February, and members were content for me to recommend to the Assembly that it be affirmed.

**Mr Weir:** As someone who was on the Committee at the time of the high hedges legislation, I very much welcome the regulations before us today. By way of background, this provides a final piece of the jigsaw of the high hedges legislation. There has, understandably, been a degree of frustration or at least a lack of knowledge among some members of the public in relation to the legislation. Because of the complexity of it, it was always going to need some subordinate legislation to make it workable. There is, naturally, a misunderstanding among the public that, once they see a particular piece of legislation, it immediately comes into effect. That was never going to be the case with this legislation because it was important that the regulations were got right.

There has been frustration, in part because the corresponding legislation, particularly in England, went through a number of years ago. However, this is a good example of how devolution works, in that the Assembly has been able to scrutinise the legislation. In England, mistakes were made with the fees set-up. We have taken the time to learn from those mistakes and make sure that we have a fees system that is, hopefully, much more fit for purpose than what exists in England. One of the problems, as mentioned by the Chair of the Committee, was that there are wildly differing fees across England and no maximum amount has been put in place. In the jigsaw that we have constructed around high hedges, it is right that a cap is put on that, so that, going from one jurisdiction to the next, people will not see wildly differing costs in connection with it.

Fees are something that Committee members pressed very strongly on. Effectively, I suppose, the regulations come largely from a Committee amendment, which, to be fair, the then Minister very readily accepted.

Mention has been made of the “polluter pays” principle. Very much allied to that and the thinking behind it is what would happen in a legal case. I am sure that the Minister will be very familiar with this, given his background. Essentially, fees or costs follow the event. There was one initial weakness in the legislation which these regulations change. Clearly, there was a need for a certain level of fee because this should not be something that is simply entered into lightly or, as was indicated, something vexatious. In an ideal world, there would be no need for the legislation at all. If people acted as good neighbours, in 99% of cases things would be resolved before getting to this stage. Unfortunately, we do not live in the sort of world in which everybody is as neighbourly and altruistic as that, so there was a feeling that a fee should be attached. Therefore, for example, if an applicant was shown to be in the wrong or vexatious, they should pick up the tab. That is the perfectly correct way to do it.

The other guiding principle enshrined in the regulations is that this should not be a general cost to the ratepayer. If the legislation is designed to solve neighbourhood disputes, the cost should not impact on the wider public. So, it was right to have a provision that, if somebody made a complaint and that complaint was not upheld, they would be responsible for the fee connected to the complaint. However, until changes were made to the legislation, the flip side was not the case. If someone made a complaint and was shown to be completely in the right and remedial action was ordered, they would still be left with the cost. Therefore, the regulations now cover the situation in which, previously, someone making an utterly vexatious complaint, possibly even motivated by a degree of malice, and somebody making a very genuine complaint having suffered for a number of years because of high hedges would be left in the same position. This passes the burden to whomever is found to be responsible, whether that is the applicant in the wrong or the hedge owner who failed to take the opportunity to take their own remedial action.

There is flexibility in the regulations so that there can be some discretion for a council. If

the council feels that remedial action is needed but, for some reason — financial or whatever — that it would be unfair or unjust to pass the bill on to the hedge owner, the council has an opportunity to bear the cost in those exceptional circumstances. The regulations provide balance and take a reasonable approach, so that the innocent party is, at all times, protected. They will also, effectively, cover ratepayers and ensure that they are protected. Taking the regulations on board is the last piece of the jigsaw and, as I understand it, will mean that the legislation itself will be able to be in full effect from 31 March and, consequently, it will be welcomed.

Looking at the issue from the outside, some people may sneer and question whether high hedges are really a major problem. For a lot of people, high hedges are the key problem in their life. It is very irritating for a small number of people. One purpose of today's legislation and the wider high hedges legislation is to act as a deterrent to bad behaviour. It will hopefully lead to disputes being solved at an early stage because there will be an opportunity now for later intervention. Hopefully, it will mean that a more neighbourly stance will be adopted by more and more people. We now have statutory protection for people, and that will have effect from the end of this month. I welcome very strongly the regulations in front of us today.

**Mr Boylan:** Go raibh maith agat, a Phríomh-LeasCheann Comhairle. I support the legislation. It generated a lot of debate, and it took people a long time to articulate their points. It is a small piece of legislation, but it will be very effective. It gives councils a wee mechanism to deal with issues that cannot be resolved through mediation, but I hope that councils do everything in their power to go down the mediation road before they decide to use this tool. It has highlighted one thing. In the previous debate, we talked about consultation and participation. As we went through the legislation, we received many consultative responses from local authorities and councils. However, when we went to introduce the legislation, we found that some councils were not keen to use it. That is just right. We have created a little mechanism for councils to use. I encourage Members who are still on a council to try mediation first before they use the regulations.

**Mr Kinahan:** I will be brief. The Ulster Unionist Party welcomes the transfer mechanism. As the legislation went through the Committee, I

was amazed as what I thought was a simple Bill became more and more complicated. However, as we consulted, it was absolutely right that it became more complex. The solutions that we came up with, including the solution today, are right. As an example, there is a hedge in Crumlin that is 25 feet high and stretches the whole length of a lady's garden. It means that she gets no light at any time of day and cannot put a satellite dish in her garden. Despite having knocked on the door of the home next door and having written to the owner, I cannot get any acknowledgement. That is one person whom the legislation will help. In Templepatrick, a builder was next to five or six houses. Once he was written to and pushed, he cut down the hedge. We are getting through, and mediation is the right way forward.

We were absolutely right to put a cap on the fees. We must keep pushing to make sure that everyone tries to resolve things before they get to that point. The legislation is fair, and it leaves councils room for discretion. My only concern is where we have someone who is elderly and cannot cut their hedge or does not have the money. I hope that councils will use their discretion in that regard.

I have one little story from my days on Antrim Borough Council that concerns me. To get a £75 litter fine paid, it would cost the council £800 to go to court. We want to push for mediation, but we do not want it to cost councils or ratepayers too much. Good work was done by the Committee, and I support the change.

**Mr Dallat:** Like my colleagues, I welcome the progress that has been made. I look forward to the regulations. The legislation will be welcomed by many people, particularly those who do not see the light of day because their contact with the outside world has been blanked out by leylandii and Castlewella Golds. I have no grudge against people in County Down.

That is not to say, of course, as was mentioned by others, that this is the panacea for all problems relating to high hedges. It most certainly is not. Nevertheless, it is a sound basis for addressing an issue that has bedevilled society for many years, particularly in urban areas and housing estates, but not exclusively so. We have rows in rural areas as well about high hedges. I know that people will be looking forward to this legislation as an opportunity to have restored to them God's gift of light.

**5.30 pm**

I think that it was pointed out by other Members that the legislation is not a substitute for common sense, compromise and an ability to reach agreement. In many cases, and, hopefully, in most, I suspect that that will remain the way forward. I am sure that local councillors will not look forward to an avalanche of complaints about high hedges. I am saying that the regulations are not a panacea and will not end all the problems, and I am quite sure that few high hedges will be shaking in their roots for fear of being turned into totem poles. The message is that that will not happen.

At this stage, it is important to express our thanks to the people who gave evidence to the Committee, particularly councillors and officials who gave up their time to come along. I think that it was worthwhile because I believe that it influenced the legislation and made it more practical. Initially, I was concerned that we had simply plucked the legislation from Britain, and you know how I feel about that. However, I now think that it has been properly tailored to suit our particular needs in Northern Ireland, so I welcome it.

**Lord Morrow:** I welcome the fact that we have got to where we are with the Bill. As someone who has been on the Environment Committee since the May election, I was under the illusion that the Bill was further advanced. I understand and am delighted that — I hope that I do not misquote — the Bill will be in force on 31 March. I suspect that it is fortuitous that it was decided not to implement it on 1 April, because that may have sent out altogether the wrong message.

I also welcome that Members around the House said that the Bill is probably not the best way to resolve things. The best way to resolve things is still by negotiation. I have experience of being involved in resolving an issue concerning a set of trees that extended skywards to a height of 80 to 100 feet. I was able to get those trees reduced to something like 10 to 15 feet, and I met neither the complainant nor the person who owned them. Rather, we were able to do it via telephone calls and e-mail. That demonstrates clearly that the way forward remains through negotiations.

However, as Peter Weir said, we do not live in an ideal world in which everybody sits down and negotiates. If that were the case, we would not need the Bill at all. If hardy comes to hardy and

legislation must be used, it will be the polluter who pays. It would have been an injustice, a travesty, if, in the case of a genuine concern and complaint, the person who caused the pollution got away, yet the complainant could not move, or when they did, they would be landed with a considerable bill. There was an injustice there, and I am pleased that that will not be the case.

The legislation is good, if we have to use it, and I trust that we will not. However, there will sometimes be no other way. As Mr Dallat said, the Bill is not the panacea to all our problems. High hedges are an issue that must be dealt with and one that is causing considerable concern to a considerable number of people. There are people in society, not least in the legal profession, who are waiting patiently for the legislation because there does not appear to be any other way forward. They have no other means of exerting influence or getting the job done, but I again emphasise that we did not need any legal wizards around the table in the two cases that I was involved in. We did not need any legislation, just common sense. I hope that I was able to mediate between the two to get the desired result, and both parties surprised —

**Ms S Ramsey:** No reflection on the legal system.

**Lord Morrow:** No. We will not bring the legal system into it at all. At the end of the day, both parties were happy.

Therefore, on those couple of occasions, without all the paraphernalia of legislation, we did not need solicitors, lawyers, QCs and all the eminent people who bring so much to society. I hope that we will not need them in future and that the threat of legislation might be enough to get the desired result. I welcome the fact that the regulations are at this stage. I look forward to waking up on 1 April when, lo and behold, there will be legislation that nobody will make a fool of.

**Mr Attwood:** I thank all Members who contributed to the debate. I will reply to a number of issues that Members raised, starting with Lord Morrow. After the legislation was passed, there was a requirement for a further period of consultation because the possibility of transferring a complaints fee to a hedge owner, which was a late Committee amendment, had not been subject to public consultation during the development of the primary legislation. Moreover, there was a need to ensure that given that the legislation goes live in three weeks' time on 31 March, council



officers were trained in the management of the new legislation. As Mr Kinahan said, a simple idea can escalate and become quite complex, as his colleague John McCallister knows from the passage of the Caravans Act (Northern Ireland) 2011.

The complexity of the High Hedges Act (Northern Ireland) 2011 — the height to which trees can be cut back, the legislation not extending to trees around commercial properties, and so on — required significant training. Councils need to be fully aware of the intention and practice of the new law to ensure that public expectations are fulfilled. Given the further consultation and the training, 31 March was the earliest that the legislation could go live. As Lord Morrow and others said, it is good law if we have to use it. However, I would like to think that people will resolve such matters, although it is sometimes hard to do so because they are often embedded in the neighbourhood and are a surrogate for wider issues. On the far side of 31 March, it will be expected that anybody who wants to bring forward a complaint will make one final significant attempt to resolve the source of the complaint before lodging it with a council.

I confirm the Chairperson of the Environment Committee's comment that a maximum fee of £360 has been laid down to cover administration costs. In Britain, fees vary between zero and £600, the average being £340. On this occasion, a judgement was made to decide on a figure of £360 to cover some council administration costs. Councils have complained that although they are getting new powers, they are not getting new resources. That situation will not change. Following on from what a Sinn Féin Member said earlier, I hope that the fact that new resources have not followed new powers does not lead to impediments to the new law being enforced after 31 March. There will be a public expectation. We expect a stream of complaints and, during the first year of operation, that there will be 30 appeals arising from council decisions. Based on evidence from Britain, that is the scale of what we are talking about, which would be the worst outcome. I appeal to council leaderships, chief executives and other staff to ensure that the legislation is available to complainants after a significant effort has been made to resolve their ongoing dispute.

The councils do not have to charge £360. They have discretion to reduce the fee and, as Members have indicated, the fee will be

refunded to the complainant after a remedial notice has been determined by the council. All of that should lead to reducing the risk of vexatious complaints on the one hand and good outcomes, in the event that the law is required, on the other.

Let me acknowledge that Peter Weir said that this is a useful piece of legislation borrowing from the experience of other jurisdictions. Consequently, our model seems to be proportionate and workable, hopefully not relied on in excess, but relied on when no other remedy exists.

I also acknowledge the work of the Committee. A useful amendment came late in the passage of the Bill, and it created a Bill that was more balanced, more in the interests of the complainant and less in the interests of the offender. That seems to me to be a good and wise outcome, and I commend the order to the House.

*Question put and agreed to.*

*Resolved:*

*That the draft High Hedges (Fee Transfer) Regulations (Northern Ireland) 2012 be approved.*

## **Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012**

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

*That this Assembly consents to the Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012 in the form of the draft laid before the UK Parliament on 19 January 2012.*

The motion seeks the consent of the Assembly to the abolition of the National Endowment for Science, Technology and the Arts — or NESTA, as it is more commonly known — as a non-departmental public body and its reconstitution as a charity. The consent of the Assembly, and likewise that of the Scottish Parliament, is required for the necessary legislation under the Public Bodies Act 2011 to progress through Westminster and to come into effect on 1 April 2012.

The proposal to abolish NESTA and to reconstitute it as a charity is not new. Members may recall that, last March, the Assembly gave its consent to the Public Bodies Act 2011, which granted UK Ministers the authority to abolish, merge or transfer the functions of public bodies. NESTA was listed in the Act as one of the public bodies whose status could be altered. Section 9 of the Public Bodies Act 2011 requires, where appropriate, the consent of the devolved Administrations. As matters relating to improving science, innovation, technology and the arts are transferred matters, the UK Government have requested the formal consent of the Assembly to their proposal.

Briefly, by way of background, NESTA is a non-departmental public body of the Department for Business, Innovation and Skills (BIS), with a remit to support and to promote talent, innovation and creativity in the fields of science, technology and the arts. It promotes innovation and creativity to help to tackle social and economic problems, and provides an independent, well-informed voice and commentary on innovation policy.

In recent years, NESTA has focused on supporting and promoting talent, innovation and creativity by developing models of innovation for the wider public benefit. It achieves those objectives by running practical experiments and commissioning policy and research work

for wider dissemination and adoption by policymakers. NESTA's portfolio of projects changes from year to year, as it experiments and adapts to changing societal and economic challenges. Its current strategy is focused on the role of innovation in three main areas, namely delivering more effective public services; the creative economy; and improving economic growth in the UK. NESTA has always operated with a high degree of independence from government. Its programmes and strategies are determined by its trustees and it is funded by the return on its National Lottery endowment, which is currently valued at £321 million. As a part of the public bodies reform programme, the UK Government announced in October 2010 that they would seek to establish NESTA as an independent charity, with the National Lottery endowment held in a separate charitable trust.

### **5.45 pm**

In assessing NESTA's future in the context of wider government reform of public bodies, BIS considered the following options: the abolition of NESTA; its merger with another body; the transfer of its functions to a private sector organisation; and its reconstitution as a charity.

The option of abolishing NESTA and returning the estimated £321 million endowment to the National Lottery distribution fund for redistribution was rejected, as there is no other suitable body to perform NESTA's functions. As a result, NESTA's valuable programmes for wider public benefit would cease and the public investment in NESTA via the National Lottery distribution fund would be lost.

Consideration was also given to merging NESTA with another body that carries out similar functions or operations in a similar policy area. That option might have enabled NESTA to enhance its impact by providing a wider array of stakeholders and opportunities for future programmes and could also have included efficiencies and savings for sharing accommodation and back-office costs. However, that option was rejected by BIS, as there is no comparable organisation with which NESTA could merge without considerably altering its direction, brand, mission and, indeed, activities.

The third option — reconstitution of NESTA as a private sector body — was also examined. That would have involved NESTA's being transferred to another type of body, either a company limited by guarantee or a company incorporated by

Royal charter. That option was also rejected by BIS, as the need for suitable controls to ensure propriety of expenditure of the endowment is at odds with ensuring that the level of government control does not cause the new body to be classified as public sector.

Therefore, the option to reconstitute NESTA as a charitable trust was selected. Becoming a charity will provide protection of the endowment and enable NESTA to continue its work while enhancing its independence from government.

In consulting on its proposal to reconstitute NESTA as a charity, BIS initiated a six-week consultation in October 2011. The consultation document was circulated by my Department to key stakeholders in Northern Ireland, including the Committee for Enterprise, Trade and Investment, as well as being made available on the Department for Enterprise, Trade and Investment website. I also advised the Committee that subject to the outcome of the consultation exercise, it was my intention to support the BIS proposal to reconstitute NESTA as a charity. No responses were received by my Department or by BIS from Northern Ireland stakeholders. The responses that BIS received from other parts of the UK did, however, indicate strong support for NESTA to be reconstituted as a charitable organisation.

It is worth noting that NESTA's running costs are covered by interest earned on its endowment from the National Lottery and by returns from its portfolios of investments in innovative SMEs. I can also confirm that there will be no costs arising for Northern Ireland from the change in NESTA's status.

With regard to its role in Northern Ireland, its research on innovation has proven to be a valuable resource for my Department. It has published a number of important reports, such as 'Stepping Forwards', as well as developing a UK innovation index. That index, which has been adopted by BIS and the OECD, measures wider investment in innovation beyond research and development, for example in skills and design, and demonstrates the importance of those investments in driving economic growth. My Department is working with NESTA to develop a Northern Ireland version of the innovation index, which will give us a clearer picture of where investment needs to be made to support companies to be more innovative.

NESTA also provides equity investment in innovative SMEs. I am pleased to say that it is now a member of HALO, the business angel network

based at the science park. To increase its involvement in Northern Ireland, NESTA is also seeking to forge relationships with organisations here to identify areas for joint working. As part of that work, it will be undertaking a Northern Ireland roadshow this summer to showcase its work. That is part of a UK-wide initiative, and my officials will be working closely with NESTA in developing that event.

Parallel to that, the Department is exploring with NESTA the possibility of co-funding hyperlocal media projects in Northern Ireland. Hyperlocal media is a UK-wide project in which NESTA is seeking to work in partnership with other funding agencies to explore viable business models to support citizenship and local communities. Workshops in Northern Ireland are part of the schedule of activity for that project.

I hope that you can tell from what I have said that I am very keen that we build on the work that NESTA has already undertaken in Northern Ireland. I want to see more companies and organisations involved with its projects. I plan to meet Geoff Mulgan, chief executive of NESTA, about that very issue.

The proposed change in NESTA's status will have no detrimental impact on Northern Ireland. Indeed, I believe that it provides us with an opportunity to strengthen our ties and to build on the work that NESTA is doing on the very important issue of innovation, which is raised many times by Members across the Chamber. Therefore, I am happy to support the change in NESTA's status and recommend that the Assembly consents to the motion.

**Mr A Maginness (The Chairperson of the Committee for Enterprise, Trade and Investment):** I thank the Minister for her detailed and comprehensive outline of the proposed changes. The Minister wrote to me, as Chair of the Committee for Enterprise, Trade and Investment, on 9 February to inform the Committee that the Department for Business, Innovation and Skills would be seeking the consent of the Northern Ireland Assembly for the abolition of NESTA by way of the Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012.

The Committee for Enterprise, Trade and Investment considered the proposals at its meeting of 23 February 2012. The Minister informed the Committee that the order is intended to abolish NESTA on 1 April 2012. At the same time, a transfer scheme will be made, transferring all property, rights and liabilities of

NESTA to a charity. We heard from the Minister in that regard today. The Committee was assured that the transfer will have no material impact on NESTA's work or its link with Northern Ireland, and that is to be welcomed.

The Committee is aware that a Minister can abolish a body only if by doing so it improves the exercise of public functions, having regard to efficiency, effectiveness, economy and securing appropriate accountability to Ministers. Responses to the consultation were supportive and many welcomed the fact that NESTA will have more independence from government. However, the Committee noted that the consultation received no submissions from Northern Ireland.

The Committee welcomed an assurance from the Minister that the Department of Enterprise, Trade and Investment is actively working to increase NESTA's visibility here and to ensure, where possible, that Northern Ireland is included in all NESTA's research exercises. That, too, is to be welcomed.

As the transfer will have no material impact on NESTA's work or its link with Northern Ireland, the Committee is content with the proposals. Therefore, I support the motion.

**Mr Moutray:** The National Endowment for Science, Technology and the Arts is an executive non-departmental public body established by an Act of Parliament in 1998. NESTA's remit has been to promote innovation, talent and creativity in science, technology and the arts. It has funded programmes from the National Lottery.

The Government at Westminster have considered NESTA's future as part of a wider public bodies' reform programme, which has a commitment to reduce the number and cost of quangos. The Westminster Government believe that NESTA performs a valuable function and want its activities to continue. However, they do not consider it necessary for NESTA to remain a non-departmental public body or to be part of the public sector in order to carry out its functions but rather to be established as a charity with a charitable trust to hold the National Lottery endowment.

A consultation showed support for the proposals. I am encouraged by the Minister's remarks about building on the work of NESTA in Northern Ireland. I support the change in NESTA's status and, consequently, support the motion.

**Mrs Overend:** The Ulster Unionist Party supports the move of the National Endowment

for Science, Technology and the Arts from a non-departmental public body to being reconstituted as a charitable organisation.

I wish to make two points on this subject. First, I have researched the work of NESTA, and there have been numerous useful and innovative research programmes carried out over the lifetime of the organisation. However, it seems that a limited amount of work was carried out in Northern Ireland. That is an area that NESTA is keen to improve on, and I urge it to do so. I thank the Minister for her commitment to work to ensure that Northern Ireland is included in all its research exercises.

Secondly, NESTA's mission is to make the UK more innovative. That is hugely relevant today, and we should encourage that in Northern Ireland through numerous ways and means. I believe that the reconstitution may enhance NESTA's ability to invest in more high-risk projects, which is necessary to encourage entrepreneurial innovation and to work with groups or in programmes that may not be in the more traditional industries but that use new technology, such as gaming and music, etc. I support the motion.

**Mrs Foster:** I thank the Members who contributed to this short debate. It is a non-controversial proposal, in that we are moving from NESTA being a non-departmental body to a charity. As Members have said, that will enhance the body's ability to be more proactive in the area that Mrs Overend mentioned in relation to angel investment, particularly investment in HALO funds.

NESTA has become more proactive in Northern Ireland over the past two years. Indeed, I have been involved in a number of projects that it has undertaken here. However, it is my hope that we will be able to develop its worth here and to work more closely with it. I thank Members for their support and hope that everyone across the Chamber will support the motion.

*Question put and agreed to.*

*Resolved:*

*That this Assembly consents to the Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012 in the form of the draft laid before the UK Parliament on 19 January 2012.*

*Adjourned at 5.57 pm.*







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