

1996

Annual Report of the Comptroller and Auditor General

on

The Appropriation Accounts of the sums granted by the Oireachtas for Public Services for the year ended 31 December 1996

(Presented pursuant to Section 3 of the Comptroller and Auditor General (Amendment) Act, 1993 (No.8 of 1993))

> Baile Átha Cliath Arna fhoilsiú ag Oifig an tSoláthair

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The Annual Report of the Comptroller and Auditor General and the Appropriation Accounts is published in two Volumes

- Volume 1, this volume, contains the Report of the Comptroller and Auditor General on matters arising from his audit of the Appropriation Accounts for 1996
- Volume 2 contains the individual Appropriation Accounts for 1996 with the audit certificate
 of the Comptroller and Auditor General on each account

The report was prepared on the basis of information, documentation and explanations obtained from Government Departments and Offices referred to in the report.

Drafts of relevant segments of the report were sent to the Departments and Offices concerned and their comments requested. Where appropriate, these comments were incorporated into the final version of the report.

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Accounts of the Public Services, 1996

Report of the Comptroller and Auditor General

I am required under Article 33 of the Constitution to report to Dáil Éireann at stated periods as determined by law. Under Section 3 of the Comptroller and Auditor General (Amendment) Act 1993 I am required to report to Dáil Éireann on my audit of the Appropriation Accounts, the stock and store accounts of Departments and the accounts of the receipt of revenue of the State not later than 30 September in the year following the year to which the accounts relate.

I hereby present the report for 1996 in accordance with Section 3 of the aforementioned Act.

John Purcell

Comptroller and Auditor General

15th September 1997



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GENERAL

1. Outturn for the Year

The audited accounts are summarised on pages x and xi of Volume 2. The amount to be surrendered as shown in the summary is £160.334m arrived at as follows:-

	£,000	Estimated £'000	Realised £'000
Gross Expenditure			
Original Estimates	11,787,694		
Supplementary Estimates	<u>274,374</u>	12,062,068	11,902,713
Deduct:-			
Appropriations in Aid	1,002,367		
Supplementary Estimates	16,371	1,018,738	1,019,717
		11,043,330	10,882,996
Amount to be Surrendered		£160	,334

This represents 1.45% of the supply grant as compared with 1.64% in 1995.

2. Extra Exchequer Receipts

Extra Receipts payable to the Exchequer as recorded in the Appropriation Accounts amounted to £62,480,267.

3. Surrender of Balances of 1995 Votes

The balances due to be surrendered out of Votes for Public Services for the year ended 31 December 1995 amounted to £170.205m. I hereby certify that these balances have been duly surrendered.

4. Stock and Store Accounts

The stock and store accounts of the Departments have been examined with satisfactory results.

VOTE 7. - SUPERANNUATION AND RETIRED ALLOWANCES

5. Irregularity

In the course of an audit of superannuation payments it was noted that uncashed pension payable orders were returned in May 1996 with a notification that it was believed that the pensioner had died in 1988. The payable orders were in the name of a pensioner who had been awarded a pension with effect from 1923 and had been resident in the United States of America since 1954. In November 1996, a cheque for \$6,070 was received in the Department accompanied by a letter which stated that the amount had been paid in error to the pensioner prior to May 1996. It was estimated that a net overpayment of £36,812 had arisen as a result of the payable orders being cashed after the death of the pensioner. On examination of the relevant file it was noted that neither the date of birth of the pensioner nor the pension declarations viz, a statement by the pensioner that s/he is alive and entitled to payment of the pension, were available and the pension payable orders had been sent for a period to an address for which no change of address notification was on file.

In response to my inquiries the Accounting Officer informed me that

- The Department was currently attempting to contact the person thought to have cashed the payable orders and every effort was being made to recover the f36,812.
- The date of birth had since been established as October 1894 and, while the exact date of
 death was not yet known, every effort was being made to ascertain this through diplomatic
 channels.
- The outstanding change of address notification had now been located. Pension declarations and change of address notification were not filed on individual files but centrally to expedite processing. Due to various reorganisations and office relocations recently undertaken, the Department was unable to locate the pension declarations in this particular case but was satisfied from checklists and other documentation still to hand that declarations were received in respect of this pensioner up to and including 1995/96.
- The dates of birth of 776 pensioners and widows are not known to the Department. Although their dates of birth are requested, many widows omit this information. The dates of birth of retired civil servants and State employees are furnished, but during an earlier period this information was not recorded when awarding pensions.
- No extra control measures were in operation in respect of very elderly pensioners or those living outside the country. The Department is considering what additional controls, if any, should be introduced in respect of pensioners living abroad. Had the problem arisen in Ireland the Department would have been able to recoup from the banks on the basis of money being paid to the wrong person as a result of fraud. Any changes in the annual declaration must be carefully examined in case they are viewed as excessive and arbitrary. In the meantime, checking procedures will be adjusted to prioritise and expedite processing of these declarations. The Department had made inquiries with other institutions which make payments to pensioners resident outside the country and had confirmed that, although it is recognised that the risk is somewhat greater, no additional controls are in place.

• Three other instances of pension overpayments had come to light in the past five years. Each case involved the overpayment of a deceased officer's pension to a surviving widow. The total overpayments amounted to £5,182 and apparently arose from inadvertent encashment. Recovery is being made in all cases.

VOTE 9. - OFFICE OF THE REVENUE COMMISSIONERS

6. Revenue Account

Basis for Audit

An account showing all revenue received and paid over to the Exchequer by the Revenue Commissioners is furnished to me annually. I am required under Section 3 of the Comptroller and Auditor General (Amendment) Act 1993 to carry out such examinations of this account as I consider appropriate in order to satisfy myself as to its completeness and accuracy and to report to Dáil Éireann on the results of my examinations. The results of my examinations have been generally satisfactory except for the matters referred to in paragraph 7.

I am also required under Section 3 of the Comptroller and Auditor General (Amendment) Act 1993 to carry out such examinations as I consider appropriate in order to ascertain whether systems, procedures and practices have been established that are adequate to secure an effective check on the assessment, collection and proper allocation of the revenue of the State and to satisfy myself that the manner in which they are being employed and applied is adequate. Paragraphs 13 and 15 to 18 refer to matters arising from this examination.

Revenue Collected

Revenue collected under its main headings was as follows

enseance landing off a	1996 £m	1995 £m
Income Tax	4,579	4,129
Value Added Tax ^a	3,109	2,890
Excise	2,304	2,115
Corporation Tax	1,428	1,148
Stamps	332	286
Customs	162	201
Capital Acquisitions Tax	82	60
Capital Gains Tax	84	44
Residential Property Tax	14	12
Agricultural Levies	1	1
	£12,095m	£10,886m

The amount paid into the Exchequer was £12,087m leaving a balance of £2m owing to the Exchequer compared to a balance of £6m prepaid at the end of the previous year.

Extra-statutory repayments were made during the year of Value Added Tax £451,171 in respect of diplomatic privilege. These repayments were placed on a statutory footing with effect from 1 December 1996.

7. Taxpayer Remittances

Payments from taxpayers to the Revenue Commissioners are processed in the Office of the Collector General which is located in Limerick. At present, between 6,000 and 16,000 cheques are received and processed each day depending on the time of year.

The following matters were noted during the course of an audit carried out in the Office and were drawn to the attention of the Accounting Officer

• Totals of cheques received in the post room and despatched for processing were not recorded and reconciled to totals of cheques processed through the accounting records.

The Accounting Officer considered that the carrying out of such a reconciliation would impede productivity and seriously delay lodgments to the Exchequer. A balance had to be struck between the timely processing of payments and the extent of the checking and recording procedures and he was generally satisfied that the current supervisory controls and procedures in the post room and accounting procedures were adequate. However, an internal review of procedures in the Office was nearing completion and depending on the outcome of this review the Commissioners would give further consideration to the matter.

Envelopes addressed to individual tax officials, even if they contained cheques, were for reasons
of operational efficiency, sent unopened to the officials concerned who arranged for the
lodgment of the cheques to the Commissioners' bank account and the processing of the
transactions through the accounting records.

The Accounting Officer informed me that procedures had recently been revised and that all post was now opened in the post room and that cheques not processed immediately were logged so that their subsequent processing could be verified.

• The control over post-dated cheques was weak as no record was maintained of the receipt and subsequent processing of such cheques to ensure that they were all accounted for.

The Accounting Officer stated that with the expansion of the tax clearance scheme in recent years and the improved collection systems, there had been a significant increase in the number of post-dated cheques received which had placed a considerable strain on the existing largely manually based system. He recognised the deficiencies in the current arrangements and a new computer system is scheduled for delivery later in the year to address these deficiencies. He was satisfied that, in the short term, pending the introduction of the computer system, the supervisory controls in the area were generally adequate to ensure that all post-dated cheques were accounted for. The policy is to eliminate the use of post-dated cheques as far as possible and to secure maximum payment via direct debit.

• Cheques which for a variety of reasons cannot be processed directly on the automated processing systems are referred to a unit specifically set up to deal with such cases. The records maintained in this unit were not capable of showing whether or not all cheques referred had been or were in the process of being dealt with.

The Accounting Officer informed me that the format of the records had now been revised to ensure that all cheques were being accounted for.

• A number of instances were noted where the referencing to source documents was deficient giving rise to poor audit trails and difficulty in verifying the correctness and completeness of transactions in the accounting records. For example, there were no source or number references to journal vouchers authorising adjustments relating to moneys received from individual taxpayers, which made the tracing of transactions from the taxpayer records to prime documents and the test checking and review of the transactions by management extremely difficult.

The Accounting Officer acknowledged that the current systems had deficiencies and for these and other reasons a major new computer system was being developed which would eventually incorporate all taxes in an integrated processing system. One of the major benefits would be the provision of an audit trail for all amendments to taxpayer records. He also stated that pending the development of the new computer system, and taking account of the need to use resources as cost effectively as possible, the existing checking procedures were adequate to ensure the integrity of the taxpayer records, but that the matter would be considered further in the light of the outcome of the internal review.

• Computer control reports are produced of the various accounting transactions which have been posted to the individual taxpayer accounts for checking by the sections in the Revenue Commissioners having responsibility for these transactions. However, no reconciliations were completed between the totals of the transactions of the control reports after checking and the totals of transactions posted to the individual taxpayers' accounts which would have ensured the completeness of the data checked and provided additional assurance on the correctness of data posted to the individual taxpayer accounts and on the correctness of the individual balances on these accounts.

The Accounting Officer stated that due to the wide dispersal of input stations for non-money transactions, a central reconciliation was not carried out. He stated, however, that he was satisfied that the arrangements in operation throughout the organisation for the checking of edit lists in respect of these transactions generally ensured the accuracy and security of the transactions inputted.

• With the exception of excise duties, customs duties and taxes on imports, the vast bulk of remittances from taxpayers are received and processed in the Collector General's Office and recorded in individual accounts maintained in respect of each taxpayer. The recording of the receipts in the general financial ledgers from which the figures for the annual Revenue accounts are extracted is performed in the Accountant General's Office from information supplied from the Collector General's Office. While there were procedures for ensuring that the daily amounts notified by the Collector General to the Accountant General were correct, no reconciliations were carried out on a monthly or annual basis between the totals of the receipts recorded in the Accountant General's Office and in the Collector General's Office. Such reconciliations would strengthen the assurance that all receipts had been processed correctly in both offices and that accounting errors or irregularities, in the event of any occurring, would be detected.

The Accounting Officer stated that there were procedures currently in place for verifying and reconciling on a monthly basis all taxes and duties collected by the Commissioners. However, he also stated that, as part of an ongoing review of procedures, working groups had been set up early in 1997 to review accounting and reporting arrangements for Inland Revenue, Customs and Excise duties and VAT at point of entry. To ensure a consistent approach to these issues, the working groups report to a project director and steering group, and consultants have been

engaged to help with this work and to advise on best practices. The question of carrying out the suggested additional reconciliations had been identified as one of the issues to be considered by the working groups.

8. Write-Offs in 1996

The Revenue Commissioners have furnished me with details of taxes written off during the year ended 31 December 1996. The total amount £90,733,258 is made up as follows

Tax	19	96	1995	
	No. of Items	Amount £'000	No. of Items	Amount £'000
VAT	2,560	38,244	2,242	34,561
PAYE	2,835	29,998	2,506	29,594
Corporation Tax	992	12,237	897	11,014
Income Tax	2,326	8,781	969	4,730
Other Taxes	167	1,473	84	609
	8,880	90,733	6,698	80,508

The distribution according to the grounds of write-off is :-

	19	96	1995	
	No. of Items	Amount £'000	No. of Items	Amount £'000
Liquidation/Receivership/Bankruptcy	1,562	43,501	2,474	53,824
Ceased Trading - No Assets	5,794	37,940	3,300	22,309
Cannot be traced/Outside Jurisdiction	1,049	6,101	771	3,326
Compassionate Grounds	467	2,643	147	893
Examinership	8	548	6	156
	8,880	90,733	6,698	80,508

I have made a test examination of the cases and I am satisfied with the action taken.

It should be noted that the amount written off may overstate the actual liability as some of the items included in the arrears represent estimated assessments.

9. Proposed Change in Write-Off Procedures

Outstanding tax (including PRSI) in respect of all tax years up to 1994/95 amounted to £1,431m at 31 December 1996. The collectability of this tax is affected by a number of factors viz.

- £587m of the arrears relates to periods prior to the introduction of self assessment for Income Tax, is now more than 10 years old and has been the subject of the collection and enforcement cycle but nevertheless remains uncollected. The lapse in time, the reliability of the records and the basis on which assessments were raised can give rise to doubts as to its collectability.
- The rate of recovery from post-self assessment arrears of £246m for the period 1988-1991 is extremely low. The response to the post-1993 amnesty campaign shows that only some £30m has been discharged from the record as a result of that amnesty. With the very favourable terms on offer in the 1993 amnesty, this response suggests to the Revenue Commissioners that the possibilities for collecting tax for these years have been more or less exhausted.
- Estimated tax included in the overall arrears is £488m. Owing to the unsound nature of many of the pre-1991 VAT estimates raised, estimates raised for these years are regarded by the Revenue Commissioners as speculative rather than as quantified assessments. Similarly, they are of the view that pre-self assessment estimates for Income Tax may be overestimated.
- £401m is due from cases which have been cancelled by Inspectors of Taxes. A major share of this element of the arrears is uncollectable as the bulk of cancelled cases will have ceased trading.

The outstanding tax shown in the books of the Revenue Commissioners is therefore much greater than that which will be ultimately recovered. The Commissioners' very strict guidelines on the write-off of tax debts, which necessitates arrears being individually reviewed and other criteria being satisfied before amounts can be deleted from the records, also contribute to the high level of outstanding tax on the books.

As the Commissioners felt that there was no realistic chance of recovering much of the outstanding tax, they decided in early 1997 that the commitment of the level of resources necessary to pursue this tax would not be justified. They therefore proposed to revise their write-off procedures so that much of these old uncollectable arrears would be deleted from the records. The main changes included the use of automation to write off small amounts, enhanced efforts to be put into the task of reviewing doubtful debt, and the write-off of cases involving company liquidations at the beginning rather than at the end of the liquidation process.

The Commissioners informed me that they are hopeful that these measures will result in a significant reduction in the level of old book arrears and will provide a greater focus on the collection of current taxes and collectable arrears and lead to a more planned approach to debt management.

In response to a request by the Accounting Officer for my views on the Commissioners' proposals I stated that I was in broad agreement with the action proposed but pointed out the following

• The key risk associated with any widening of the write-off policy is that tax which is capable of being collected may be written off and therefore be lost to the State. The obvious aim should be to minimise if not eliminate that risk by designing control procedures for the different categories of arrears. There are a number of ways of classifying arrears. At one level a

distinction should be made between arrears which arise as a result of unsubstantiated estimated assessments and those which represent real liabilities. In the latter category a distinction would have to be drawn between tax which is uncollectable by virtue of the financial status of the individual or company and tax which is uneconomical to pursue.

- Having regard to the sharp initial increase in write-offs, internal audit be given a role in reviewing a defined percentage of cases for adherence to procedures and the increase will also call for a more extensive examination of write-offs by my staff.
- The Revenue policy of reinstituting collection action on written-off tax arrears should continue where circumstances change to an extent that the debt can be satisfied.
- It is important that the write-off procedures are not seen as giving the message that if Revenue demands are ignored for long enough they will go away. It will therefore be necessary to devise new headings under which write-offs can be classified to ensure that Revenue's actions are, and are seen to be, fair, equitable and reasonable. These are to be agreed with my Office with a view to facilitating their inclusion in my Report.

I noted that the proposals provided for the documentation of write-off procedures and the keeping of records for audit examination.

10. Outstanding Taxes and Levies

Table 1 was prepared on the basis of information furnished by the Revenue Commissioners and reflects the activities and transactions in the twelve month period ended 31 May 1997 - the latest date for which data was available at the time of finalising my Report.

Table 1 - Outstanding Taxes and Levies

	Balance at 31 May 1996 ^a	Charges/ Estimates Raised ^b	Paid	Dis- charged	Balance at 31 May 1997	Estimate of amount likely to be collected
	£m	£m	£m	£m	£m	£m
Income Tax (Excluding PAYE) ^c	720	996	952	91	673	244
VAT (Declared Liabilities Net of Repayments)	170	2,957	2,968	-	159	58
VAT (Estimates) ^d	281	39	148	-	172	25
PAYE (Declared Liabilities)	141	3,606	3,624	-	123	74
PAYE (Estimates) ^d	90	90	109	-	71	13
PRSI (Declared Liabilities)	167	1,875	1,899	-	143	64
PRSI (Estimates) ^d	64	67	80	-	51	9
Corporation Tax	268	1,600	1,478	159	231	42
Capital Gains Tax	69	116	116	13	56	15
Residential Property Tax	3	17	14	-	6	2
Capital Acquisitions Tax	3	83	82	1	3	2
Abolished Taxes	2	-	-	-	2	1
Total	1,978	11,446	11,470	264	1,690	549 ^e

Notes:

- a. The increase of £28m between the closing balance in the 1995 report and the opening balance for 1996, is accounted for by the inadvertent omission of outstanding balances due from certain VAT traders who operated the direct debit payment system or the annual remitter scheme.
- b. Net of write-offs.
- c. Includes Deposit Interest Retention Tax, Withholding Tax, PRSI for the self-employed, Health Contributions and Levies.
- d. Net of discharged estimates.
- e. The estimate of the amount likely to be collected takes into account factors such as:
 - anticipated reductions of estimated amounts included in balances brought forward from previous years.
 - the level of liquidations and business closures.
 - bistorical collection patterns.

11. Sheriffs and other Enforcement Measures

The Revenue Commissioners have supplied the following information regarding the collection of taxes from recalcitrant taxpayers in 1996:

Sheriffs

Tables 2 and 3 summarise the results of enforcement action taken by Sheriffs on foot of certificates issued under Section 485 of the Income Tax Act 1967.

Table 2 - Certificates

		No. of Certificates	
		1996	1995
On hands of Sheriffs at 1 January		40,293	38,423
Referred to Sheriffs during the year		82,234	76,672
		122,527	115,095
Returned Paid	20,664		
Certificates withdrawn - alternative arrangements agreed with			
Revenue	16,895		
Returned unaccompanied by Payment	49,871°	87,430	74,802
On hands of Sheriffs at 31 December		35,097	40,293

These arise where

- tax returns or claims for repayment are later submitted
- companies have ceased trading or have left the address
- no distrainable goods are available

Table 3 - Analysis under Tax Heads of Certificates on Hands

	No of Certificates	Value £m
VAT	14,336	64
PAYE/PRSI	11,443	50
Income Tax	8,200	28
Corporation Tax	1,079	6
Others	39	1
	35,097	£149m

The amount paid over to the Collector-General in 1996 by the Sheriffs was £60m compared to £75.8m in 1995. The Commissioners attribute the lower return to an increase in the number of taxpayers who responded to contact from the Sheriff by paying the Collector-General directly.

Solicitors

Two firms of solicitors are retained by the Revenue Commissioners to pursue cases which are deemed unsuitable for sheriff enforcement. In 1996 a total of 3,893 items (7,213 items in 1995) were referred to the two firms and the yield was £8.6m (£9.7m in 1995). The Revenue Solicitor also

pursues certain cases for recovery of tax. 112 items (89 items in 1995) were so referred in 1996 and the yield was £0.3m (£1.2m in 1995).

Attachment Orders

In 1996, power to attach amounts owed by third parties to tax defaulters was successfully used in 148 cases (199 cases in 1995) resulting in a yield of £1.4m (£2.5m in 1995).

12. Taxpayer Compliance with Self Assessment Requirements

The rate of taxpayer compliance with the requirements of the self assessment system in terms of returns submitted up to 31 May 1997 was:

		Year ended	5 April	
Income Tax	1992/93	1993/94	1994/95	1995/96
No. of Returns issued	226,291	241,353	258,046	266,163
% Received 31/5/94	87%	*	*	*
% Received 31/5/95	96%	82%	*	*
% Received 31/5/96	98%	92%	79%	*
% Received 31/5/97	98%	96%	91%	84%
		Year ended	31 December	
Corporation Tax	1992	1993	1994	1995
No. of Returns issued	67,180	69,047	71,671	73,131
% Received 31/5/94	69%	*	*	*
% Received 31/5/95	77%	70%	*	*
% Received 31/5/96	81%	79%	73%	*
% Received 31/5/97	83%	82%	79%	74%
* - not applicable				

Details of prosecution action in 1996 for failure to file Income Tax and Corporation Tax returns is as follows :-

Total
242
774
1,016
<u>362</u>
654

Fines were imposed in all cases heard to a total value of £170,500 in 1996.

13. Revenue Audit Programme

An effective tax system must incorporate procedures for verifying the validity of the returns submitted by taxpayers. This involves the desk checking of returns for completeness, accuracy and reasonableness and on-the-spot inspection or audit of documents and records.

The majority of audits carried out by the Revenue Commissioners are specific to taxheads, like VAT and PAYE, but a significant number of comprehensive audits are also carried out which may focus on all or any taxes payable but in practice are primarily aimed at Income Tax, Corporation Tax and Capital Gains Tax. There is also a body of work which comes under the general category of Revenue audit arising out of the activities of the investigation and anti-avoidance branches.

Revenue audit activity is a key element of the tax collection system and in this context I noted that the number of audits completed by Revenue had fallen from 23,294 in 1995 to 19,767 in 1996 while there was a reduction in the tax yield from £148m to £141m. The outcome of the Revenue audit programme is summarised in Table 4.

In response to my inquiries regarding the factors underlying the reduction in the number of audits my Office was informed by Revenue that:

- The scope and extent of the audit programmes, in general, reflects Revenue's professional
 assessment from year to year of where tax is most at risk and where resources might
 therefore be devoted to best effect.
- The reduction in the overall number of Revenue audits in 1996 (as compared with 1995) is due primarily to a change in strategy under which
 - some resources were switched from single taxhead audits in the VAT and PAYE areas to comprehensive audits
 - audit resources were moved to larger cases which take more time to audit this has led to a higher yield on average per case.
- Additional training reduced the number of available audit days during 1996.
- The involvement of more staff in local collection meant a shift of some staff resources from audit during 1996.
- In 1995 and 1996 approximately 6-7% of the relevant taxpayer base (338,000 individuals and companies) had their returns examined under at least one of the audit programmes. However, as the focus of the audit programmes is on the larger cases, it means that proportionately a higher figure than 6-7% of the larger cases are audited.
- The reduction in the yield from anti-avoidance work reflects
 - the long-term nature of challenging avoidance schemes and the size of tax loss associated with each scheme
 - the strengthening of anti-avoidance legislation in recent years which leaves less scope for avoidance.

- the clearing of a backlog of small low-yielding cases in the Anti-Avoidance Unit.
- the Anti-Avoidance Unit's role in advising Audit Districts on issues which should be addressed by Auditors.
- The reduction in the number of Capital Acquisitions Tax audits is mainly due to a greater emphasis on high risk cases.

Table 4 - 1996 Revenue Audit Programme

(i) Audits Completed

Audit Type	1996	5	1995		
	No. of Audits Completed	Yield £m	No. of Audits Completed	Yield £m	
Comprehensive Audits	3,969	69.21	4,058	53.1	
VAT	8,424	33.04	10,351	37.3	
PAYE Employers	5,358	19.54	6,437	22.0	
Capital Acquisitions Tax	315	2.60	446	2.5	
Relevant Contracts Tax	1,582	7.99	1,820	10.3	
Investigation Branch	90	5.95	144	14.4	
Anti-Avoidance	29	2.42	38	8.4	
Total	19,767	£140.75m	23,294	£148.0m	

(ii) Comprehensive Audit Results

As part of the self assessment system comprehensive audits are carried out following review of returns made for Income Tax and Corporation Tax purposes. The result of this audit activity is as follows:

Audit Activity	Total		Income Tax Returns		Corporation Tax Returns	
Audits in progress at 1/1/1996 Audits initiated in 1996	2,313 3,550		1,374 2,347		939 1,203	
Total		5,863		3,721		2,142
Returns accepted Cases closed with additional liability	981 2,988	3,969	590 2,003	2,593	391 <u>985</u>	1,376
Referred to Investigation Branch	2,700	20	2,000	9	705	11
Audits in Progress at 31/12/1996		1,874		1,119		755

(iii) Yield from Comprehensive Audits

Income Tax Returns		No.	As % of Total	Yield £	As % of Yield
Returns Accepted - No additional tax payable		590	23	-	-
Agreed Settlements					
£1 - £5,000	998		38	2,495,741	10
£5,000 - £50,000	891		34	11,671,599	48
£50,000 - £100,000	46		2	3,033,977	13
Over £100,000	21	1,956	1	6,057,683	25
Referred to Collector General for enforcement action (a)		27	1	674,000	3
Settled by Restriction of Losses Carried Forward to Future Years (b)		20	1	266,000	1
Totals		2,593	100	24,199,000	100

Corporation Tax Returns		No.	As % of Total	Yield £	As % of Yield
Returns Accepted - No additional tax payable		391	28	-	-
Agreed Settlements					
£1 - £5,000	362		26	1,038,816	2
£5,000 - £50,000	468		34	8,547,923	19
£50,000 - £100,000	61		4	4,428,205	10
Over £100,000	47	938	4	23,038,056	51
Referred to Collector General for enforcement action (a)		11	1	160,000	1
Settled by Restriction of Losses Carried Forward to Future Years (b)		36	3	7,805,000	17
Totals		1,376	100	45,018,000	100

a. Where the inspector is unsuccessful in collecting the additional tax and interest arising on audit adjustments, the amounts are referred to the Collector General. It is likely that the amounts eventually collected by the Collector General will be significantly less than the full amounts shown

(iv) Random Audits

As part of the 1996 programme of comprehensive audits, a total of 52 random audits were completed. Additional liabilities of £68,860, including £17,760 in respect of penalty and interest charges, were assessed in 14 cases while the returns of the remaining taxpayers were accepted as originally submitted.

b. A number of audit settlements involve the restriction of losses available for carry forward against future years' profits, thereby providing higher tax yield in those years. The yield shown assumes that taxable profits in future years will fully absorb the losses. This may not always be the position and hence the yield figure may be less than the figure shown.

c. The amount of the highest individual settlement in 1996 was £3,317,102 and arose in respect of a Corporation Tax audit.

d. Interest charges of £6.65m and penalties of £2.99m are included in the yield from agreed settlements.

14. Investigation Branch Settlements

Where an investigation undertaken by the Revenue Commissioners reveals that a taxpayer has failed to disclose relevant information resulting in an underpayment of tax, legal proceedings may be instituted against the taxpayer. Alternatively, the Revenue Commissioners may agree to accept from the taxpayer a sum in settlement of the tax outstanding with the addition of interest and penalty charges.

The Revenue Commissioners have informed me that, during 1996, investigations were completed in 90 cases, 47 of which resulted in back-duty settlements amounting to £5,949,172 (144 cases in 1995 of which 85 yielded £14,426,294) becoming collectable inclusive of £1,043,743 (£1,013,618 in 1995) in penalty and interest charges.

Early in 1996 the Revenue Commissioners comprehensively reorganised the Taxes Investigation Branch, concentrating the preponderance of the staffing resource in pursuing a prosecution strategy in contrast to the previously prevailing policy of accepting monetary settlements in virtually all cases. The reduction in both the number of investigations completed and the yield therefrom is a direct consequence of this change in emphasis.

15. Management of the Collection of Outstanding Taxes

The Revenue Commissioners' management of the collection of outstanding tax was reviewed by my staff. The review established that the information available to management to monitor the level of the debt and the collection effort was deficient in a number of respects. Specifically

- Regular reports were not produced of the amount of debt dealt with under the various collection
 enforcement measures and the success achieved. The management information system could
 not show the proportion of the total debt that had been subjected to the various collection
 enforcement procedures employed by the Commissioners and the proportion of the debt that
 had not been pursued due to factors of time, cost, prioritisation of cases, or other reasons.
- While management reports were produced showing period to period reductions in arrears, in
 respect of specific tax years, they did not show the extent to which the reductions were due to
 debts having been paid rather than having been written off or discharged.
- The computation of the total tax arrears outstanding at any particular time required the manual computation of a large number of figures produced by computer and were only produced twice each year.
- An unquantifiable but apparently large amount of debt which had been processed by sheriffs or
 in the courts was shown as being under demand, which is the initial stage of the collection cycle,
 as there was no post-legal enforcement category for outstanding debt.

The Accounting Officer informed me that the current collection systems were old and were being replaced by a new system (Integrated Taxpayer Processing) which would eventually process all taxes in one integrated system and would replace the separate systems that operate at present for the different types of taxes. The project is the largest computer development ever undertaken by Revenue. He stated that management information systems, originally introduced to support these now ageing systems, were equally old and inflexible. To overcome the many deficiencies already

known with the current systems a separate management information system (Collection Information Facility) was being progressively developed and was currently used to provide management information on the debt on a monthly basis. While specific information may not have been readily available to plot the progress of individual arrears through the management information system, more general information on the levels of arrears currently at the various collection stages was readily available and was sufficient to allow management decisions to be taken.

He was satisfied that while it was not possible to provide a definitive analysis of the tax arrears at post-enforcement collection stage, taking account of available resources, all arrears that had failed one method of enforcement were reviewed and referred for alternative means of enforcement, where necessary, and that the absence of a post-enforcement collection stage had not in any way prevented an effective follow up where tax charges were returned unenforced by an enforcement agency. He also stated that the Commissioners were satisfied that, notwithstanding the deficiencies in the present computer system, which are being addressed, there were no serious weaknesses in the collection process.

I also asked the Accounting Officer whether the high level of long outstanding tax debts - approximately £800m at the end of 1996 in respect of tax outstanding for more than five years - was in any way attributable to the lack of time standards for the completion of the various collection enforcement measures.

He assured me that all cases where tax arrears are outstanding were reviewed sufficiently frequently to ensure that no liability was overlooked for an extended period. He stated that the time taken to complete enforcement measures was monitored and any exceptional delays were investigated, and that procedures involving sheriffs were being tightened under a proposed new agreement with them on a revised remuneration package. He also stated that where civil action was employed specific deadlines were not practical as the pace of activity was largely determined by the Courts, but that cases which had been with the Commissioners' external solicitors for some time were being reviewed.

16. Enforcement Measures for Outstanding Taxes

There are a number of steps which the Commissioners can take against defaulting taxpayers in the event of action in the courts or by the sheriffs failing to secure collection. The exercise of a number of these options by the Commissioners was examined during the audit as follows

Judgment Mortgages

Where legal proceedings have been taken against a defaulting taxpayer and judgment issues in favour of the Commissioners, the judgment can be registered against the taxpayer thereby creating a Judgment Mortgage against specific land or property owned by the taxpayer. A Judgment Mortgage entitles the Commissioners to sell the land or property without the consent of the taxpayer. While 910 Judgment Mortgages were obtained in the years 1991 to 1993 only 96 were obtained in the years 1994 to 1996. I sought information from the Accounting Officer as to the circumstances in which Judgment Mortgages were obtained and enforced, the numbers enforced and the reason for the decrease in the numbers obtained.

The Accounting Officer explained that Judgment Mortgages were now sought in cases where the tax liability was of significant size, where there was property other than the family home in the name of the taxpayer, where it appeared that there was adequate equity of redemption in the property to cover

the tax liability, and where no other more direct method of enforcing collection was available. He stated that no execution orders had been sought to June 1997 from the courts in respect of Judgment Mortgages, but that it was the firm intention to seek such orders in the future in appropriate cases. He also stated that the use of Judgment Mortgages had resulted in a significant number of payments to the Commissioners (£1.75m in period May 1996 to April 1997). In relation to the decrease in the numbers obtained, he explained that the 1993 tax amnesties and related follow up work caused a slowdown in enforcement activity generally, and that this had an impact on the number obtained for the post-amnesty years 1994 to 1996. He also said that a reappraisal of their use showed that this method of enforcement may have been overused in the past (e.g. mortgages registered where the property concerned was already encumbered to its full value) and that a more stringent approach had been taken since 1994 with the adoption of the new criteria. He informed me that the position was regularly reviewed to ensure the most effective use of enforcement options, and that Judgment Mortgages would continue to play an important role in appropriate cases.

Bankruptcy Proceedings

The Commissioners may petition the High Court for the issue of a bankruptcy order in respect of a taxpayer who has failed to pay taxes legally due provided the sum owing is at least £1,500. I sought information from the Accounting Officer as to the circumstances in which bankruptcy proceedings are instigated and the numbers of bankruptcy proceedings initiated in the years 1992 to 1996.

He informed me that bankruptcy proceedings may be appropriate where all efforts to collect taxes owing have failed and the taxpayer has assets which can be realised by the Official Assignee and a dividend paid to the creditors, or where assets had been recently transferred in a family to avoid paying creditors. He also stated, however, that because of costs and the extent of the formalities involved it would never be likely to be considered in a large number of cases, but was nevertheless a useful sanction. He informed me that bankruptcy proceedings had been instituted in one case in the years 1992 to 1996.

Winding up of Companies

The Commissioners may petition the High Court to have a company wound up in the event of it having failed to pay taxes legally due of £1,000 or more. I sought information from the Accounting Officer as to the circumstances in which winding up of companies is sought and the numbers of companies put into liquidation as a result of petitions by the Commissioners in the years 1992 to 1996.

He informed me that the circumstances in which winding up petitions were presented were varied but that all other efforts to collect the debt would have failed and in many instances the debt would be continuing to grow, and that liquidation would represent the most effective option for ensuring that further tax liabilities did not accrue. He stated that the Commissioners had made 36 petitions to the Courts in the period 1992 to 1996 to have companies wound up and that action taken by the Commissioners to collect debts had precipitated liquidations in a large number of other cases, or forced companies into seeking examinership.

It was also noted during audit that 5,400 companies with book tax debts totalling £336m as at 31 May 1995 were in liquidation. I asked the Accounting Officer if the progress of the liquidations was kept under review and the number where the liquidations would not be completed due to lack of funding in the companies concerned. I also inquired as to the circumstances in which the Commissioners fund

the costs of liquidations in the event of no funds being available in the company and the numbers so funded in the years 1992 to 1996 and the outcome of the action.

The Accounting Officer informed me that the progress of the liquidations is constantly kept under review and a new policy for writing off amounts was being implemented. Details of the numbers that would not be completed due to lack of funding were not readily available. He pointed out that while the responsibility for ensuring that liquidations were carried out in line with the terms of the Companies Acts lay with the Registrar of the Companies Office, Revenue always endeavours to conclude cases. He also stated that the circumstances where the Commissioners have funded liquidation costs in the absence of funding in a company were as follows

- Reckless or fraudulent trading involving directors
- Failure to keep proper books and records
- Disposal of assets for less than market value, or to directors or connected persons
- Fraudulent preference given to one creditor as against others

The Accounting Officer informed me that in the period 1992 to 1996 the Commissioners guaranteed funding in 47 cases, but that the guarantees were not called upon in 11 cases and in 2 cases the amounts had been reimbursed.

He stated that the liquidations had not been finalised in the majority of these cases. In the cases that had been finalised the outcome had varied as follows

- In 10 cases directors had been restricted or disqualified from acting as directors in future.
- In 1 case the directors had been made personally liable for all the debts of the company.
- In 1 case there had been a settlement out of court.
- In 1 case the directors had accepted liability for the costs incurred by the liquidator.

Criminal Prosecutions

A visible policy of prosecuting under the criminal law should be an effective deterrent against individuals evading or not paying their due taxes. Section 94(2)(f) of the Finance Act 1983 provides that a person who fails to remit VAT, or Income Tax deducted under PAYE Regulations, shall be guilty of an offence, punishable by a fine of up to £10,000 or imprisonment for up to 5 years. I sought information from the Accounting Officer as to the circumstances in which prosecutions under this provision would be instituted and the number of times individuals had been prosecuted under the provision in the years 1992 to 1996.

The Accounting Officer stated that the intention of the Commissioners was to pursue an active prosecution policy for cases involving serious tax evasion, as announced in their new corporate plan, and had been put in place in consultation with the Office of the Director of Public Prosecutions. He also stated that it was the view of the Commissioners that the provision should only be used against a limited number of taxpayers whose non-compliant attitude to the payment of tax was mirrored by a similar attitude to other requirements of the tax system. He pointed out that any proceedings under the provision required the approval of the Director of Public Prosecutions. He also informed me that no proceedings had been initiated under the section in the years 1992 to 1996 but that there were a number of cases currently being processed with a view to bringing prosecutions where charges under Section 94(2)(f) of the Finance Act 1983 might also be appropriate.

Charging of Interest on Overdue Taxes

The charging of interest for late payment of taxes can be an effective incentive to taxpayers to pay their taxes by the due date. I sought information from the Accounting Officer on the current policies in relation to the charging of interest on late payments and the amount of interest so charged in 1996.

The Accounting Officer informed me that the Commissioners had some years ago discontinued charging interest automatically on overdue taxes as it merely resulted in large amounts of uncollected interest charges being added to tax liabilities which were themselves often estimated and unreliable. Because the policy was ineffectual and open to legal challenge a new caseworking approach to non-compliant taxpayers had been adopted and was continuing to be developed to provide an effective and legally enforceable basis for charging interest and, as resources permitted, additional staff were being allocated to this work. He stated that charges of £12.35m were raised in 1996 in respect of interest on late payment of taxes.

General

The Accounting Officer stated that

- The Commissioners are satisfied that the progress in recent years, which has shown improved
 compliance trends and a significant reduction in the build up of arrears, is largely the result of
 improved collection techniques. The most significant changes introduced is the move towards
 caseworking and prioritising of defaulters and a move away from the process driven system.
- In regard to the overall strategy being followed in the aftermath of the 1993 amnesties as outlined in paragraph 9 arrangements are proceeding to implement the speedier and broader write-off policy which is needed to secure a clearer classification and more effective management of the debt.
- There are regular exchanges of information, primarily among EU member states, on methods of recovery and enforcement of overdue tax. There has also been an exchange visit by a member of the staff from the Office of the Chief Inspector of Taxes with the New Zealand Revenue authorities. These exchanges of information are very useful when planning future strategies on collection and enforcement. For example, preparatory work on the project to integrate the processing of taxes has taken account of the experience of other countries in integrating diverse taxation systems under a single corporate processing system. Nevertheless, the indications are that Revenue's operation is well up with best practice as reflected in methods and practices employed by other tax administrations.

17. Stamp Duty - Land and Property Transactions

In 1996, stamp duties to a value of £332m were collected, of which £194m related to land and property transactions. The duty on such transactions is payable by means of stamps impressed by special machines on documents presented at or posted to the Revenue stamping branch in Dublin. The stamp is the sole evidence that duty has been paid. Documents evidencing the transfer of land or property can only be registered in the Land Registry if they have been stamped with the appropriate amount of duty and a visual inspection is undertaken by Land Registry staff at the point of registration.

An audit by my staff in late 1996 pointed to the risk of relying on visual inspection as the only means of ensuring that all relevant documents are properly stamped, particularly where sophisticated forged stamps might have been used or where the security over the Revenue stamping presses might have been breached.

The Accounting Officer acknowledged that potential risk but pointed to the nature of the stamping operation which was required to provide a fast and efficient over the counter service for solicitors and their clients whose documents need to be stamped. There was an obligation to provide a prompt retail service if business is not to be impeded and necessary controls must be consistent with this. On this basis, for the vast majority of instruments presented for stamping over the counter in the Stamp Duty public office, no records are maintained. The uniqueness and security of the stamping process, coupled with the design and security of source of the stamping dyes, have been relied upon to ensure the authenticity of the stamp impressed and, therefore, that stamp duty had been paid.

He added that responsibility for ensuring that documents are properly stamped before registration lies with the Land Registry. Within the past year, inspection by Land Registry staff has been supplemented by monthly test checking of stamped deeds in the Land Registry by Revenue.

He agreed that if the security on the Revenue stamping presses was itself breached, then clearly the detection of such fraudulently stamped documents would be extremely difficult. A system of records and reference numbers that could be used by the registering authorities to verify conclusively that stamp duty had been paid in respect of a specific instrument would clearly facilitate such detection. Revenue has already been considering how such a system might be put in place while maintaining the fast and effective service required by customers. In the light of recommendations made by their Internal Audit in a 1995 report on the Stamp Duty area regarding the need for an audit trail and ongoing management concern in the matter, tenders have been sought for a technological solution to the difficulties caused by the lack of transaction records and the absence of integration between the different processes in the stamping operation. The integration of the various processes and automatic balancing would minimise the minor discrepancies which arise from time to time and facilitate the investigation of any that do arise. Examination of tenders is at an advanced stage and a case will be put to the Department of Finance to secure the necessary computer capital funding. In the meantime, the introduction of a security chemical in the stamping ink, which would enable Revenue and the Land Registry to detect forgeries using a simple ultra violet light test, is under active consideration.

The Accounting Officer stated that the absence of records of over the counter transactions which represent 80% of transactions was a primary consideration in instigating the monthly monitoring of deeds lodged with the Land Registry. The adequacy of the level of the supervisory checks on postal cases which currently constitutes 1% of the annual total of some 70,000 postal documents received will be reviewed in the light of experience and practice elsewhere in Revenue. While acknowledging the desirability of checking the integrity of over the counter transactions, the Accounting Officer stated that supervisory checks of this nature would give rise to problems of practicability as, unlike postal cases, the documents involved are, by definition, not in the possession of the stamping branch for any length of time. The manner of how best such supervisory checks might be carried out with least disruption to customer service will be examined.

The Accounting Officer also referred to a fraud which was discovered in March 1997 by Land Registry staff and which apparently involved the forging of stamps by the use of a colour photocopier. Further enquiries revealed the existence of a substantial number of deeds with forged

stamps. The matter has been referred to the Garda Bureau of Fraud Investigation and the full extent of the fraud is not yet known.

He stated that both Revenue and Land Registry are working closely together to ensure that the stamping process is as secure as possible and that any problems are quickly identified.

18. Stamp Duty - Shares

Stamp duty is payable on the sale or transfer of shares of companies registered in the State. In 1996, £41m was collected in respect of stamp duty on share transactions. A new electronic system was introduced in 1996 for UK and Irish equity settlement and, under Section 105 of the Finance Act 1996, the Revenue Commissioners entered into an agreement with the UK company, which owns and operates the new system, for the collection and payment of Irish stamp duty.

Under the system, the stamp duty on a share transfer is due and payable on the date the electronic message advising the Registrar of a company to register the transfer of shares is generated. Participants, such as brokers and institutional investors, must have a contract with a payment bank which is obliged to guarantee payment to the seller's bank for shares transferred to their customers. The payment bank is also obliged to pay over the stamp duty to the operating company at the same time.

Under the agreement, the stamp duty moneys are lodged by the UK company to designated bank accounts in trust for the Commissioners and are transmitted by electronic funds transfer to the Central Bank each week. Prior to the transfers, the operating company forwards a daily breakdown of the stamp duty payments collected to Revenue. The receipt of payments is confirmed by the Central Bank.

A key element of the checking procedures was the testing of the system by Revenue before it went live in October 1996. This involved the checking of a range of individual transactions to ensure that the correct amount of Irish stamp duty would be calculated by the system.

A direct link with the new system is currently under development which will download relevant data from all electronic transactions to the Commissioners. When in place, the data will facilitate verification that the correct amount of duty is being paid over by the operating company and facilitate audit procedures. The agreement also gives the Commissioners the right to undertake a system audit on the operating company.

Receipts through the new system accounted for £4.5m of the £41m stamp duty under this heading in 1996.

For transactions not going through the new system, the onus is on the purchaser of Irish company shares to pay the stamp duty to the Revenue Commissioners directly, but companies are required to check that the stamp duty has been paid before registering the new owner by ensuring that the share transfer documents have been properly stamped.

As part of the Commissioners' stamps audit programme, a project has recently been undertaken, involving the checking of company registration office records, for a limited number of companies in relation to changes in share ownership, with a view to seeking sight of the share transfer forms from

the company registrars. Depending on the outcome of the exercise, consideration will be given to initiating a more systematic audit of company records.

Unless the share transfer relates to quoted shares or is clearly an arms length transaction between unconnected parties, a form must be completed which sets out the basis on which the share valuation is arrived at. Such cases are automatically examined to determine whether the valuation is acceptable.

VOTE 13. - OFFICE OF THE ATTORNEY GENERAL

19. Intestate Estates and Dormant Funds

Under Section 73 of the Succession Act, 1965 the estates of persons who die intestate and with no known next-of-kin fall to be taken by the State as ultimate intestate successor. The Attorney General deals with such cases by instructing the Chief State Solicitor to obtain letters of administration from the High Court. When the administration of the estate has been finalised, the proceeds are paid into the Intestate Funds Deposit Account, which is under the control of the Minister for Finance and audited by me. Fees in respect of this administration are met by the estates and brought to account as appropriations in aid in the Vote.

In response to my inquiries the Accounting Officer stated in May 1996 that generally speaking, ownerless property comes to the attention of the State authorities from the local Gardaí and, in a minority of cases, through a local solicitor. Most intestate property falls into two general categories land/buildings and moneys in bank accounts or other financial institutions. As regards the former, he did not see it as the Attorney General's function to ascertain what land is ownerless and what is not. As regards moneys left unclaimed in financial institutions, it was his understanding that this had been the subject of various proposals for legislation from time to time but none of these had resulted in any legislation to deal with the matter.

In September 1996, during the course of audit of a Health Board, it was noted that the Board held approximately £0.5m in dormant balances, representing funds of deceased patients who had died intestate and for whom no next-of-kin could be traced. Legal opinion obtained by the Board indicated that these dormant balances may be due to the State as ultimate intestate successor. It was also noted that balances of some £2.6m relating to discharged or deceased patients were held by the eight Health Boards, some of which may have been due to the State.

As it appeared that all intestate estates where there was no next-of-kin were not being brought to the attention of the Office of the Attorney General, I sought the observations of the Accounting Officer and he informed me that

- It may be that an obligation could be placed on Health Boards to notify the State of unclaimed patients' accounts by way of legislation or statutory instrument. It was very likely that there are other balances in financial institutions lying dormant but at present these institutions have no obligation of disclosure to the State of these balances and any proposed legislation to do so would require close constitutional scrutiny. There may be economic considerations as to whether this exercise would be worthwhile.
- In the normal course, potential intestate estates come to attention where nobody comes forward to make funeral arrangements for the deceased person. It is also the case that smaller estates are discovered from time to time when an occupant of land owned by a person who is not survived by next-of-kin makes an application to the Land Registry for registration and is informed by the latter of the interest of the State. Frequently the interest of the State will have been disposed of by virtue of the Statute of Limitations, 1957. Outside of the present procedures the Attorney General has no responsibility whatever in relation to intestate estates which are not brought to his attention, or of which he is unaware. There is no other State authority responsible for ensuring that such information is brought to the attention of the Attorney General.

- Any review of the effectiveness of the present arrangements has to have regard to what checks
 and balances are in place to ensure that the State gets its entitlement but it is difficult to envisage
 a system that would bring all intestate estates to the attention of the State with any degree of
 haste or efficiency.
- While the present arrangements do not ensure immediate notice on the death without next-of-kin of a property owner, he did not think that section 73 of the Succession Act, 1965 was intended as a large benefit to the State. Estates are relatively modest in size and will, over time, become even less significant. The change in the law effected by the Status of Children Act, 1987 will have the effect of reducing the likelihood of property reverting to the State on the grounds that it is ownerless. The Chief State Solicitor's Office has noticed in recent years a trend that, due to the growth of genealogical surveyors, next-of-kin are being discovered in many countries. While the State must intervene if required in the early stages it is now possible and quite probable that the number of intestate estates will become less and less.

VOTE 15. - VALUATION AND ORDNANCE SURVEY

20. Irregularity

In 1996, some £1.88m was received by the Ordnance Survey Office in respect of map sales. Customers pay by way of cash, cheque or credit card over the counter, by post or by telephone.

In April 1997, the Accounting Officer informed me that financial irregularities had been uncovered in the map sales office and that the Gardaí had initiated an investigation into the irregularities at his request. He stated that, because the investigation was ongoing, he was somewhat circumscribed in what he could say about the precise details of the irregularities. However, in broad terms, evidence of irregularities uncovered was supported by the internal audit carried out in February 1997 and included

- operators holding cash for which there were no matching receipts
- · customer cheques which could not be matched with any receipt issued
- different amounts on customer and office copies of receipts
- the alteration of receipts prior to their submission to the accounts office
- receipt books from which receipts were missing when the books were returned to the accounts office.

It was not possible at that stage to estimate the extent of the financial loss or to state the length of time over which the irregularities took place.

As a result of the discovery of the irregularities and the recommendations contained in the internal audit report, new control procedures had been implemented in the map sales office and in the accounts office, including, *inter alia*, controls on the issue and accounting for receipt books, daily reconciliation of sales and new checking procedures in the accounts office. Furthermore, the map storage and retrieval computer system was being upgraded to provide for simultaneous receipting and map production and it is intended to integrate this system with the till system in a later stage of the information technology development programme. The Accounting Officer stated that the new procedures had been issued in writing to all staff and would be kept under review. He was confident that their implementation would prevent a recurrence of the irregularities under investigation.

VOTE 18. - DEPARTMENT OF TRANSPORT, ENERGY AND COMMUNICATIONS

21. Excess on Consultancy Project

In August 1994, the Department placed an advertisement in the EU journal for consultancy firms to tender for the provision of advice it needed to assist in the evaluation of applicants for the licence to become the second operator of the global system for mobile telephony (GSM) in Ireland and in the licensing of the successful applicant.

Twenty one applications were received and, in March 1995, six firms who had been invited to bid for the contract submitted tenders varying from £190,000 to £932,000. The Department, following Department of Finance sanction and Government Contracts Committee approval, awarded the contract to a company which had tendered a fixed fee of £297,450 and expenses of up to £30,000. Verbal notification of its success in the competition was given to the company by the Department on 6 April 1995 and the company commenced work immediately on the project. The formal legal contract was signed on 9 June 1995.

Shortly after the consultancy commenced, the successful company maintained that it would have difficulty in completing the project to the required standard within the agreed ceiling of £297,450. Subsequently, approval was obtained from the Department of Finance in September 1995 to increase the fee from £297,450 to £370,000. The Department also approved £17,215 for separate additional work items. The final payment on the contract was made in 1996 and the total cost was £411,574 comprising

	£
Fees	369,205
Expenses	25,154
Additional Work	17,215

Due to this substantial increase I asked the Accounting Officer why the company could not complete the project as agreed in the written contract, why the difficulties were not foreseen before the contract was awarded, why the fees were renegotiated after the contract was signed and whether legal advice had been sought by the Department prior to entering into the contract.

The Accounting Officer informed me that:

- Following the engagement of the company by the Department in April 1995, two contractual disputes emerged:
 - On 11 May 1995, in the context of negotiations on a formal contract, the company raised a difficulty arising from both its erroneous exchange rate assumption contained in the original tender for the project on which the price of £297,450 was based and an unfavourable rate movement since the submission of the tender. The company also raised the question of additional payment for advice on certain items which were not included in the original project. Following detailed negotiations in which it was made clear that any exchange rate risk must be carried by the company, it was formally agreed on 14 July that certain defined work items which were clearly outside the original contract could be invoiced

as additional to the £297,450 ceiling at a cost of £17,215. The fundamental agreement that the main project would be completed in (what was then understood to be) a defined ceiling was not departed from.

- Following receipt of the applications for the GSM licence on 4 August 1995, it became clear that the company would have difficulty in completing the consultancy project to the required standard within the ceiling of £297,450. The company began to signal additional workloads from 8 August and, on 22 August, formally sought approval to invoice certain essential elements of the evaluation as additional work items not covered by the agreed price for the consultancy project. The Department was and continues to be of the view, that all of these extra items related to work which could only be reasonably considered to be within the scope of the evaluation agreed with the company.
- Nevertheless, it became clear from detailed and difficult discussions with the company that, without revising the payment outline of the project, the Department could not have confidence in the company's evaluation and this would have serious implications both for the Department's objective in the selection and licensing process and, in the event of a legal challenge, the outcome of the evaluation.
- The Department considered the possibility of severing relations with the company and engaging a new consultant to complete the project. It was estimated that the cost of this course of action would amount to somewhere in the region of £400,000 to £500,000. The only other consultancy tender which was considered acceptable envisaged a total project cost in the region of £1m. Furthermore, the Office of the Attorney General advised, notwithstanding the legal contract agreed with the company, against severing relations. Accordingly, the Department negotiated a new price ceiling with the company for completion of the project. The Department put this proposal to the company on 14 September and it was accepted on 18 September 1995 in the sum of £370,000 plus expenses.
- The Chief State Solicitor's Office was consulted by the Department on the details of the contract and the contract was not signed until that consultation was completed. The Chief State Solicitor's Office drew on Senior Counsel's opinion in settling the terms of the contract. While a clause in the contract provided that no payment in excess of £297,450 would be made without the express approval in writing of the Minister, the intention of this clause was to ensure that an absolute ceiling would apply. The Office of the Attorney General advised, however, that because the contract referred also to the company's tender which foresaw a more flexible payment regime and because the contract specifically provided for payments in excess of the ceiling, the ceiling could not be enforced.

All figures quoted are VAT exclusive

VOTE 19. - OFFICE OF THE MINISTER FOR JUSTICE

22. Tax Clearance Certificates for Criminal Legal Aid Scheme

Department of Finance regulations require that tax clearance certificates, issued by the Revenue Commissioners, should be obtained before entering into contracts or standing arrangements for the supply of goods and services to the public sector. A tax clearance certificate is required where a person or firm is supplying goods or services with a cumulative value of £5,000 or more (VAT inclusive) during any twelve month period. The certificates are normally valid for one year and the contracting authority should seek a new certificate when the existing certificate expires.

In Paragraph 46 of my previous Report I drew attention to the failure of the Department of Social Welfare to obtain tax clearance certificates from qualified practitioners engaged under the Treatment Benefit schemes. The Department of Finance confirmed that such certificates were needed in relation to agreements entered into with participating practitioners and the Department of Social Welfare undertook to have the regulations implemented.

The Criminal Justice (Legal Aid) Act 1962 and the regulations made under it provide that free legal aid may be granted in certain circumstances for the defence of persons of insufficient means in criminal proceedings.

The assignment of a solicitor to a successful applicant is a matter for the court granting the legal aid and is normally made from a panel of solicitors who have indicated their willingness to undertake this type of work. Where the assistance of counsel is allowed the solicitor assigned may instruct any member of the Bar whose name is included in a similar panel of barristers.

In the course of audit of expenditure under the Criminal Legal Aid Scheme it was noted that some £8.2m had been paid out to solicitors and barristers for services provided under the scheme during 1996. However, tax clearance certificates did not appear to have been sought or obtained from these legal aid panellists in any instance.

In response to my inquiries the Accounting Officer furnished the following information:

- 116 solicitors and 63 barristers were paid more than £5,000 in fees under the scheme in 1996 and the total paid to them was £4,271,084 and £1,576,153, respectively.
- The tax clearance procedures were never applied to solicitors and barristers operating under the scheme.
- In March 1994, the issue of tax clearance procedures was raised with the Law Society and Bar Council, but both subsequently raised objections to the application of the procedures to payments under the scheme to their members.
- The advice of the Attorney General in the matter was obtained in November 1995. It stated that
 - ► The Department of Finance regulations do not apply to the granting of Criminal Legal Aid.

- ▶ It would be ultra vires the powers of a Judge and the powers of the Minister for Justice under any regulations pursuant to the Criminal Justice (Legal Aid) Act, 1962 to require a tax clearance certificate in the circumstances provided in the Department of Finance regulations.
- The Criminal Justice (Legal Aid) Act, 1962 does not permit the making of regulations which would require that a tax clearance certificate be furnished in order for a lawyer to be assigned.
- It would be legally possible to legislate to provide that solicitors and barristers be required to furnish tax clearance certificates before being assigned under the Criminal Legal Aid Scheme.
- In May 1995, (prior to the advice of the Attorney General being received), the Law Society lodged two claims for increases in the fees paid to solicitors under the Scheme, which, if granted, would have resulted in the cost of the scheme increasing by approximately £3.3m. Following receipt of those claims it was decided that a fundamental review of the Scheme was necessary. In June 1996, when the analysis of the Law Society's claims was completed, the Minister for Justice sought and received the approval of Government to establish a Committee to review the operation of the Criminal Legal Aid Scheme and to make recommendations as to the manner in which the Scheme might be improved on the basis that the Committee would specifically examine the feasibility of introducing a Public Defence Scheme in the light of the significant increase in the cost of the Scheme over the previous five years. Arrangements were made to appoint a committee representing a wide range of interest groups and in December 1996 the Criminal Aid Review Committee was appointed. It is now carrying out the review in accordance with the terms of the Government decisions.
- The Department was fully engaged in assessing the Law Society's claims for the substantial
 increase in fees when the Attorney General's advice was received and it was only when the
 Review Committee was established that his advice was addressed by the Department.
- In January 1997, the Department of Finance was informed of the substance of the Attorney General's views and that the question of drafting legislation to permit the application of the terms of regulations was under consideration in the Department. In February 1997, the Department of Finance responded by stating that it was essential that the Department of Justice take the necessary legislative steps to enable application of full tax clearance procedures at the earliest possible opportunity.
- The Department of Finance was informed in March 1997 that in view of the amount of urgent legislation, particularly criminal legislation, being processed by the Department, it was unlikely that the Department would be in a position to introduce such legislation for some time. In the circumstances, the Department of Finance was requested to consider including a provision in the 1997 Finance Bill to give effect to the application of full tax clearance procedures to solicitors and barristers operating under the Criminal Legal Aid Scheme.

The Finance Act 1997 was enacted in May 1997 without such a provision.

23. Nationality and Citizenship Fees

The Irish Nationality and Citizenship Acts 1956 and 1986 set out the statutory criteria under which a person not born in Ireland may acquire Irish citizenship *viz*.

- Registration in the foreign births register of birth abroad of persons whose parent(s) or grandparent(s) were Irish citizens. This register is maintained by the Department of Foreign Affairs.
- Declaration of acceptance of post-nuptial citizenship by the spouse of an Irish citizen.
- Granting of a certificate of naturalisation.

Naturalisation and post-nuptial citizenship applications are administered by the Department of Justice. Applications for naturalisation are decided on individually by the Minister. When applicants have been approved for naturalisation a certificate of naturalisation is granted on payment of a fee of £500. In the case of minors or the spouse of a naturalised citizen the fee is £100. Post-nuptial citizenship is purely an administrative process. The post-nuptial citizenship fee of £100 is payable to the nearest Department of Foreign Affairs embassy/consulate when the married couple reside abroad and honorary consuls are entitled to deduct 50% from the fee. The applications and the net fees are forwarded to the Department of Justice for processing.

In 1996, the total receipts from fees for Nationality and Citizenship certificates amounted to £144,167.

In the course of audit carried out in late 1996 material weaknesses in the system of internal control were identified which if exploited could expose the Department to losses arising from errors and irregularities including cash defalcations which might remain undetected. In particular

- properly balanced financial records were not being maintained
- security over stocks of the blank naturalisation certificates and post-nuptial documents was poor
- supervisory and documentary checks were deficient.

Once the control weaknesses were brought to the Accounting Officer's attention, he introduced a number of additional measures to strengthen controls over the processing of applications and declarations relating to Irish nationality and citizenship including

- a computerised reconciliation between fees and applications
- the use of certificates incorporating security features
- a secure storage facility
- tighter supervisory and documentary checks.

He also assured me that internal audit would review the operation of these new procedures.

VOTE 25. - DEPARTMENT OF THE ENVIRONMENT

24. Controls over Local Authority Finances

The charge to this Vote in 1996 includes payments to Local Authorities (LAs) totalling £851m from the following subheads

		£m
B.1.	Local Authority and Social Housing Programme	159.9
C.	Roads (including payments to the National Roads Authority)	375.2
D.1.	Water Supply and Sewerage Schemes	122.4
E.	Rate Support Grants	193.8

The Local Government Audit (LGA) Service is responsible for the audit of the accounts of all LAs. The LGA Reports are submitted to the Department and to the LAs and form part of the controls exercised by the Department in ensuring that the procedures for the spending of public moneys are satisfactory. Copies of the Reports on such audits are made available to me and, at 30 May 1997, I had received copies of all the LGA Reports for 1994 and copies of 26 of the 1995 Reports.

Certain critical comments made by LGAs which were common to a number of LAs were noted from a review of the Reports as follows

- Expenditure in excess of the Estimates on various programmes was incurred prior to the approval of the LA which was invariably given in the following year. These approvals should, where possible, be obtained prior to such over-expenditure or liability being incurred.
- Year end deficits are not included in the following year's estimates as required by the Public Bodies Order 1946-1993^a. Proposals should be formulated for the elimination of these adverse balances so as to avoid cash flow problems and overdraft interest.
- There were substantial amounts owed to the LAs at year end^b
- Collection yields for commercial rates, housing rents and loan repayments and water and service charges were unsatisfactory.
- There were numerous unfunded balances on capital works which needed to be addressed.
- Proceeds from redemptions of housing loans were not being applied to redeem high fixed
 interest LA borrowings from the Local Loans Fund but instead were retained for cash flow
 purposes or used for new loans. This practice could result in the cost of servicing the relevant
 capital debt to exceed the LA's income from housing loans.
- State grants were claimed from and paid by the Department in advance of requirements.
- Internal audit functions were not in place or were restricted.

^a The revenue deficits were estimated at £,107m at 31 December 1996 (£,110m at 31 December 1995).

b Latest figures indicate that a total of £250m was owed to LAs at 31 December 1996 (£243m at 31 December 1995).

In addition, the LGAs also drew attention in many of their Reports to other weaknesses in internal controls and practices, specific to particular LAs, which could result in waste or loss of public funds or lead to the build up of deficits.

In the light of the substantial annual moneys disbursed from the Vote to LAs and as the Department had also made special debt reduction payments totalling £5,150,000 to them in 1994, I sought the views of the Accounting Officer on the LGA findings and on any measures which he considered would lead to improvements in financial management practices and controls.

The Accounting Officer informed me that

- it is not his function nor would it be appropriate for him to comment in detail on the points, specific to the internal fiscal practices and procedures of LAs, arising in individual audit reports. This view took account of the following factors:
 - The exercise by the Department of fiscal and policy influence, along with certain administrative controls, over LAs must be looked at in the context of the stated objective of successive Governments to devolve as much discretion and as many functions as possible to LAs. This is based, at least in part, on the subsidiarity principle which holds that functions are best discharged at the lowest appropriate organisational level. A large measure of consensus now exists, both in Ireland and abroad, that this principle should guide the division of functions between central and local government.
 - There has been significant change over the years in the relationship between the Department and LAs in the light of the policy of successive Governments to widen the discretion of local authorities, to remove a wide range of restrictive controls, and to concentrate Departmental staffing resources on essential policy development and programme management work, rather than on detailed control of activity on a case by case basis. LAs are the only directly elected democratic bodies outside of Dáil Éireann and it is the objective that they should have as much autonomy as possible. The changes already made and proposed aim to bring Irish local government more into line with European norms and with the European Charter of Local Self Government which it is intended to ratify.
 - Any attempt to require detailed accountability by LAs to central government would cut
 across the general thrust of government policy and would have significant staffing
 implications for both the Department and LAs. Accountability for expenditure undertaken
 by LAs is properly due to the locally elected representatives, following due scrutiny by the
 LGA.
 - At the same time, the Department of the Environment accepts fully that it has obligations to ensure that moneys voted by the Dáil are used for the purpose for which they were intended and, more generally, to promote value for money in the delivery of services by LAs. It has to be acknowledged that there can be an inherent tension between these obligations on the one hand and the practical application of the subsidiarity principle on the other. In the last analysis, the nature of a particular service will influence the extent to which the exercise of controls by central government is appropriate.
 - A primary function of the Department is to satisfy itself that there is a proper framework in
 place to audit the accounts of LAs and to secure value for money in the local government
 sector generally. The LGA discharges this function. Reports of the LGAs are, where

appropriate, circulated within the Department so that the relevant sections are aware of their contents and take whatever action at central level that may be necessary to address points raised by the auditors. There is internal liaison between LGA and line sections in the Department in this context.

- As regards matters of general interest raised in many of the LGA reports
 - Unforeseen events can give rise, at short notice, to large expenditure commitments in excess
 of levels provided in the Estimates and for which it is not possible to obtain prior approval
 from the elected members. For these reasons, retrospective approval is often unavoidable.
 - At regular intervals, the Department follows up the issues arising in respect of collection yields and debtors both generally and arising out of audit reports. LAs are reminded of the need to maximise their income and to pursue outstanding moneys legally due to them. It often happens that collection of debt can be adversely affected by social, legal and political factors which delay or prevent settlement. The Department reminds LAs on a regular basis of the need to keep tight control on home loan repayments and to follow up arrears promptly. Forthcoming revisions in local authority accounting policies will improve reporting practices generally and lead to a more efficient system of debt control than has been possible up to now.
 - The issue of unfunded capital account balances is being examined by the Department at present in conjunction with the LGA service, with a view to quantifying and aging all unfunded balances. It is intended to classify and disaggregate such balances, depending on whether they are subject to reimbursement from State or other sources or have to be funded by LAs themselves. The resulting analysis will provide a clearer picture of the nature and extent of the problem and the action needed to address it.
 - Prior to February 1989, early redemption of Local Loans Fund borrowings by LAs attracted a penalty. As a result, it became normal practice for LAs to re-lend receipts realised from persons redeeming their high fixed interest loans. However, re-lending such receipts at a lower interest rate involved LAs incurring losses. Following approaches to the Department of Finance, LAs were permitted to redeem fixed rate Local Loans Fund loans from February 1989 without penalty. LAs have been advised that the use of high rate fixed money, redeemed by mortgagors, to finance new variable rate mortgages, carries a risk of serious loss to LAs.
 - Departmental guidelines stipulate that grants should not be claimed in advance of requirements. Where such cases come to light they are pursued with individual LAs.
 - The Department is actively promoting the introduction of internal audit throughout the LA sector. The allocation of staff to the various LA areas including internal audit and the creation of additional posts, where considered necessary, is a matter for the LAs concerned in the first instance. Under a major relaxation of staffing controls introduced last year, LAs are generally free, within broad parameters, to decide their own staffing levels.
- As regards financial controls in general
 - Extensive re-evaluation and development of financial management practice in the local authority sector is under way at a number of levels. A value for money unit was established

within the LGA service in 1993 to assist LAs in providing services in the most efficient and effective manner. The intention is to encourage all authorities to adopt best practices generally by identifying areas where worthwhile improvements can be made and by appropriate follow-up. In addition, value for money concepts and practices will be introduced into the broader management programme to be developed by the Local Government Management Services Board established in January 1997.

- The policy document "Better Local Government A Programme for Change", the thrust of which has been accepted by the incoming Government insofar as it addresses financial management, sets out future developments in relation to fiscal management and performance indicators for the local government sector as follows
 - The first priority in establishing the new efficiency approach is to have financial systems which will better inform management and the public as to how the local authority is performing.
 - A need for a discernable modernisation of the system based on best accountancy practice has been identified and the system should be developed to provide more transparent information on the real cost of providing services.
- A project team has been set up to support and lead the process of designing and developing
 a new financial management system. A code of practice setting out the accounting concepts,
 policies and statements of accounts is being prepared.
- Financial management and control systems utilised by the Department, the National Roads Authority and LAs generally for EU funded projects will be reviewed in detail during the current study of the ERDF/Cohesion Fund financial control network. The study, which was commissioned by the Department of Finance in co-operation with the EU is designed to examine and make recommendations on the financial management and control system in place to meet regulatory and other requirements at EU and national level. It should establish the extent to which changes may be required in current systems and procedures and its recommendations will be acted upon as appropriate.
- By August 1997, all of the 1995 and some of the 1996 audit reports in respect of LAs have been completed, and, arising from these, there is no cause for concern in relation to fraud or misuse of funds by the authorities, irrespective of the income from which individual spending programmes were sourced.

25. Cost overruns on Swimming Pools

Grants are issued to local authorities towards the costs of providing and renovating swimming pools. Funding of up to 100% of costs is available for the refurbishment of existing facilities while up to 80% funding is available for the provision of a new pool or ancillary features, such as a canteen or jacuzzi. In 1996, a total of £2m was paid in respect of 8 projects (1 new pool and 7 renovations).

Department of Finance contract guidelines emphasise the importance of ensuring that all aspects of design are finalised before a project goes to tender in order to avoid the possibility of increased costs once the project is under way.

During the course of audit, an examination of departmental papers supporting grants paid to local authorities towards the costs of swimming pool projects in Cavan, Ballyshannon, Fermoy and Mallow, seemed to indicate that the control exercised by the Department over projects was inadequate. Even allowing for the effects of inflation, material cost overruns occurred on all four projects as follows:

Project	Original Estimated Cost	Date of Estimate	Date of Commencement of Work	Final Cost
Ballyshannon	483,400	May 1989	October 1994	1,838,000°
Cavan	700,000	May 1988	October 1993	2,253,888
Fermoy	297,750	February 1988	January 1994	1,738,592
Mallow	300,000	March 1988	October 1995	1,851,266

a · Cost to date.

Although all four projects were completed by 1996, the final accounts for Ballyshannon and Mallow had not been received by May 1997.

Unsatisfactory features common to all four projects included

- The design briefs that were prepared were inadequate.
- The Department was ignored at the construction stage with the result that there was a
 considerable increase in the scope of the works and associated costs. Prior sanction of the
 Department was not sought for these works.
- The cost of site supervision on all of the projects appeared to be excessive in the context of their size and nature.
- The Department's 'Guideline Specification for Swimming Pools' appears to be inadequate. It takes no account of the ancillary features that the Department is prepared to fund and it fails to provide a comprehensive set of procedures that applicants for funding will be required to adhere to. It also fails to set cost limits for individual projects.

I sought the views of the Accounting Officer on the audit findings and I also requested information on any measures proposed to remedy the apparent deficiencies. The Accounting Officer informed me that:

- In regard to inadequate cost control and design briefs
 - Proposals are initiated by the bodies i.e. local authorities or voluntary bodies in co-operation
 with local authorities, undertaking projects. The local authorities appoint the consultant
 architects or engineers for project design, invite and award tenders, enter into the contracts
 for project construction, exercise cost control and supervision and are responsible for
 primary certification of payments due and for the preparation of final accounts. The
 Department's primary duty is to thoroughly assess projects submitted for funding. As the

grant paying agency, the assessment ensures that there is a need for the project to the scale and standard proposed; the proposal is viable; the scheme is designed to meet reasonable construction and operational standards; the capital cost is reasonable having regard to scale and quality of project; moneys paid are properly due, through an examination of certificates drawn up by professional staff engaged by the project sponsors and by inspections carried out by the Department's own professional staff.

- It is extremely difficult to make reliable estimates of swimming pool costs. There is a relatively small number of swimming pools under construction or going to tender at any one time. Also, due to financial constraints, there are usually significant time gaps between the submission of the preliminary report, contract documents and tenders. Moreover, most projects take 18 months to 2 years to construct and additional payments will fall due under the standard condition of contract. A particular problem during reconstruction works is where the scale of refurbishment is difficult to accurately estimate before work commences on renewal of building or plant as the case may be.
- As in the case of all building projects there is generally a wide discrepancy between costs estimated at different stages. This is partly because initial estimates in preliminary reports are made on a minimum of information and later estimates reflect the detail of contract documents. In many cases refurbishment projects started off in response to obvious deterioration of structures of very basic pools in operation for up to 20 years. At tender stage the price will reflect not only the cost factors but also market conditions for tendering. In the early 1990s tendering was competitive due to the recession in the building industry. In more recent times the boom in the industry, particularly since 1994, has meant that tender prices are much higher than could have been foreseen on the basis of trends in costs alone.
- There is also the consideration that, in the period during which the projects in question were being progressed, local authorities, in response to public demand, moved beyond the basic swimming pool concept and into the area of amenity centres incorporating modest ancillary facilities in addition to the basic pool. The authorities were obviously conscious at that stage that they could no longer put in place a basic pool and expect that it would be viable. It was in that context that a policy decision was taken in 1993 that the Department should grant-aid modest ancillary facilities up to 80% of the costs involved. In all of these projects this decision had a major impact on the overall costs in that the local authorities concerned ultimately benefited from increased grant-aid as a result of that decision.
- It would be difficult for a local authority carrying out a once-off project to prepare a comprehensive design brief without specialist advice. By and large the consultant architect would prepare a design to the Department's guideline specification for swimming pools to service a known local population. The preliminary designs of the four projects each required substantial modification as work progressed.
- It is not the function of the Department to look for, examine, or approve the draft or actual contract between the sponsor and the contractor. These are matters solely between the parties to the contract and their legal/professional advisers.
- The Department was aware that additional facilities were being installed and funded from
 the local authorities' own resources at the complexes in question. Prior to 1993 the
 Department would have advised the project sponsors that funding would not be provided
 for these ancillary facilities. The Department is responsible for monitoring and reviewing

expenditure on all of the swimming pool projects which it grant aids. All project sponsors would be queried where increased expenditure is incurred. All project sponsors are also expected to notify the Department and secure prior sanction in relation to all changes in design or construction of swimming pools. It is felt that where this may not have happened, it has been by oversight rather than intent.

In regard to site supervision costs

• In the course of private contracts the design team will agree to undertake site supervision for the project and the cost of that will be included in their fee. For a design team of four the fee would normally be 14%-15% of the total final cost of construction. The design fees were higher than normal due to changes in requirements during the course of design. The level of supervision in respect of the four pools was considered adequate, but not excessive, having regard to the cost and extent of the works involved. In the case of Mallow and Fermoy pools, the site supervision provided for a resident engineer and a clerk of works as building projects which have a large siteworks and foundation content merit the supervision of an engineer to inspect work in progress and to measure work completed for payment purposes. The resident engineer for the Fermoy pool resigned after about six months to take up another appointment and he was not replaced as the works could be measured and monitored at that stage by the clerk of works. The level of supervision for the Cavan pool was agreed by the Department's technical adviser on the recommendation of the county engineer. The overall level of fees to be grant-aided for the Ballyshannon pool will be resolved at final accounts stage.

• In regard to formalised procedures and Departmental review

- Swimming pool grants are administered by a small unit in the Department who divide their time between work on swimming pools and other functions. On the technical side, inspectors assist in vetting proposals at various stages and in scrutinising payments certified by the project architect and already passed by the local authority. All this must be done in the context of the extremely heavy workload of the inspectors. Inevitably, while the Department makes every effort to monitor the programme as fully as possible, consistent with its functions, finite staff resources impact on the programme, especially in relation to completion of procedures which have evolved informally over the years.
- The absence of formalisation is partly due to the sporadic and small scale of the swimming pool programme. However, with the growth in the scale of the programme in recent years, due largely to National Lottery funding, there was a recognition in the Department of the need to compile formal procedures for guidance of project sponsors/local authority staff in the drawing up of proposals for new pools or the refurbishment of existing pools.
- Work on these new guidelines is at an advanced stage and an initial draft has been circulated internally. However, this work has not yet been brought to fruition due to pressure of other work/staff retirement/illness/transfers. It is now expected to finalise these procedures and to issue them by the end of October 1997. The priority objectives of the guidelines will be to
 - advise and set down procedures which will give a clear understanding of the different stages involved in the planning, execution, operation and maintenance of swimming pool projects and of the linkage between these stages

- address the importance of the preparation by project sponsors of comprehensive feasibility studies and adequate design briefs to determine the optimum approach to be adopted in respect of the design/costing of any proposal
- ensure realistic cost estimation and strict cost control at all stages of the project
- update the Department's 'Guideline Specification for Swimming Pools' which is now 10 years old. In that time the planning of pools has changed due to water treatment methods being updated together with modern arrangements for conserving and recycling heat.

The Accounting Officer concluded that it is difficult, and possibly counterproductive to impose from the centre unduly formal or rigid procedures on local authorities and particularly on local voluntary groups. He accepted that the costs of individual projects have escalated at different stages. This is due partly to difficulties of cost estimation and cost control and to the policy decision in 1993 to fund ancillary facilities. Once the moneys are lawfully due and properly certified, the Department has traditionally been disinclined to freeze grant allocations at the original level as this would create severe financial problems for the project sponsors. While there can be a significant gap between the initial grant allocation and the final grant allocation due to cost increases during actual construction, nonetheless, the Department is satisfied in each and every case that the outturn cost represents excellent value for money having regard to the size and standard of facilities provided and the impact the facilities have on the life and welfare of local communities involved.

26. Motor Vehicle Duties

Motor tax and driving licence fees are collected by local authorities in their capacity as licensing agents, lodged to local motor tax bank accounts and from there transferred to the central motor tax account in the Central Bank. The motor tax accounts of the local authorities are audited by the Local Government Auditors (LGAs) whose reports are made available to me.

The gross amount collected in 1996 in respect of motor tax and driving licence fees was £277m.

New arrangements were introduced with effect from 1 January 1996 to meet the costs incurred by licensing authorities in the operation of motor taxation offices. Previously these costs were recouped through the Department's vote. Under the new system, the licensing authorities deduct from the proceeds of motor taxation an amount in respect of expenses incurred in collecting and administering the tax. This figure is calculated in accordance with directions given by the Minister for the Environment and is deducted on a monthly basis. The total amount so deducted by the licensing authorities in 1996 was £17.5m. This included £3.48m arrears due to the licensing authorities from the final quarter of 1995.

Driving test fees of £3.98m were appropriated in aid of the Vote.

My audit of motor tax revenue is limited to a test check of the transactions on the central motor tax account. I rely on the LGAs' examination for assurance that proper procedures for assessment, collection and bringing to account of motor tax revenue are being operated by the local authorities.

I reviewed all the LGAs' reports for 1995 and those for 1996 available to me when I was compiling my Report (16 out of 29). In my opinion, there is nothing material on which I need to report to Dáil Éireann.

The Department of the Environment also carry out inspections at motor tax offices and, during 1996, inspections were carried out on all 30 offices. The results of the inspections were generally satisfactory.

VOTE 26. - OFFICE OF THE MINISTER FOR EDUCATION

27. Deeds of Trust for Recreational Facilities

The Recreational Facilities Scheme assists voluntary community organisations in the provision of, improvements to and equipping of recreational, leisure and community facilities. Under the terms of the scheme, existing amenities must be assessed to ensure an equitable spread of facilities within the area and the completed facility must be available to the local community. The scheme is subject to the Department of Finance rules on National Lottery funded expenditure, which require careful evaluation and monitoring of projects, including follow up for grants of over £5,000. The grant conditions laid down by the Department of Education are intended to safeguard the State's financial interests and include provision for grant repayment should the facility cease to operate for the purposes grant aided or should a change of use occur. In this regard, the policy of the Department of Education is to have a Deed of Trust executed, i.e. an agreement between the Department and the grantee giving the Department a charge over the grantee's property, in respect of grants of £40,000 or more.

In June 1993, a capital grant of £100,000 was allocated under the scheme to a company, trading as a football club, towards the cost of the development of a soccer stadium and sports complex. Following allocation of the grant, the Department notified the company of the conditions, which included the requirement for a Deed of Trust to protect the State's investment and provision for a grant refund should the facility not continue to be used for local sports purposes. In response, the company acknowledged the conditions and stated that the project was already substantially complete at that time.

In July 1993, the directors of the company signed a declaration accepting the Department's entitlement to a refund of the grant should the facility cease to be used for the stated purposes and that the declaration would have the effect of a primary charge on the facility. In October 1993, the chairman of the company gave a written undertaking to sign a Deed of Trust, but a grant of £99,000 was issued in December 1993 without a Deed of Trust being in place although the Department had established that all the conditions of the scheme were met in terms of the availability of local funds for the project, architectural drawings, specifications, planning permission, tendering and tax clearance procedures and certification of construction work. The facility was completed in early 1994 and continued in use as a football stadium until April 1996 when the club went into liquidation.

In May 1995, following moves to execute a Deed of Trust, the Department became aware that a first charge had already been taken out on the company's property in favour of a commercial bank for £80,000 in November 1993. The company redeemed the first charge in favour of the bank in June 1995 but, with the agreement of the Department, immediately took out a new first charge in favour of another financial institution for £250,000. Following a request by the Department, the Chief State Solicitor advised in November 1995 that the company was in severe financial difficulties and, drawing attention to previous advice to the Department not to make grant payments without a Deed of Trust being executed, stated strongly that the practice of handing over grants prior to execution of the Deed was dangerous and should be discontinued. He referred to the possibility of a similar situation arising in 23 other cases where no Deeds of Trust existed.

In January 1996, the Department advised the Chief State Solicitor that it would be executing a Deed of Trust and would accept a second charge on the property. However, the Deed had not been executed by July 1996 when the Department became aware of the company's liquidation. After being

notified of the liquidation, the Chief State Solicitor advised the Department that the Minister had no redress whatsoever as the grantee was not specifically bound by way of Deed of Trust and the grant would have to be written off. The property was put up for sale. No action has been taken by the Department to seek repayment of the grant as the Chief State Solicitor indicated that, in the absence of a Deed of Trust, any such action would probably not succeed. Various parties lodged offers for the property and these bids were considered by the High Court as part of the liquidation process. Ultimately an offer made by an organisation involved in sport at a national level was accepted.

By May 1997, only 8 of the 23 cases referred to by the Chief State Solicitor in November 1995 had Deeds of Trust in place or approaching completion. Despite the advice of the Chief State Solicitor regarding the execution of Deeds of Trust before grant payment, the most recently updated conditions of approval issued by the Department in May 1996, continued to allow payment of grants on the basis of written undertakings to sign a Deed of Trust.

In view of the Department's apparent failure to act on legal advice about the Deeds of Trust, thereby exposing the State's financial interests to risk, I raised the matter with the Accounting Officer who advised me in June 1997 that

- It had not been possible to finalise the execution of Deeds of Trust in the remaining fifteen cases due to pressure of work, but these were now being given priority. The total value of grants in these cases is £6.9 million of which £5 million relates to a single project at Croke Park which is not considered to represent any risk. The Department is satisfied, from its ongoing contacts with the operators, that all these facilities are being used for the purposes for which the grants were paid.
- The procedures followed by the Department on the payment of grants and the acceptance of undertakings to execute a Deed of Trust were in accordance with normal practice at that time. Although the Department continues to allow payment of grants on the basis of written undertakings to sign a Deed of Trust, since late 1996 it retains, as an interim measure pending the possible introduction of new procedures, a significant portion of the grant until a Deed of Trust is executed.
- The sports capital programme is a large and complex one, which is being dealt with directly by two full-time staff in the Department. Since 1988, 2,245 individual projects have been funded, with over £61.5m allocated by the Department. In 1997 alone some 1,400 applications had to be assessed in detail and in excess of 500 projects had recently been allocated grants. The Department has had to administer this programme so as to ensure that the schemes could be operated effectively, spending targets met, moneys appropriated correctly and much needed facilities provided for clubs and communities around the country. The Accounting Officer is satisfied that the Department's procedures for vetting and monitoring projects ensures value for money.
- A number of fundamental issues in relation to the execution of Deeds of Trust had to be taken into account viz.
 - Even if a Deed of Trust had been executed in the case cited prior to the payment of the grant, it was arguable whether the Department would have secured the repayment of the total grant. This was due to the fact that the Department accepted a second charge on the property which was in line with long established practice. Refusal by the Department to allow financial institutions to take out first

charges in cases such as this would seriously jeopardise the sports capital programme. Since the inception of the programme the Department has always accepted second charges in cases where the taking out of loans by grantee organisations was judged to be essential to ensuring that the project goes ahead. Without loans, the grantee organisation in very many cases will not be in a position to provide the counterpart finance.

- The preparation of a Deed of Trust can be a lengthy procedure involving the Department, the Chief State Solicitor and solicitors on behalf of the grantee organisation. If a Deed of Trust were to be executed in all cases prior to the payment of grants, the Department would have difficulty in expending the annual Government approved allocation for the sports capital programme. Failure to spend the annual voted provision would have serious effects on the programme including the capacity of grantee organisations to raise funds.
- It was not evident that the need for a Deed of Trust is either practical or proportionate for every project funded under the Programme. For example, where sporting leases were granted by local authorities for the development of sport facilities, Deeds of Trust may not be necessary as the leases provide for the reversion of the facility to the local authority for recreational purposes if the conditions of the lease are not met.

As far as the Department was aware the specific case cited is the only case where a facility is not currently being used for the purpose for which the grant was provided and where the Department is facing the potential loss of a grant. While the weaknesses demonstrated by the case were acknowledged, the Accounting Officer contended that there are inherent weaknesses in any grant scheme, as by its very nature such a scheme provides funding for organisations needing assistance and providing such funding inevitably carries some risk. He accepted that this risk must be minimised and the Department is now reviewing grant procedures with a view to developing a system which would be practicable and would protect the interests of the Exchequer.

VOTE 27. - FIRST LEVEL EDUCATION

28. Cost Overruns on National School Projects

The guidelines for public procurement, which set out the procedures that must be followed in awarding public sector contracts, state that it is essential that every effort should be made to ensure that all aspects of the design are finalised before a project goes to tender, in order to avoid increased costs later. At the outset, upper cost and area limits should be set and a detailed brief prepared which is sufficiently comprehensive to establish clearly the services required and the relevant standards and constraints. The unnecessary use of provisional sums or quantities as a substitute for detailed planning should be actively discouraged. At the later construction stage, proper supervision is essential to ensure that the works are being carried out as required under the specifications and within the time and cost limits for the contract.

For national school projects the Department makes grants representing 85% of costs, except for schools designated as disadvantaged where a grant of 95% is payable and gaelscoileanna where grants of 100% are payable.

It was noted during audit that

the contract sum for building projects and the overall final costs of some national school
projects were materially greater than the original estimated costs, which had been used in
presenting the projects to the Minister for Education for approval. Table 5 gives details of
a sample of such projects completed or nearing completion in 1996.

Table 5 - Cost of Projects

Project	Programme Year	Estimated Cost at Ministerial Approval	Building Contract Price	Final Building Contract Cost (Est.) £	Final Cost of Project ^a (Est.)
Project A	1993	188,000	480,000	510,000	543,000
Project B	1993	176,000	200,000	290,000	330,000
Project C	1993	187,000	200,000	270,000	304,000
Project D	1994	80,000	230,000	255,000	285,000
Project E	1994	400,000	540,000	610,000	699,000
Project F	1994	294,000	330,000	428,000	484,000
Project G	1994	118,000	130,000	218,000	252,000

a Includes cost of consultants fees and furniture additional and separate to the building contract.

 Tenders were invited on the basis of detailed drawings and specifications/bills of quantities, but detailed cost plans were not in place when the tender documents issued. These procedures were not in line with the Department of Education's design team procedures, introduced in 1990, which stipulate that detailed cost plans should be drawn up before a building project goes to tender.

As the indicative final cost of the projects on completion was significantly greater than the approved estimate and/or the contract price, I inquired of the Accounting Officer if he was satisfied that the procedures in operation were conducive to effective cost control. He stated that

- Pre-planning estimates are given prior to detailed examination of the projects and prior to
 preparation of design drawings, cost plans, incorporation of planning authority and fire
 officer requirements and information on the timing of the project.
- The Department regards pre-planning cost estimates of national school building projects as an essential element of submissions of projects to the Minister for consideration for inclusion in the capital programme and does not propose to alter this practice.
- The pre-planning estimate gives the Minister a broad indication of the number of projects which can be chosen. The alternative approach is to carry out detailed planning of up to 300 projects before the cases are submitted to the Minister for decision. This approach would require significant additional financial investment in design fees as detailed pre-contract costing of a project requires the services of a quantity surveyor.
- It has not been the Department's practice to engage quantity surveyors on projects with an estimated cost below £250,000, in keeping with the value thresholds suggested in the public procurement guidelines. However, within the last year, a limited quantity surveyor service is used on smaller building projects where this can be justified in terms of cost/benefit.
- More recently, the Department's design team procedures have been introduced for the national school programme.
- The extent of cost overruns should be measured by reference to the final account when viewed against the contract price rather than against the pre-planning estimate.

The Accounting Officer explained that the cost overruns between the building contracts and the final building accounts arose chiefly due to

- Unforeseen improvements/repairs to existing buildings
- Unforeseen extra site work
- Provision of general purpose rooms in accordance with new departmental policy after project commencement
- Provision of permanent rather than prefabricated extensions
- Additional security measures
- Underestimation of costs.

He added that the Department was introducing a contingency sum in contract pricing to cover changes considered necessary during the course of a building contract. Such changes are quite

normal, particularly where a project involves interference with an existing building. Work of this nature must be taken on board by way of provisional sum, contingency sum, or an extra on the contract. Without using contingency sums or provisional sums, it would be expected that the final account in each project would exceed the contract sum.

29. Secondment of Teachers

Primary and post-primary school teachers may be seconded, while being retained on full salary by the Department of Education, to organisations outside the Department. Secondments have been approved in the past on a full recoupment or on a non-recoupment or partial basis. Although not formalised, the Department indicated that approval for secondment is usually, but not exclusively, restricted to posts with a direct link to education.

In 1996, £840,000 was received by the Department in refunds of salary from bodies to which first and second level teachers had been seconded. 62 primary and 28 post-primary teachers are at present seconded under the arrangement.

During audit, weaknesses and inconsistencies were noted in the administration of secondments and the recoupment of salary costs as follows

- There appeared to be no formal or standard criteria for secondment and applications tended to have been dealt with on an ad hoc basis. Some secondments had been approved for posts which did not appear to have an educational purpose.
- Evidence of approval by senior management was not recorded in the majority of secondments.
- While Department of Finance sanction is normally required for secondments to outside
 bodies, in some cases, there was no evidence of this sanction. In other cases, Department
 of Finance sanction had been given for a specific number of years, but the secondment had
 been extended without the further approval of that Department.
- Applications are usually made by teachers to the school board of management. If approved, the application is forwarded to the Department and then to the Department of Finance. In some cases, secondments commenced before approval was given by either Department but the arrangement was sanctioned retrospectively.
- Secondments were approved but failure to notify the proper sections within the Department resulted in delays in updating records and in recouping salaries. As a consequence, arrears built up over a number of years and presently stand at £200,000 from 3 bodies.
- Procedures for recording, reviewing and collecting arrears were found to be inadequate. No
 formal system for collecting moneys due existed. Individual files were reviewed periodically
 but no listing of arrears was produced. As a result, no mechanism existed to allow senior
 management to monitor and review arrears.

In response to my inquiries the Accounting Officer informed me that

- While standard criteria exist for secondment and these criteria are applied in individual cases. it is also necessary to take account of the wide diversity of needs within the education sector and to retain a capacity to respond accordingly. In the case of secondment on a recoupment basis, the Department has, historically, sought to establish a link to education as a condition for the granting of such secondments. That said, flexibility has been a feature of the administration of these secondments, prompted by the awareness that no cost to the Exchequer was involved. The review of secondments currently underway in the Department will have as one of its objectives the setting out of revised procedures for this type of secondment which more fully reflect this need for flexibility. The criteria for approving secondments on a non-recoupment basis provided that each application for this type of secondment is considered on its merits. Particular regard is had to the relevance of the experience of the individual to the relevant organisation. If there is any doubt on this issue the application is considered from a professional perspective by the Department's Inspectorate. As a rule, secondments of this type are permitted only where a seconding body has established a clear and direct link with the development and/or delivery of education or in a limited number of cases where there is a clear "national interest" justification for the secondment. These will now be restated in a more formal manner and set out in an internal Departmental circular.
- As a rule, secondments are approved at a level not below assistant principal officer. In atypical cases approval is at a more senior level. Revised procedures are now being put in place to require a formal approval for all secondments at a level not below principal officer. This approval will be recorded on a new application form which is also being put in place. While secondments have traditionally been reviewed on a periodic basis, revised procedures are being put in place which will provide that all secondment arrangements will be reviewed annually. In addition, a once-off review of all existing secondments is being undertaken at present. This review will regularise any case where Department of Finance sanction has expired.
- The revised internal guidelines will require centralised records of all secondments, to include the designation of a named principal officer responsible for the review of each individual secondment and for ensuring that all conditions attaching to that secondment, including recoupment where necessary, are complied with. Procedures already in place for the pursuit of arrears involve a quarterly review of secondment files and the issue of invoices. It is intended to strengthen these procedures with a quarterly report of outstanding balances to the relevant assistant secretary.
- The education environment has become increasingly complex in recent years, involving a wide range of initiatives and new programmes, and there is a corresponding requirement for flexible and innovative approaches to meet short-term skills needs. The secondment arrangement has significant strengths in meeting these requirements in a cost-effective and flexible manner. It is also a most valuable tool for enhancing the experience of teachers and in the process increasing their contribution to the education sector. A review of procedures in this area is appropriate and timely given the expansion in recent years in the volume of secondments and the consequent need for more formality of procedures. This review will involve a programme of systematic updating of all procedures and systems in this area.
- The major arrears are the subject of discussion with the bodies concerned and with the Department of Finance.

VOTE 31 - AGRICULTURE, FOOD AND FORESTRY

30. Disallowances by EU Commission

The Department of Agriculture and Food submits a detailed claim each year to the EU Commission itemising all expenditure incurred and amounts received on behalf of the FEOGA Guarantee Fund. The Commission, having carried out selected audits of the expenditure and receipts declared, gives a decision on the correctness and validity of the transactions and, arising from this, determines what adjustments should be made. If these adjustments involve disallowances of expenditure they give rise to a charge to the Vote, although where the amounts disallowed are recovered from individual traders, any resultant receipts are brought to the credit of the Vote.

A total of £70,483,677 was charged to the Vote in 1996 as outlined in Table 6. This amount comprises disallowances imposed by the Commission following the clearance of the 1992 claim and the finalisation of the 1990 and 1991 claims, clearance of which had been deferred pending the outcome of a special inquiry by the Commission. There are also charges in respect of legal settlements and costs.

Table 6 - FEOGA Disallowances

Intervention Beef ^a	£	£
Intervention Beef Storage 1990	26,222,656	
Intervention Beef Storage 1991	24,020,456	50,243,112
Intervention Beef Tendering 1992	8,861,000	
Multiple Beef Tendering 1990/91	9,613,206	18,474,206
Intervention Beef		
Financial penalty on late payment for intervention beeincorrect calculation of losses and failure to credit	f,	
FEOGA where the minimum deboning yield was not achieved, late declarations plus various adjustments		426,867
Intervention Butter		
Penalty in respect of breach of controls		62,096
Premia Schemes		1,016,984
Export Refunds		
Penalty in respect of payment delays	13,962	
Penalty in respect of release of security	73,222	87,184
Legal Settlements and Costs		173,228
		£70,483,677

^a Ireland has initiated appeal proceedings in the European Court of Justice against the disallowances imposed in respect of Intervention Beef Storage (£50.2m) and Beef Tendering Procedures (£18.5m).

31. Administration of Premia/Headage and Arable Aid Schemes

The Department administers the market regulation and production support schemes under the Common Agriculture Policy (CAP). Direct production support to farmers takes the form of premia/headage payments under various schemes amounting to some £747m annually. The funding of premia schemes is met in full by FEOGA, while headage and other schemes are part funded by the Exchequer. Following the CAP reform in 1992 the EU established an integrated administration and control system covering aid schemes for arable crops, beef and veal, sheepmeat and goat meat. As a means of exercising control over scheme payments the system envisaged the establishment of a database of all farmers, farm holdings and eartagged animals. In order to be considered for inclusion in these schemes, a farmer must submit an area aid application in which the applicant declares the area of his whole land holding. The application is supported by maps of the relevant land parcels, the purpose of which is to identify the farm upon which the various aid schemes are being claimed.

As a result of the CAP reform measures, the annual number of applications received from farmers increased from 432,000 in 1992 to 667,000 in 1996 with a corresponding increase in the value of payments from £351m to £747m. The number of cheques issued has increased dramatically over the same period due to the increased levels of applications and to the fact that, in the case of two schemes, payment is made by way of advance and final instalment. The total number of payments made in the period 1993-1996 was of the order of 3 million while the overall value of those payments was £1,633 million.

32. Controls over Cattle Identification

The Department is responsible for administering the programme for the eradication of disease in cattle and for the programme of cattle premia and headage grants. Although the programmes operate independently and have fundamentally different objectives, they both involve the same pool of animals and the same farmers and use the same control and identification structures. For example, both programmes rely heavily on the eartag number viz. a unique alphanumeric identifier, recorded by the district veterinary office (DVO) in respect of each animal presented for disease control tests and on the complementary cattle identity card which is issued to the owner. The data on animals and their movements provided by the disease control programme and the information provided by the applications for premia and headage result in the Department having access to a large volume of information from both sources on both cattle and applicants.

During 1996, an analysis was undertaken by my staff of the computer records of payments issued under the special beef and suckler cow schemes. The special beef scheme is for male animals while the suckler cow scheme is for female animals. During 1996, £167.1m was paid under the special beef scheme while £157.7m was paid under the suckler cow scheme.

The analysis pinpointed significant incidence of the same animal eartag number being recorded under both schemes which, potentially, could be indicative of a high level of overpayment. Detailed examination by my staff of a sample of these cases by reference to disease control records showed that

• There is no systematic programme of computerised or manual cross-checking between premia applications and disease control records and any co-ordination of data between the various databases and files tends to be carried out on an exceptional basis.

- A small number of errors were due to incorrect entry of data to the computer system.
- Animals recorded in disease control reports as female were declared for the special beef scheme and in some cases were declared later for the suckler cow scheme.
- Animals were recorded as male when first tested for disease control purposes and as females
 in all subsequent tests. In most of these cases, replacement identity cards with the gender
 amendment were then issued by the DVO to the herdowner, apparently, without
 investigation of the gender change or if the premia had been incorrectly paid.
- Female animals which had not been declared for the suckler cow scheme were instead declared for the special beef scheme, indicating that the computerised control on matching eartags put in place for the 1996 suckler cow scheme was limited to animals declared under both schemes and may not reveal all overpayments.
- There was a high incidence of private veterinary surgeons misrecording eartag numbers in disease control reports. Errors in relation to eartag numbers were not discovered until the actual herdowner applied for premia but valid applications for premia were rejected as the eartag numbers had already been declared by another herdowner.
- Although identity cards must be forwarded with all special beef scheme applications, some were accepted for payment without the cards.
- Several of the files examined revealed that herdowners submitted applications for all of their
 animals under every scheme, whether they were male or female, beef or non-beef breeds and
 the applications were accepted unless the eartags were rejected as having already being
 declared under a scheme.
- The disease control reports filed at the DVOs showed that animals on which premia had been paid were absent from the herd on the date of application or before the end of the required retention period.
- Re-tagged animals were accepted for premia payment without assurance that the animal had not already been declared under its original eartag. In many cases there was no indication of the original eartag number of the re-tagged animal, preventing any check on previous payments. The EU Commission has repeatedly drawn attention to the Department's lack of control over retagged animals.

These findings led me to the conclusion that

- Control over the system for recording and administering cattle eartags was insufficient for disease control purposes and for ensuring that overpayments of premia/headage grants did not occur.
- While much of the information necessary for effective control is already available to the
 Department it is not co-ordinated or integrated in such a way as to allow effective cross
 checking to prevent incorrect payments.

In response to my inquiries the Accounting Officer stated that

- While there is no formal integrated system operating between the divisions dealing with animal disease control and livestock headage and premia payments, nevertheless informal contacts between the divisions are the norm given that DVO and livestock personnel are accommodated in the same network of local offices. The Department has established a liaison group in 1997 between the two divisions in order to address issues of common concern.
- In an overall context the examinations showed a reasonably low incidence of apparent matching eartags, some of which may have been attributable to clerical error rather than false declaration. In all some 7.5 million identity cards were received with special beef scheme applications in the period 1993-1996. Checking that cards accompany each application form is a manual exercise and it is quite difficult to ensure 100% accuracy. However, all staff have again been instructed to check such cards thoroughly and to bring any discrepancies to the attention of supervisors. In this connection, in line with the EU requirements, individual staff members have been issued with a detailed procedures manual and all transactions are subject to a percentage supervisory check.
- While the 1992 EU regulations for the completion of the integrated administration and control system for the reformed CAP schemes provided for computerised databases, including eartag numbers and cross-checks between those databases, this was not required until 1 January 1997 *i.e.* after the period covered by the audit. Nevertheless, following previous observations from audit the Department introduced in 1996 the system of cross-checking all eartags between the suckler cow and the special beef schemes. The cross checking was extended in 1997 and ensures that any errors identified are brought together and subject to full checks. Any overpayments arising from such checks are immediately added to the central overpayments register and are recouped automatically from subsequent entitlements.
- The Department carried out a preliminary examination of the data received in 1996/97 which established that some 4,500 animals which had been claimed for under the 1996 suckler cow scheme had previously been claimed and paid for under the special beef scheme. An examination of these cases at local office level confirmed entitlements to suckler cow scheme in 1996. A further preliminary examination of the data in respect of seven counties confirmed that 1,820 of these 4,500 cases gave rise to a total of 372 herdowners being overpaid. The Department is presently carrying out a complete examination of the remaining 2,680 cases and will report its findings to me as soon as that examination has been completed.
- With effect from 1 January 1996, in accordance with an EU Directive, the Department introduced a new system of identification and registration of animals. Though not required by the EU, the Department introduced a system of computerised registration of all cattle births. This data is captured in a central database and declarations made by applicants for suckler cow and special beef schemes in 1997 will be cross-referenced against this new central database. In addition, the recently launched national beef quality assurance scheme includes, as a key component, provision for a computerised movement monitoring system to be implemented by early 1998. This will enable the movement of all bovine animals to be traced over their entire lifetime. In the longer term all animal health data will also be captured on this system.

- It was not possible to estimate the number of female animals misrecorded as males or vice versa in disease control reports for 1994-1996. Recording of gender of animals at herd test is a function of the veterinary surgeon carrying out the herd test. While it is accepted that in a small number of cases the incorrect gender may have been recorded the Department has no evidence to suggest malpractice in the recording of such information. It is also accepted that in a small number of cases the DVO may have detected gender error and corrected the identity card but failed to take action in relation to premium payments issued under the original. 2 million calves are born and eartagged by veterinary surgeons each year and 10 million disease control tests are carried out on animals annually. Eartagging and recording of test data takes place on farm and is bound to result in some level of human error. Under the new system for identification and registration of animals, effective from 1 January 1996, individual farmers are obliged to eartag and record individually, within 30 days, the details of all calves born on their holdings. Veterinary surgeons are therefore no longer involved in recording the gender of a large number of animals simultaneously - something which can give rise to a higher error rate. Where errors are subsequently detected, the Department will be in a position to highlight such errors to the farmer concerned and, where necessary, take steps to prevent persistent errors.
- While it is not possible to carry out computerised cross checks because all disease control test data is not computerised, the Department carries out manual cross-checks against the information on disease control test reports in 8% of applications for headage and premia grants which are not subject to field inspection. A record of the results of such cross-checks is not systematically maintained. The Department is examining the cases noted on audit where animals were not presented for disease control test but were paid premia.
- Arrangements are now in place which ensure accurate recording of all retagging in order to
 avoid duplicate payment. Re-tagged animals not associated with the original tags are no
 longer eligible for payment and replacement identity cards issued to the farmers reflect this
 position.

The Accounting Officer also stated that the Department makes strenuous efforts to ensure that applicants for the various headage and premia schemes receive their just entitlements. In this context, in accordance with the charter of rights for farmers, the Department introduced in 1995 a review and appeals procedure for all farmers who are dissatisfied with decisions made under the schemes. The Department is obliged, under EU rules, to carry out a minimum number of field inspections based on risk analysis criteria. In the period under review the Department was fully compliant with this requirement. The Department is satisfied that such on-farm inspections reduce the risk of female animals being claimed for under the special beef scheme. The planned computerised movement monitoring system and the linking of the animal health data into that system in the longer term, will address any weaknesses in the present system.

33. Control over Herd Numbers in the Administration of Payments

Only registered herdowners, *i.e.* those issued with a herd number by the Department's District Veterinary Offices (DVOs) for animal disease control purposes, are eligible to apply for payment under premia and headage schemes. The Department relies on the herd number to act as the unique identifier for individual farmers. Acceptance of applications under the schemes and release of payment both depend on the validity of the quoted herd number being confirmed by computer. There were 249,000 herd numbers on the computerised herd master file in May 1997, of which

162,000 were active. In reality, many farmers can have two or more herd numbers. For example, herds which are several miles apart and owned by the same farmer are identified by separate herd numbers issued by DVOs for disease control purposes. The herd number is a key element in the control of headage and premia payments and every herd number, whether active or dormant, on the system has the potential to be used to obtain such payments.

During audit the following matters were noted

- The existence of multiple valid numbers allows greater scope to avoid scheme restrictions, such as the limit on the number of animals or acreage of land holding which can be used for scheme purposes. Instances of this were noted on audit.
- A farmer must transfer his/her holding on entry into the early retirement scheme (ERS) and is no longer eligible for premia or headage payments. Some farmers continued to receive payments under the schemes even though they had already retired. Although the Accounting Officer had assured me in August 1996 that arrangements were being made to ensure that the herd number was transferred or cancelled before payment of the ERS pension, this arrangement was still not in place at the time of audit in March 1997.
- Herd numbers were not deleted when holdings were transferred and cases were noted where
 arable aid payments were made to the registered farmer even though the application form
 was submitted by another farmer. No check appeared to have been carried out as to
 entitlement to payment.

In response to my inquiries regarding controls over herd numbers, the Accounting Officer stated that

- In view of the different requirements of the system designed to identify herds for disease control purposes and to make payments under EU schemes, he acknowledged that the system is not always the best way of identifying and controlling the eligibility of applicants for premia and headage payments. While it seems that the system is working reasonably well the Department nevertheless is addressing, within the context of re-development of its accounts system, the setting up of a client database which will assign to each individual a single unique identification number and will allow the most comprehensive cross-checks on all data for that individual relating to all Department schemes.
- In relation to applicants with more than one herd number, the client database will be the ultimate solution to the possible improper use of multiple herd numbers by the same person. Steps already taken by the Department will prevent future growth in the incidence of such multiple herd numbers. The problem of how to identify existing multiple herd numbers within the present system is being examined and the solutions adopted will be communicated to me as soon as possible.
- The problem of withdrawal of herd numbers from early retirement farmers is being examined urgently, within the context of the present arrangements, in order to eliminate any possibility of future overpayment. I will be advised as soon as possible of both the outcome of this examination and progress in recovering overpayments which have already arisen because of this problem.
- Overpayments arising from the use of a second herd number are recorded on the overpayments computer file and recovered from other payments falling to be made

legitimately to the applicants concerned. The manner in which the data was written to that file does not permit the circumstances giving rise to any particular overpayment (whether due to a second herd number or whatever) to be identified. However, a list of 124 secondary herd number cases was referred, in June 1997, for investigation and appropriate action, including recovery of any overpayments that have arisen. I will be informed of the outcome of such action.

• The issue of ensuring that herd numbers cannot be used to obtain fraudulent payment is being addressed in the context of the Department's general examination of herd numbers.

34. Land Parcel Identification System and Overlapping

As part of the EU's CAP reform measures, the Department was required to introduce by 1 January 1996 a computerised land parcel identification system. The contract for the recording and identification of land parcels was awarded to a private firm (the contractor) in June 1995. Farmers submitted application forms for area aid supported by Ordnance Survey maps which were sent by the Department to the contractor. A computer database was created by the contractor by digitizing the Ordnance Survey maps and the files were then returned to the Department. Each plot is denoted by boundary lines and, once computerised, is given a unique identification number which incorporates the herd number of the applicant. Plots or parts of plots which were recorded on more than one application were flagged as overlaps. The maps produced from this process were issued to farmers with pre-printed 1996 application forms and applicants were requested to correct any mapping errors which had arisen in 1995. A departmental project board was created to oversee the implementation of the project and a consultant was appointed to assess the project and provide guidance to the project board.

During audit it was noted that

- In July 1996, the contractor advised my staff that 120,000 plots had been flagged as possible overlaps during the original mapping process this could indicate overpayment, as aid was paid on the basis of the acreage declared on the maps. The Department was then requested to make the record of overlap cases available for audit and a file of 24,000 cases was provided in January 1997 which the Department stated was the full record of overlap cases at that time. The Department explained that the remainder had been resolved but its computer system could not retrieve those resolved cases. The information provided was inadequate for audit purposes and following a further request the Department forwarded in March 1997, a computer list of 10,794 overlapping plots ranging in area from 1 hectare to 21 hectares.
- The minutes of the project board and the consultant's reports revealed that the issue of overlapping plots had already been raised on numerous occasions since late 1995. Among the matters raised was a proposal to have the Department's inspectorate examine a sample of overlap and overpayment cases and prepare a report which might be shown to the EU Commission. It was also proposed that overlapped maps be returned to applicants to recheck their applications for errors.
- The contractor kept a register of all movements of area aid application files with the Department but no such record was maintained by the Department. A comparison between files registered as received by the contractor for computerised mapping and the

Department's record of payment of arable aid premium revealed 1,437 payees, in receipt of approximately £7m in arable aid, whose files had not been registered as received by the contractor. As there was a risk that there was no documentary evidence supporting these payments a sample of 34 of these files was requested for audit purposes in November 1996 but only 15 had been received by May 1997 while a further 16 were received in July 1997.

Due to the possibility of large scale overpayments having arisen I raised the matter with the Accounting Officer who informed me in July 1997 that

- Under the relevant EU regulation the land parcel identification system did not have to be completed until 1 January 1997 (extended from the original date of 1 January 1996 because of the impossibility of compliance with that date by many member states). The system was not completed substantially until March 1997. The EU Commission was kept fully apprised of all the problems and delays relating to the development of the system. Where the digitisation was not finalised the EU agreed to all 1996 payments being made, provided no fault lay with the applicant and provided applications with incomplete information were not accepted.
- The estimate of 120,000 cases of overlap was in the nature of guesswork on a 'worst case scenario' basis rather than a firm estimate that could be backed up by supporting data and was given some nine months before the project was substantially completed.
- The number of apparent overlaps fell from the original estimated 120,000 due to
 - in a small number of cases, applications for the same parcel of land being received under two herd numbers
 - some digitizing errors made by the contractor
 - the Ordnance Survey maps submitted not, in many cases, taking account of land rearrangements made since mapping took place. To resolve these problems, Department staff obtained detailed Land Commission and Land Registry maps and used these, in conjunction with orthophotography, to outline plot boundaries accurately in rearranged areas. In most cases this eliminated the apparent overclaims made by the farmers involved. The Department issued about 13,000 letters in February 1997 and the replies to these are being examined to see whether area overclaims were involved and, if so, whether these gave rise to overpayments, which will be recovered from 1997 payments as agreed with the EU Commission. By March 1997, 10,974 cases were unresolved.
- The 1,437 shortfall between the Department's payment file and the contractor's list of cases registered as received is probably accounted for by the contractor's failure to register certain cases received. The documentary evidence existing in support of the payments in these cases comprises their actual area aid applications. The Department is satisfied from the checks carried out to date on a sample of these files that the payments to these 1,437 cases are in order. However, in order to be certain of this, the Department is now reviewing all 1,437 cases and will provide the results of that review to me.

- The three outstanding files were being assembled for transmission to my Office and the delay was due to the contractor needing so many of these files for completing the computerised mapping process.
- Given the limited resources at the time, the Department left the maintenance of adequate records of the files and their movement to the contractor. Some extra Departmental resources have since been put in place and arrangements made to ensure that during future updates of the system by the contractor, the maximum number of files will be retained in the Department but a record will be kept of any files forwarded to the contractor.

35. Computerised and Manual Payments

The Department operates a computerised system for headage and premia payments. All relevant details about the applicant and the animals on his/her application are recorded on the system and retained on the computerised master file. When the applications are validated the system generates automatic payments. The data on the master files, in addition to being an accounting record of applications and payments, also acts as a cross-check with other applications in the scheme to prevent incorrect payments, including payment of headage/premia on the same animal twice. In cases where there are problems with applications, stops can be entered against an applicant's file to prevent payment. If resolution is delayed until after a certain point, payments are subsequently processed manually. Manual payments may also arise for a number of other reasons e.g. change of ownership. There should be a stop on the computer file for every manual payment.

Up to November 1996, a total of 18,683 manual payments, amounting to £11,073,213, were made on beef headage and premia schemes (including extensification premium) for the period 1993 to 1995 but the applicant and claim details upon which those payments were made were not recorded on the computer system.

A comparison of the manual payments of special beef premium and extensification premium with the stops file for these schemes revealed that in 64% and 62% of cases, respectively, there were no stops on the computer payments file in respect of applicants who were in receipt of manual payments.

A random sample of 30 manual payments examined by my staff revealed that in three cases computerised payment had also issued. A subsequent detailed audit of a targeted sample of 47 applicants, identified as possibly being in receipt of duplicate payments, revealed 43 overpayments amounting to £60,452 of which 28 were detected on audit by my staff while at least half of the remainder were payments returned by the applicant. In 7 of the overpayment cases the automatic payment preceded the manual payment and vice versa in the remaining cases.

In view of the risk of duplicate payments being made in the absence of adequate controls between the computerised and manual systems, I inquired why administrative and control procedures failed to guard against such duplication and whether these systems would be reviewed. I also inquired as to the reason for large numbers of manual payments on a computerised system and what action was proposed to reduce or eliminate manual payments.

In response the Accounting Officer stated that

- In the context of the substantial increase in the value of transactions the number and value of manual payments represents only a tiny fraction of the total number and value of payments made in the period 1993-96.
- After the audit the Department carried out an analysis of all of the 3,919 manual payments issued under the special beef premium scheme in 1994 and 1995 and determined that 65 of these were duplicate payments. In 12 of these cases the overpayments which arose have already been recovered. In all other cases letters have issued to applicants requesting refunds of the overpayments. On checking another 24 cases of possible overpayments for another beef scheme forwarded by my Office to the Department, 12 were discovered to be duplicate payments amounting to £4,511. The duplicate payments were mainly due to the reactivation of herdnumbers. Steps have been taken to notify the relevant sections as soon as herdnumbers are reactivated.
- While agreeing that any duplicate payment is unacceptable, the level of error is reasonably low considering the new arrangements put in place in 1993, the volume of applications, the different schemes involved, and the linkage between the schemes concerned.
- The procedures in place for issue of manual payments are clear and instructions have issued to all local offices to ensure that stop payment indicators are input to the computer system in all cases where it is deemed necessary, for whatever reason, to issue a manual payment. The Department accepts that these instructions do not appear to have been followed in a small minority of cases. The Department will now issue revised guidelines with a view to ensuring full compliance with the procedures.
- It has not been possible to develop an integrated computer payments system as yet because of the extra workload and computer requirements associated with the implementation of the overall CAP reform arrangements. In the longer term, the whole area of computerised payments is being addressed in tandem with the re-development of the Department's accounts system. The proposed new system will include the following components
 - A client database to hold basic details of all the Department's clients. A payment will not issue to anyone who is not registered on the client database and it will be possible to report by client on all payments made via the payment system. Accounts division and all operational divisions will have access to this system.
 - A payments system to generate and record all payments.
 - A debtors ledger to record amounts owing to the Department and payments received by the Department.
- The new system will allow for automatic electronic capture of what presently constitutes manual payments. In the meantime, the Department is examining the whole procedure for making manual payments with a view to putting new procedures in place for the 1997 scheme payments.

36. Duplicate Payments

Each line division of the Department is responsible for ordering its own goods and services and for authorising payment. Procedures vary from division to division, e.g. some maintain order books while others do not. Each division is responsible for ensuring the validity of payments, that payments are traceable to properly kept records and that payment instructions have proper authority. Payments are made by the accounts division on instruction from the relevant line division, which provides details of the name, address, amount payable and the subcode to which the expenditure should be charged. Supporting documentation in the form of invoices/scheme listings are generally provided. The forms and supporting documentation are checked by accounts staff for accuracy and authority but, beyond processing payment, there is no central control procedure in accounts division which would prevent duplication of payments in situations where procedures in the line division do not ensure the validity of payment.

Details of duplicate payments discovered on audit by my staff have been brought to the Department's attention on three occasions in the last four years and the Department was asked to introduce controls to prevent further occurrences. The explanations provided indicated that the problem lay in errors by line divisions in the handling and authorisation of invoices and claims. Errors included a line division processing the same invoice twice, either because the invoice was not endorsed on the first occasion or because a photocopy or delivery docket was also authorised. More than one division authorised payment in respect of the same goods or service often because an original invoice was sent to one division and a photocopy to the other, usually because the original was thought to have been mislaid. Premia payments were also duplicated, with divisions authorising payment twice, apparently unaware that identical claims had either been processed a short time previously or were being processed at that time. Duplicate payments noted on staff claims for travel and subsistence arose also because claim copies were forwarded in the mistaken belief that the originals had been mislaid and both were processed for payment.

The following are examples of duplicate payments arising in recent years

- In May 1995, following a stocktake by Departmental staff, an overpayment of £173,000 was recouped from a company on foot of two invoices issuing for the same order. Equipment was rejected and returned to the supplier in May 1994, but the replacements were also invoiced and paid in full in 1994. As both invoices were authorised, accounts division processed payments in the normal way, unaware of the duplication.
- In March 1994, a duplicate payment of £4,287 was issued to an organisation as a result of the processing of a duplicate invoice. The overpayment was brought to the Department's attention by my staff in August 1995, but during audit the following year similar duplicate payments of £1,902 in January 1995, £2,594 in March 1995 and £3,117 in June 1995 were noted. All payments were processed by accounts division following receipt of authorisation from the line division.
- In May 1996, an invoice for £39,061 and a credit note for £10,287 was received from a company. The division prepared a payment demand to accounts division for £28,774. However, when the file was returned from accounts division after payment, it was immediately noticed that the full amount of the invoice £39,061 together with the amount of the credit note £10,287 had been paid. This represented an overpayment of £20,574. The company gave a refund on notification by phone.

- In two separate cases during 1996, duplicate cheques relating to BSE compensation, amounting to £152,000 and £73,568 were prepared following a request from the line division. The duplicate cheque for £152,000 was cancelled and was returned by the farmer on request shortly after issue. The other cheque did not issue and was cancelled when the duplication was discovered by line division.
- During the audit of 1996 payments a sample of 100 payments with a high risk of duplication were examined and following review, 10 duplicate payments were identified, 6 of which had not been known to the Department.

While recognising that the Department has to process a large and varied volume of payments from many sources, in view of the continuing problems in this area I requested the Accounting Officer's observations on the adequacy of the present system and whether any consideration had been given to introducing some centralised control on ordering and payment functions.

The Accounting Officer informed me that

- Established procedures provide that when all payment files are returned from accounts division they are checked in the line divisions to ensure that payments made correspond with instruction. The necessity to carefully examine the documentation supporting payment instructions forwarded by divisions and to differentiate invoices, credit notes etc. has again been stressed to staff in accounts division. Where original invoices have not been received and only photocopies are available, the officer in the line division is required to certify that no previous payment has taken place.
- For equipment purchases, all orders are now assigned an order number which suppliers must quote on invoices and when invoices are received they are checked against the order number and marked paid.
- As regards BSE, there were 73 confirmed cases of BSE in 1996 compared to an average number in previous years of 14. Each case generates a number of payments and the increased volume of work was handled by one member of staff. The duplicate payments occurred when the officer concerned was on annual leave and officers who were not totally familiar with the system were substituting. In December 1996, the division introduced a new control system.
- While any duplicate payment represents a system failure, and is regretted, it would appear that the number and value of known duplicate payments made annually represent a very small fraction of one percent. Divisional checks on payments executed and ongoing work on files give rise to a high level of detection.
- The Department has commenced the implementation of a major new computerised accounts system, which should be in place by late 1998. The solution to the problem of duplicate payments lies in the introduction of this new system, allied to the revision of accounting practices in line divisions and accounts division which this will involve.
- In the short term, an instruction will issue to all authorising officers in line divisions requiring that they maintain a register of all payment instructions sent to accounts division and that on receipt from accounts division of evidence of payment, they note in the register that the correct amount was paid and payment date. The divisions will also be required to

notify accounts division, verbally and in writing, of any discrepancies discovered in this process.

Accounts division is setting up a register to record particulars of all duplicate payments
coming to its attention, including the reasons for the occurrence, with a view to instigating
preventative measures. It is also planning to use an audit package in routine trawls of
payments to identify and rectify on an ongoing basis any duplicate payments uncovered.

37. Collection of Land Annuities

Paragraph 64 of the 1993 Report refers to the buy-out scheme introduced in 1993 to deal with land annuity arrears. The buy-out scheme provided for

- The capping at 10% of the interest rate applying to annuities and the rescheduling of the repayment period.
- The offer to annuity payers not in arrears of a buy-out option at a discount of 50% of the outstanding advance, to be exercised by 31 May 1993.
- The write-off of all annuities with half yearly instalments of less than £10.

In September 1994 the Department estimated the cost of the buy-out scheme to the Exchequer as follows:

	£
Capital	8,500,000
Annuity interest forgone	7,500,000
Write-off of small annuities	347,000
	£16,347,000

The Memorandum to Government in 1992 proposing the buy-out scheme indicated that, if the proposals were accepted, collection procedures would have to be strictly enforced both to secure timely payment and to ensure against a future build up of arrears.

During the course of audit it was noted that arrears had increased since 1994 as follows:

	$\mathcal L$
March 1994	2,635,019
March 1995	3,246,044
March 1996	3,688,755
March 1997	3,576,631

Tests carried out by my staff indicated that, at the end of 1996, 81% of the arrears outstanding had been incurred since the buy-out scheme and approximately 50% of all annuities were in arrears.

In a targeted sample of nineteen cases examined on audit the annuitants had benefited from the 1993 buy-out scheme but, at the end of 1996, annuity arrears in these cases amounted to £114,070 while

payments received since 1993 amounted to £3,266. The action taken in these cases can be summarised as follows

	No. of Cases
No action taken since 1992	7
Files could not be traced	2
Files with inspectors for follow-up action	5
Annuitants had agreed to reduction of grants receivable against their arrears	2
Some correspondence but no conclusive action	3

There were three other issues which appeared to be indicative of the Department's lack of diligence in managing land annuities collection viz:

- In paragraph 43 of the 1992 Report the Accounting Officer stated that, following a Government decision on the matter, it would be possible to transfer collection responsibilities from county registrars to the equivalent of revenue sheriffs by the end of 1993. However, in May 1996 the Department notified the Department of Justice that the proposal to replace registrars would be deferred and that a limited number of warrants would be issued to county registrars. No warrants had been issued up to November 1996 and none had been executed since 1989.
- The 1992 Report also drew attention to the inadequacies of the computer system which was
 incapable of reconciling individual account balances with the total of arrears and that it was
 intended to replace it with a new system. This system was not operational by November
 1996.
- In June 1994, the Accounting Officer also advised that as the Attorney General had
 expressed doubts as to whether the current legislation gave the necessary legal authority to
 abate annuities or to reduce capital owing in the event of redemption of annuities, the matter
 of getting statutory authority was being addressed, but by December 1996 this had not been
 finalised.

Due to the continuing unsatisfactory position regarding the collection of land annuity arrears and the overall delay in finalising matters since 1992, I requested the observations of the Accounting Officer who stated that

- A factor in the increase in the arrears was that some farmers who had high repayments and who were in arrear were unable to avail of the 1993 buy-out scheme. While the interest rates on their annuities were reduced to 10% the repayments were still excessive having regard to the size and earning capacity of the farms. In this connection it was agreed, in the context of the Partnership 2000 negotiations, that the Departments of Agriculture and Food and Finance would enter into discussions with farm organisations to consider ways of rescheduling payments in individual cases.
- Department of Finance approval has been obtained to reschedule annuities in cases where the annuity is deemed to be too high. This will mean that the existing arrears will be capitalised and the farmer will pay a further reduced annuity over an extended repayment period. It will be a condition of the rescheduling that the farmer will allow the Department to offset any headage and premia payments if the annuity is not paid promptly.

- Some collection staff had to be assigned to headage and premia schemes due to the growing volume of work associated with those schemes. Land Commission inspectorate staff were also redeployed to deal with new agriculture schemes. Consequently, the Department was unable to pursue defaulters as diligently as would have been desirable and collection work in the years 1993 to 1995 was principally confined to issuing bills and recording cash payments. In addition, the reconciliation of payments under the 1993 buy-out scheme turned out to be very time consuming due to the limitations of the computer system and was not finished until 1996.
- Staff were reassigned full-time to collection work in 1995 and 150 major defaulters were selected for visits by Inspectors in 1996. Some £150,000 was collected as a result of these visits and there has been an improvement in the overall arrears position. As part of the general strategy to reduce the arrears it is intended that Inspectors will be deployed full-time to visit defaulters, report on the reasons for non-payment and make recommendations as to what action should be taken.
- The Department of Justice was asked in writing to appoint revenue sheriffs in place of county registrars for the purpose of enforcing warrants against defaulters but had reservations about doing so. The Department of Justice has, however, suggested that the county registrars be given a further opportunity to enforce warrants and that the position be reviewed in the light of results. Arrangements are being made to issue warrants to county registrars in respect of up to 14 of the 150 defaulters visited. In future the Department intends to issue warrants for enforcement against farmers falling into arrears again.
- It is not possible to say how many cases and how much of the arrears could be deemed uncollectable. Some of the arrears could be statute barred but the right of the Department to recover the land covered by those arrears is not statute barred. The collection of arrears can thus be carried out by the threat of recovery or sale of the land if that proves necessary.
- Due to limitations in the computer system it proved impossible to continue the process of reconciling individual account balances after 1979. A new computer system is almost ready to go operational and while it will not be able to reconcile existing accounts it will be able to perform reconciliations on new agreements starting at the May/June 1997 gale.
- Proposals for Government to obtain statutory authority for the Government decisions of 1989 and 1992 on annuity buy-out, write-off etc. together with necessary amendments to the 1965 Land Act and the Irish Land Commission (Dissolution) Act 1992 are being drafted.

38. Collection of Bog Rents

Non-agricultural lands, formerly owned by the Land Commission and now under the responsibility of the Department of Agriculture and Food, comprise mainly boglands, mountainside and forestry. The Land Commission also had turbary rights over a sizeable acreage of other boglands. Turbary rights entitle a person to utilise the resources of land which he does not own. Up to 1988, bogs (whether owned by the Department or where the Department had turbary rights) were let for turf cutting and the lettings were arranged annually through the Land Commission inspectorate. Rental demands were issued by the Department from the list of such lettings returned by the inspectorate.

According to 1987 statistics, annual receipts from bog rental amounted to £53,500 payable by 3,743 tenants.

In 1995, an internal review of procedures in the Department revealed that the collection of bog rents had fallen into abeyance since 1989. No rental demands had been issued in the intervening period indicating a potential loss to the State of some £400,000. Pre-1989 arrears of £56,287 which had not been pursued were sanctioned for write-off by the Department of Finance in 1996. In its submission for sanction the Department acknowledged that it was likely that some tenants had continued to cut turf since 1988 but the identities of most were unknown. The Department undertook to re-establish the billing procedure from 1996.

In view of the potential loss of £400,000 I inquired as to why the Department had not pursued the collection of rents since 1988 and the action proposed in relation to rents due but not paid. I also inquired as to whether the Department was satisfied that it had a complete record of all of its non-agricultural holdings and turbary rights, the commercial value of these holdings and rights and the Department's plans for the management of these assets in the medium and long term.

In response the Accounting Officer stated that

- Land Commission staff were diverted from this work to headage and premia schemes since the late 1980s. As a result, the practice of getting bog schedules signed by tenants and getting bills issued was not pursued as diligently as it should have been. In any case, the staff resources needed does not make the collection of bog rent cost effective and when faced with staff resource difficulties the Department had to make certain choices. Some inspectors did, however, get tenants to continue signing copies of old schedules annually and hand written bills were then issued for the relevant amounts.
- It is not possible to say precisely how much rent should have been collected between 1989 and 1995 because some bogs were sold off in the meantime and annual rents vary depending on quality of turf and demand for turf cutting rights. The annual rental collectable in the intervening years is estimated to have been about £50,000 per annum if all turbary rights had been let. It is estimated that only about a quarter of prospective lessees signed letting agreements in 1996 due to the non-availability of inspectors and the value of those lettings was £13,606, of which about £9,000 has been paid.
- The Department is satisfied that all receipts to 1995 have been properly brought to account.
- A central register of Land Commission lands, both agricultural and non-agricultural is maintained by the Department and a control procedure is in place to check that all lettable lands are let. According to the register, the Land Commission is still in possession of 2,698 hectares of non-agricultural land with an estimated value of £300,000.
- No complete record of turbary rights has ever existed and it would not now be possible, within current resources, to compile such a record. Moreover, the costs associated with such an undertaking would, in all probability, exceed the value of turbary rights involved. Neither is it possible to estimate the value of turbary rights on hand. A vast number of these turbary rights are, in reality, of no commercial value to the State. Many are located in inaccessible areas or in areas designated as being of special environmental interest. In some areas turbary cutters have established competing rights through long term use and in others the turbary has already been cut away and the land planted with trees.

- Given the uneconomic nature of the whole exercise of billing and collecting bog rents, the Department is currently considering the feasibility of dispensing with this particular scheme and any legal or other constraints will be considered in this context. In the meantime, as part of the general strategy to reduce arrears, inspectors will be deployed to visit tenants with a view to ensuring compliance with the existing requirements. Every effort will be made to ensure that all lettable lands are let.
- The Department intends to dispose of all Land Commission lands at the earliest possible opportunity.

VOTE 36. - DEPARTMENT OF DEFENCE

39. Compensation for Hearing Impairment

The charge to the vote includes settlements made to soldiers who claimed to have suffered hearing impairments after they had been exposed to excessive noise while engaged on military duties. In recent years a very significant increase in the number of soldiers making such compensation claims has arisen.

By 31 August 1997, 8,956 claims for compensation had been received. Settlements had been reached in 702 cases, 30 cases had been determined by Court hearing and 17 cases were withdrawn. Compensation of £19,355,777 and plaintiff costs of £3,107,979 had been paid in respect of the 732 cases finalised at that date.

On the basis of the settlements and court awards to date there is an unquantifiable but significant contingent liability on the State in respect of these claims.

VOTE 40. - SOCIAL WELFARE

40. Overpayments

The Department of Social Welfare (DSW) administers some 50 social assistance and social insurance schemes, with 1996 expenditure amounting to £4.2bn.

Since 1992 co-ordination of all anti-fraud activity within DSW is the responsibility of a control division which has 22 staff. There are some 600 staff altogether working on control activities throughout the Department, including specific investigation units which work at local, regional and national level and in conjunction with other bodies such as the Office of the Revenue Commissioners. Of these, some 300 staff are involved in control activity on a part time basis.

From 1992 to 1996 the annual expenditure on social welfare programmes increased by 27%, while the level of fraudulent claims detected by the DSW increased over the same period by 85%.

Tables 7 to 10 show that during 1996, 32,609 cases amounting to £18.9m in overpayments were recorded for recovery of which 10,560 cases amounting to £13.6m of overpayments were attributed by DSW to fraud or suspected fraud.

Table 7 - Social Insurance - Overpayments Recorded for Recovery

	199	1996		
Scheme	Amount £'000	Cases	Amount £'000	Cases
Disability Benefit	1,343	2,982	1,137	3,230
Maternity Benefit	11	40	15	45
Unemployment Benefit	1,288	7,761	1,324	7,202
Old Age (Contributory) Pension	161	293	195	353
Widow/er's (Contributory) Pension	141	192	141	171
Invalidity Pension	635	414	479	490
Retirement Pension	97	211	156	243
Disablement Pension	66	24	28	19
Injury Benefit	21	127	29	179
Deserted Wife's Benefit	252	70	188	50
Pay Related Benefit	4	33	12	207
Unemployability Supplement	37	28	63	30
Treatment Benefit	10	118	12	128
Equal Treatment	52	73	343	565
Redundancy	0	0	4	2
	4,118	12,366	4,126	12,914

Table 8 - Social Insurance - Overpayments Attributed to Fraud or Suspected Fraud

	199	1996		
Scheme	Amount £'000	Cases	Amount £'000	Cases
Disability Benefit	695	311	528	423
Maternity Benefit	2	3	0	0
Unemployment Benefit	759	2,486	785	2,552
Old Age (Contributory) Pension	2	2	6	3
Widow/er's (Contributory) Pension	10	4	30	9
Invalidity Pension	528	161	405	241
Retirement Pension	4	2	56	9
Disablement Pension	14	4	2	2
Injury Benefit	11	56	14	121
Deserted Wife's Benefit	189	17	124	20
Pay Related Benefit	2	20	7	122
Unemployability Supplement	15	6	7	1
Equal Treatment	1	2	4	2
	2,232	3,074	1,968	3,505

Table 9 - Social Assistance - Overpayments Recorded for Recovery

	199	06	1995	
Scheme	Amount £'000	Cases	Amount £'000	Cases
Old Age and Blind Pensions (Non-Contributory)	5,441	936	3,698	822
Child Benefit	443	2,389	328	2,006
Unemployment Assistance	6,030	14,645	5,123	12,433
Pre-Retirement Allowance	621	263	385	204
Widow's and Orphans' Pensions (Non-Contributory)	220	52	204	47
Deserted Wife's Allowance	36	8	142	14
Lone Parent (Prisoner's) Allowance	14	5	11	9
Family Income Supplement	396	973	511	1,123
Lone Parent (Unmarried) Allowance	1,296	756	1,528	873
Lone Parent (Separated) Allowance	139	103	263	124
Lone Parent (Widowed) Allowance	35	8	59	43
Carer's Allowance	10	32	33	47
Rent Allowance	0	0	19	3
Part-time Job Allowance	4	16	0	0
Back to Work Allowance	50	57	8	21
	14,735	20,243	12,312	17,769

Table 10 - Social Assistance - Overpayments Attributed to Fraud or Suspected Fraud

	199	96	1995	
Scheme	Amount £'000	Cases	Amount £'000	Cases
Old Age and Blind Pensions (Non-Contributory)	4,391	556	3,335	470
Child Benefit	272	780	257	1,329
Unemployment Assistance	4,898	5,664	4,058	5,019
Pre-Retirement Allowance	523	99	180	39
Widows' and Orphans' Pensions (Non-Contributory)	147	29	170	33
Deserted Wife's Allowance	22	5	71	6
Lone Parent (Prisoner's) Allowance	8	1	7	3
Family Income Supplement	227	96	217	125
Lone Parent (Unmarried) Allowance	799	203	1,135	222
Lone Parent (Separated) Allowance	79	24	190	38
Lone Parent (Widowed) Allowance	1	1	8	4
Carer's Allowance	2	5	12	15
Rent Allowance	0	0	19	2
Part-time Job Allowance	2	4	0	0
Back to Work Allowance	41	19	5	10
	11,412	7,486	9,664	7,315

41. Unemployment Payments - Anti Fraud Measures

As a result of a growing divergence between the number on the Live Register and the indicative number of unemployed persons shown by the labour force surveys conducted by the Central Statistics Office (CSO), a special study was undertaken by the CSO in 1996 to establish the reasons for the difference. The study report suggested that the true rate of unemployment might be overstated by the Live Register figures and that the level of fraudulent claiming could be far greater than hitherto assumed.

As a response to these findings, DSW introduced special measures to improve control of payments and to maximise the use and co-ordination of all available resources as follows

- A new function of Live Register management was introduced to co-ordinate and to report
 on all aspects of the work of the units involved in unemployment schemes payments,
 including the control of fraud and abuse and the creation of measures designed to encourage
 the transition to work.
- Local area control teams were established for each of DSW's local offices. These teams under the local area manager co-ordinate all the activities and resources in relation to the control of the Live Register at local level. They ensure that the control activities, established and new, are being vigorously applied and augment them with particular approaches based on local knowledge and circumstances.
- An extra 57 staff were deployed to assist in the control of fraud and abuse at local office level.
- A major campaign began in September 1996 across all regions to validate addresses by way of special questionnaires. The opportunity was also taken to verify claimants' current means and circumstances and to remind them of the conditions for entitlement to unemployment payments. Some 200,000 such verifications were issued in 1996.
- A renewed priority was given to ensuring that proper identification of claimants is obtained at the new claim stage. Existing guidelines were reinforced and re-emphasised. A new, more detailed claim form was introduced which provides specifically for identity checks and evidence linking the person to the address quoted on the claim form must also be sought.
- The new claim form also sets out in more detail the conditions for receiving payment and is designed to reinforce the understanding among claimants of the obligation to be capable of, available for and genuinely seeking work. Local office staff were instructed to emphasise these conditions to all claimants to ensure that they understood their obligations and to inform them of the support services available. All new claims are carefully scrutinised to ensure that full and accurate information on the claimants' circumstances is provided.
- A programme of six-monthly interviews for certain claimants has been put in place to review
 their continued eligibility and to ensure that they are fully aware of the support services
 available.
- In consultation with the Department of Enterprise, Trade and Employment, a special range
 of measures was introduced for 18 to 19 year olds on the Live Register. Those on the Live
 Register for six months or more will be informed by their local DSW office that they must

register with FÁS. Arrangements have been made to ensure that all who fail to register, to accept, or to complete a programme can be identified and appropriate action taken.

- Mechanisms to improve the flow of information between the agencies dealing with employment matters were set up in Social Welfare, FÁS, Local Employment Services, Area Based Partnership companies, Revenue, Health Boards, etc. FÁS now notify the Department of refusals of job offers and failures to take up places on a training course or scheme. All such cases are interviewed to establish continued entitlement.
- The implementation of the Integrated Short Term Schemes computer system in the Health Boards afforded the opportunity to compare and correct information on addresses of claimants to the Health Board for supplementary welfare allowance with the details already on file for those claimants. In the Eastern Health Board area, in particular, changes in up to 30% of addresses emerged. All of these changes were fully checked and no evidence of fraud was found.
- A special media advertising campaign ran for two weeks in November and early December 1996 to heighten public awareness of fraud and abuse of the social welfare system and to gain public acceptance of and support for the DSW control activities.

The Department has attributed the fall of the Live Register figure from 287,598 in August 1996 to 259,041 in July 1997 mainly to the impact of these measures.

42. Specific Anti-Fraud Measures in areas other than Unemployment

Control and other anti-fraud measures in areas other than unemployment payments included

Old Age (Non-Contributory) Pensions

- The Estate Case Recovery Unit was set up in 1993 and continues to monitor the estates of deceased pensioners with a view to identifying those who, in their lifetime, may have failed to disclose their full means. A total of £4.4m was identified in overpayments in 1996 of which £3.3m was collected. The 1996 overpayments figure includes overpayments identified in a data matching exercise on probates granted in 1993. The exercise produced 1,511 cases where the Department had not been notified of the distribution of the estate and overpayments were assessed in 53 of these cases, amounting to £477,817. £283,511 of this was recovered in 1996 in 44 cases. A further 143 cases are currently under investigation.
- Cases where solicitors fail to comply with legal requirements or where agreement cannot be
 reached on the amount of debt due to the Department are referred to the Department's
 Central Prosecutions Service for necessary action. The Law Society is notified of cases where
 the solicitor is at fault.

Illness Related Payments

• The number of scheduled medical reviews of recipients of illness related payments increased from 63,000 in 1995 to 74,000 in 1996.

- During the year, 6,929 home visits were carried out to check that claimants were observing the Rules of Behaviour for persons in receipt of illness payments.
- 25,801 general reviews of illness payment claims were carried out. These reviews focused mainly on overlaps of contributions and credits which may indicate concurrent working and claiming and on payments of adult/child dependant allowances.
- New improved certification procedures were introduced for certain long-term disability benefit and invalidity pension cases.

Lone Parent Allowance

• During 1996 the General Registrar's Office provided the Department with the computer tape of all the marriage records for 1993/1994. This tape was matched against the Department's database of lone parents to identify cases where the lone parent was married. These cases are currently under investigation. A review of selected lone parent (unmarried mothers) payments cases was undertaken in 1996. Of the 445 cases reviewed 10% had their payment terminated or reduced.

Child Benefit

Some 30,000 claimants had their entitlement to payment of child benefit reviewed. As a
result of these reviews a total of 2,306 claimants had their entitlement to payment either
terminated or reduced.

Other

• The Department obtained a computer tape from the UK Department of Social Security, listing all persons resident in Ireland who were in receipt of a British retirement pension. The tape was matched against the Department's computer files to identify those who were also in receipt of DSW pensions and who had not been assessed with British retirement pensions as means. A total of 440 cases were reviewed to the end of December 1996, of which 390 had their payment either reduced or terminated.

43. Prosecutions

While the level of detected fraud has been steadily increasing, the number of prosecutions taken by DSW against the perpetrators has fallen in recent years when compared with prosecution activity in the late 1980s as outlined in Table 11.

Table 11 - Prosecutions taken by DSW

Year	Social I	nsurance	Social A	Social Assistance		otal
	Prosecutions	Convictions	Prosecutions	Convictions	Prosecutions	Convictions
1985	118	110	57	57	175	167
1986	66	57	71	66	137	123
1987	77	75	34	30	111	105
1988	261	205	59	56	320	261
1989	162	154	107	100	269	254
1990	96	91	113	108	209	199
1991	23	19	25	23	48	42
1992	17	13	8	7	25	20
1993	35	35	16	16	51	51
1994	29	29	20	20	49	49
1995	14	14	21	21	35	35
1996	20	20	36	36	56	56ª

For 1996 the amount of overpayment assessed in these cases was £238,632 (£121,298 in 1995)

The Accounting Officer stated that the combined effect of the two Social Welfare amnesties (1991 and 1993) had a severe impact on the number of cases submitted for prosecution. The Department's policy is to consider prosecution in all serious cases of social welfare fraud. Factors considered include the duration of the fraud, the amount of money involved, any mitigating circumstances and the deterrent effect a particular prosecution might have in the public mind. The decision to prosecute is based on the nature of the alleged offence, the evidence available and the particular circumstances of the employer or person concerned. By and large the Department is successful in securing convictions.

44. Recovery of Overpayments

As indicated in Table 12 overpayments to a value of £18.9m were recorded for recovery during 1996 (£16.4m in 1995) while £7.1m was written off as irrecoverable (£9.9m in 1995).

Table 12 - Overpayments

	199 £'00			1995 £'000	
Overpa	ayments not disposed of at 1 January ayments recorded for recovery Overpayments recorded in prior years cancelled	18,853 430	31,423 18,423 49,846	16,438 <u>436</u>	31,945 <u>16,002</u> 47,947
Less:	Sums recovered in cash Sums withheld from current entitlements Amounts written off as irrecoverable	4,399 3,311 <u>7,054</u>	14,764	3,895 2,712 9,917	16,524
Overp	ayments not disposed of at 31 December		35,082		31,423

The Department has stated that its overall debt management strategy is to establish a climate where overpayments are regarded as debts to be recovered viz.

- The recovery of overpayments is an intrinsic part of scheme management and a debt management function is established in each scheme, local office and health board area.
 Recovery rate targets are set for each scheme. Overpayments recovered are recorded and reported on as part of the overall control reporting framework.
- In July 1996, the Department introduced a code of practice on the recovery of overpayments. The code requires that due account be taken of the interests of taxpayers and social insurance contributors, as well as the ability of the person concerned to repay and stipulates that every effort be made to recover overpayments in full, but that in certain circumstances the repayment of an overpayment may be cancelled, reduced, deferred or suspended.
- Work commenced in 1996 on formalising debt recovery procedures across the Department.
 The Department is in the process of developing a central computerised overpayments
 system. Progress has been delayed due to resource constraints but an interim personal
 computer based system is currently in operation.

It is too early to gauge the extent, if any, to which the new procedures will impact on the rate of write-off of overpayments which in the years 1992 to 1996 has averaged out at approximately 52%.

45. Irregularity at Unemployment Branch Office

DSW provides services for the payment of unemployment benefit and assistance through a nationwide network of local offices and branch offices. In relation to the branch offices, the service is provided by independent persons under the terms of a written contract between DSW and the service provider. The contract sets out, in detail, the relationship between both parties and specifically states that the service provider will be responsible for the safe custody of any public

moneys with which s/he is entrusted, and must account for all such moneys received and paid in a manner as laid down by DSW. Branch offices are subject to control by the parent local office.

Irregularities in the payment of unemployment assistance/benefit at a branch office were discovered by the local office manager during the course of a general inspection in July 1996. The irregularities involved inflating specific manually prepared payment dockets and pay sheets and misappropriating the difference between the amended dockets and the amounts actually paid to claimants.

The Accounting Officer informed me that following a detailed examination, DSW uncovered 327 discrepancies amounting to £32,640 over a six year period, almost all of which related to unemployment assistance. The branch office employee suspected of perpetrating the irregularities was dismissed as soon as the irregularities were discovered. Criminal proceedings have been initiated by the Gardaí after an investigation and a file is being sent via the local State Solicitor's Office to the Director of Public Prosecutions. By 31 August 1997, £900 had been recovered.

In response to my inquiries about the adequacy of control procedures the Accounting Officer stated that

- A check to detect the irregularity which occurred in this case is included as part of DSW's annual general inspection procedures. In addition to checking procedures there is continual flow of claim documentation between the parent local office and its branches. The local office staff use this opportunity to monitor the quality of claims maintained by branch offices and this adds to the overall control exercised on branch offices. Also, checks are carried out each week by accounts branch on manual unemployment payments made at branch offices and post offices to ensure that payment sheets and corresponding payment dockets agree. Any discrepancies are brought to the attention of the relevant regional manager.
- Checks, by their nature, can only test a sample of transactions and in this case, the incidence of the irregularity was in the proportion of 1 altered docket in about 725 and was not detected. The irregularity was finally detected by the local office manager carrying out an additional sample check of dockets against the claim papers. Methods by which more payment dockets may be checked are currently being examined.
- The known level of internal fraud in the DSW is quite low. In the last five years, there had been four other cases of internal fraud detected.

VOTE 41. - HEALTH

46. Tribunal Costs

Paragraph 51 of my 1995 Report refers to the Compensation Tribunal established on 15 December 1995 to administer the Scheme to compensate certain persons who had contracted Hepatitis C from the use of Human Immunoglobin Anti-D, whole blood or other blood products. By the end of August 1997, amounts totalling £46.8m in 391 cases had been paid on foot of awards by the Tribunal. Other costs paid to that date include legal costs in relation to 240 claimants, amounting to £4.5m, tribunal members fees^a of £512,000 and administration costs of £1.1m. Under the terms of the compensation scheme, the costs of the claimant's legal representative are borne by the State and are agreed with the Chief State Solicitor after each case is completed and prior to payment of costs. Any case of dispute may be referred to the chairman of the Tribunal for adjudication, but none has arisen to date.

The Minister for Health appointed a Tribunal of Inquiry on 24 October 1996 to inquire into the circumstances surrounding the Hepatitis C infection of blood and blood products manufactured and distributed by the Blood Transfusion Service Board (BTSB). The Tribunal issued its report on 6 March 1997. Total costs of the Tribunal paid to 31 August 1997 are £873,500, of which £556,400 refers to legal fees and £317,100 to administration costs. Legal fees paid to date include those paid to teams appointed by the Attorney General to represent the Public Interest, the Tribunal and the State. These fees were agreed in advance by the Attorney General and consisted of a fixed briefing feeb and a fixed daily feeb for the life of the Tribunal. The fees were determined on the basis of what the Attorney General considered proper and reasonable, having regard to the interest of the taxpayer, the complexity and difficulty of the issues to be determined by the Tribunal, to the expertise of the counsel selected and to the present market rate for work of this nature. The Attorney General also had regard for what a solicitor in private practice, acting reasonably and prudently, would offer counsel for such services. The BTSB, Positive Action and the National Drugs Advisory Board were granted legal representation but claims for legal fees from these bodies had not been paid by 31 August 1997. The BTSB claim has been lodged with the Chief State Solicitor but the other two bodies had not yet submitted claims. Claims will be taxed before the Taxing Master.

a Chairman: Salary of a Judge of the Supreme Court
 Members: Initial briefing fee of £,15,000 plus £,750 daily fee per sitting day.

b Counsel Fees

 Senior
 £,15,000
 £,1,400

 Junior
 £,10,000
 £,750

VOTE 42.- AN ROINN EALAÍON, CULTÚIR AGUS GAELTACHTA

47. Hunt Museum

The Hunt collection consists of about 3,000 objects, the core of which is based on decorative arts from the medieval period. The value of the collection has been conservatively estimated at about £50m.

It was the wish of the Hunt family that the collection should be donated to the State if it could be permanently housed in the Limerick/Clare area. In the 1970s the State acknowledged the importance of the collection and was willing to have it taken into the care of the National Museum but, on grounds of inadequate resources, was not prepared to give a guarantee as to its permanent residence in a museum in the Limerick area. The offer from the Hunt family was then withdrawn. The NIHE (later the University of Limerick) assisted the family by permitting the collection to be housed there until a permanent home was found.

In 1991, a group led by local business interests proposed that the collection should be housed in the Custom House, Limerick which was being vacated by the State. The Government responded to the proposal by deciding that the building should, in principle, be leased by OPW to Limerick Corporation for the purposes of the Hunt collection being housed there. The handover of the property to Limerick Corporation for this purpose was formally sanctioned by the Department of Finance in October 1991.

A legal structure for the management of the collection was put in place as follows:

- Ownership of the collection to reside with the Hunt Museum Trust whose trustees include two members of the Hunt family and representatives drawn from both national and local interests.
- An independent company, known as Hunt Museum Ltd., to take charge of the day to day management of the Museum.
- An executive management committee of Hunt Museum Ltd. to manage the permanent housing of the collection and to plan for the financial arrangements. This committee comprised members drawn from SFADCo, Limerick Corporation, the University of Limerick and other education and business interests.

When EU structural funds became available for major infra-structural cultural facilities, the conversion of the Custom House and fitting out of the building to house the Hunt collection was identified as being suitable for EU funding under the Operational Programme for Tourism.

The capital project was to cost £2.9m financed as follows

£1,275,000	all in EU aid from SFADCo
£900,000	from the Department's allocation under the Operational Programme of which 75%
	represented EU funding
£200,000	from Limerick Corporation
£400,000	from OPW in respect of basic refurbishment work
£125,000	from the private sector

The funding arrangement provided that any additional or unforeseen costs must be met by the company and/or the Trust. In addition, a commitment was to be provided by the promoters of the company and the Trust to put in place an endowment fund of £2m during the first five years of the operation, 1995-2000, to ensure the ongoing sustainability of the project.

In November 1995 the Department of Finance sanctioned the payment of the £900,000 grant on condition that the Department limited any payment to the company in respect of non-capital costs to a maximum of £100,000 per annum (1995 prices) for the following five years.

In early November 1996 the Department was advised that extra costs of £312,452 had arisen on the project and the Department was asked to meet these costs. The explanations for the cost overruns were that no provision had been made for the conservation of the collection prior to its removal to its new location, unforeseen restoration costs had to be met and higher design fees materialised.

SFADCo and Limerick Corporation could not provide any further funding and the project promoters saw no hope of getting private sector donations in the short timescale needed if the project was to be completed. The Department had already paid out £857,918 of the approved £900,000 capital grant and a further grant of £215,130 was paid in December 1996 with Department of Finance sanction towards the extra costs incurred. The balance of £139,404 of project costs is being funded by bank borrowing pending final determination of how it should be funded.

The Department paid current grants to the company of £10,000 in 1992, £40,000 in 1993 and £100,000 in each of the years 1994 to 1996. The Department has been advised by the company that commitments totalling £270,000 for the endowment fund have been received and the company believes it is close to securing additional commitments. Since 1994 the Department has in effect met 88% of the Museum's current expenditure.

NATIONAL TREASURY MANAGEMENT AGENCY

48. National Debt

The National Treasury Management Agency has the statutory function of borrowing moneys on behalf of the Exchequer and managing the National Debt on behalf of and subject to the control and general superintendence of the Minister for Finance.

Expenses incurred by the Agency in the performance of its functions are met from the Central Fund. The Agency incurred expenditure of £5.9m on administration in 1996 (£5.9m in 1995).

Under the provisions of section 12 of the National Treasury Management Act 1990 I am required to audit the accounts of the Agency and when making my statutory annual report on the Appropriation Accounts, to make also a report to Dáil Éireann regarding the correctness of the sums brought to account by the Agency in the year. The Agency's accounts for 1996 have been audited and the accounts, including an administration account and accounts relating to the National Debt, have been presented to the Minister who has laid copies thereof before both Houses of the Oireachtas.

I am satisfied that the accounts properly present the transactions of the Agency in 1996 and its balances at year end.

Table 12 shows the outturn for the National Debt in the 5 year period 1992-1996.

Table 12 - National Debt 1992 - 96

Year	National Debt Outstanding £m	Debt Service Cost £m
1992	26,344	2,319
1993	28,357	2,308
1994	29,227	2,313
1995	30,209	2,341
1996	29,912	2,475

The composition of the National Debt at 31 December 1996 was:

	£m	£m	£m
Domestic Debt			
National Loans		16,446	
Medium/Long term Indebtedness		156	
Short term Indebtedness	5,383		
Less: Domestic Liquid Assets	(792)		
Net Short term indebtedness		4,591	
Net Domestic Debt			21,193
Foreign Debt			
Foreign Loans			8,719
National Debt			£29,912

Notes:

The National Debt is stated on the basis of nominal amounts of principal originally borrowed.

b. An estimated £5,370m of National Loans were held by non-residents at 31 December 1996.

The Agency's performance in regard to debt management activities is independently measured by an international investment bank specifically engaged for that purpose. The rationale and basis of the performance measurement was agreed with the Department of Finance. The bank determined that, measured on a net present value basis against an independent benchmark portfolio, savings by the Agency management in the year amounted to £57m.

49. Savings Bank Fund

The audit of the Post Office Savings Bank is carried out on my behalf by the auditors of An Post subject to my right to carry out any further audit tests which I consider necessary.

In 1997 they reported to me on their audit of the 1996 accounts. I accept their opinion that the accounts of the Post Office Savings Bank give a true and fair view of its transactions for that year and of its year end balance.

In addition to managing the National Debt, the National Treasury Management Agency is responsible for the investment and management of funds remitted to the Exchequer by the Post Office Savings Bank and the TSB Bank. The Exchequer is responsible for the repayment to the Banks of all such funds and for meeting interest charges thereon.

The state of affairs of these funds at year end was as follows:

	1996 £m	1995 £m
Liability in respect of funds due to depositors and creditors	609ª	752
Value of related investments held by Post Office Savings Bank Fund (at cost prices) ^b	632	772
Surplus at 31 December	23	20

The decrease is mainly due to a reduction in funds received from the TSB Bank (£137m at 31 December 1996 as compared to £284m at 31 December 1995) in line with arrangements made in 1992 whereby the funds to be deposited by the TSB Bank with the Agency are being reduced each year.

The market value of the investments held by the Fund was £0.2m more than their cost price.