



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

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## DÁIL ÉIREANN

*Dé Céadaoin, 8 Nollaig 2021*

*Wednesday, 8 December 2021*

Chuaigh an Ceann Comhairle i gceannas ar 9.10 a.m.

*Paidir.*

*Prayer.*

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### **Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputies Holly Cairns and Christopher O’Sullivan - to discuss flood defence measures for Bantry, County Cork, after recent severe flooding from Storm Barra; (2) Deputy Verona Murphy - to discuss when the flood defence scheme for Enniscorthy, County Wexford, will be signed off; (3) Deputy Maurice Quinlivan - to discuss the proposed pilot 24-7 multi-agency mental health de-escalation team in Limerick; (4) Deputy Martin Browne - to discuss the financial challenges facing local mental health groups such as Carmha in Nenagh, which may face closure unless action is taken; and (5) Deputy Chris Andrews - to discuss progress of the Department of Housing, Local Government and Heritage working group that examines defects in housing, with reference to Poolbeg Quay.

The matters raised by Deputies Cairns and O’Sullivan, Murphy, Browne and Andrews have been selected for discussion.

### **Saincheisteanna Tráthúla - Topical Issue Debate**

#### **Flood Risk Management**

**Deputy Holly Cairns:** I hope the Minister of State has been briefed on the severe flooding in Bantry yesterday as a result of Storm Barra. From early yesterday morning, when the storm made landfall, the fire brigade and Cork County Council were out doing everything they could to prevent flooding. Substantial parts of the square were flooded, with more than 20 premises affected. Most challenging is the fact this is the fourth time Bantry has flooded in 18 months. In the words of Danielle Delaney, chairperson of the Bantry Business Association, without a major flood defence scheme, Bantry will continue to be flooded and the workers on the ground

are fighting a losing battle. Reports from the town yesterday indicate the remedial flood relief works carried out by Cork County Council did prevent further flooding, but the capacity of sand banks and pumps is limited. A permanent flood defence scheme is the only solution and it is one Bantry needs immediately.

When I last spoke to the Minister of State with responsibility for the OPW, Deputy O'Donovan, on this matter in September, I highlighted the increased risk Bantry faced in the winter months. As the Minister of State, Deputy Butler, will be aware, I regularly seek updates from the OPW on the Bantry scheme, along with others in Cork South-West. At every stage, I have welcomed progress, and I appreciate there is a set-out process, but it is taking too long. Phrases such as "almost completed" and "it is expected the preferred tenderer will be notified in the coming weeks" are not good enough as the town floods again. Yesterday, there was Storm Barra, only the second storm this winter, but there will be more, with each bringing the risk of flooding to Bantry and other areas. Will the Minister of State assure Bantry businesses and homeowners that this will be prioritised by the OPW?

**Deputy Christopher O'Sullivan:** I commend the emergency services, the fire services and Cork County Council, which were out since 5 a.m. on Tuesday trying to battle back the north Atlantic, an impossible task without a flood defence. I am assured some of the measures they took prevented further damage, but we have to acknowledge their incredible efforts. It is now expected that every time there is a southerly wind and a high tide, Bantry will be flooded. On this occasion, in the region of 23 premises, properties and businesses were impacted by this flood, and for some it was the fourth occasion within a period of about 16 months that they have experienced flooding. That makes Bantry the most frequently flooded town in Ireland right now, and it is not good enough. We need to help them.

I understand why the Minister of State, Deputy O'Donovan, cannot make it to this debate. He and the Minister for Public Expenditure and Reform visited Bantry on a couple of occasions in August 2020. After that, there was the announcement of the €6.7 million flood relief scheme for Bantry. We were told the tender process for that scheme would start, which it did, but in September of this year, I was told the preferred design team would be appointed within a couple of weeks. It is now December and still a formal design team has not been appointed.

A number of weeks ago, Cork County Council recommended the appointment of a preferred design team and I want to know why that preferred design team still has not been appointed. We need to expedite this scheme and streamline the process. A public consultation period has to happen, as does the design, and we are no further towards that. Skibbereen, Bandon and Clonakilty can all sleep safely knowing their towns are protected; Bantry deserves the same protection.

**Minister of State at the Department of Health (Deputy Mary Butler):** I apologise on behalf of the Minister of State, Deputy O'Donovan. He is not in a position to attend the debate due to family issues. I spoke to him late last night and he has no issue talking to the Deputies.

The flood risk management plans launched in May 2018 included a recommendation to progress the project-led development and planning of a flood relief scheme for Bantry. As Deputies will be aware, a steering group comprising representatives from the Office of Public Works and Cork County Council is in place to progress the Bantry flood relief scheme. The plans, with outline designs of possible measures, estimated a preliminary total project cost of €6.7 million for the scheme, which will protect 198 properties. The viable scheme option for

Bantry, as identified at the catchment-based flood risk assessment and management, CFRAM, level of assessment and having an estimated cost of €6.7 million, consisted of fluvial flood defences comprising walls and embankments and tidal flood defences comprising sea walls, and is expected to provide protection against a 100-year fluvial flood or a 200-year tidal flood.

On 11 March 2021, Cork County Council, in partnership with the OPW, issued the tender documentation for the procurement of engineering consultants via *etenders.ie* and tenders were returned on 30 July 2021. An assessment of these tenders has been completed by Cork County Council and it is expected consultants will be appointed in the coming weeks. I acknowledge Deputy O'Sullivan was told that a couple of months ago but I cannot answer why they have not yet been appointed. Once consultants have been appointed to progress the flood relief scheme for Bantry, consultation with statutory and non-statutory bodies, as well as the public, will take place at the appropriate stages to ensure all parties will have the opportunity to input into the development of this scheme.

In the meantime, Cork County Council has engaged a contractor to treat some of the invasive species in preparation for a flood relief scheme for the town. The flood relief scheme will be funded from within the allocated €1.3 billion for flood risk management over the period of the national development plan to 2030. Provision for the cost of the scheme is included in the OPW's multi-annual capital allocation. Cork County Council is also progressing the preparation of the consultant's brief, which is expected to issue in quarter 1 of 2022, to carry out the repair and reconstruction of the Main Street culvert. This has been identified as a significant element contributing to flooding on Main Street, New Street and north and south of Wolfe Tone Square in recent months. The OPW is liaising with Cork County Council on the integration of these works with the flood relief scheme for the town.

In March 2021, an application under the minor flood mitigation works and coastal protection scheme for interim works to mitigate flooding in Bantry, which includes installation of non-return valves and provision of mobile pumps, was submitted to the OPW by Cork County Council. This application for funding of approximately €140,000 has been approved and the council is progressing these works. A preferred tender has been identified for supply and installation of the non-return valves. The contractor's health and safety information and insurance are being finalised to allow the appointment of the contractor be confirmed. In addition to the proposals I have outlined, prior to forecasted extreme weather events such as the current event, Storm Barra, local area staff from Cork County Council are implementing interim measures to assist and mitigate flooding, such as the deployment, as Deputy Cairns said, of sandbags at Sand Quay and mobile pumping.

**Deputy Holly Cairns:** Any acceleration of the process will be essential in getting the badly needed flood defences. I will take up the Minister's offer to meet us on the matter. Bantry and the wider community of the town need permanent flood defences as soon as possible. In the meantime, the town needs additional support to deal with the inevitable flooding it faces.

I have previously raised the point that a proactive engagement with the community during the consultation phases, one which is based on a partnership model, will help alleviate any potential tension points and ultimately help improve the scheme. When we discussed this matter in September I noted that Bantry would benefit from the minor flood mitigation works and coastal protection scheme. Funding has only been approved for sites up to the end of September. I hope Bantry will be included in any further announcements for the final quarter of this year. Any short-term investment will have manifold benefits for Bantry and its community and

businesses. They cannot wait any longer.

**Deputy Christopher O’Sullivan:** I stress again the importance of expediting and streamlining the scheme and getting it right. However, I welcome the interim measures the Minister of State outlined. I also stress that we are having more frequent and severe weather events. Our coastline is being battered, as the Minister of State knows well, being from Waterford. It is not just towns being flooded. Piers are being washed away and coastal walkways are collapsing into the sea because of these more frequent weather events. We do not have a strategy or fund in place to protect these areas of coastline. A perfect example of this is the well-known O’Sullivan walkway in Adrigole on the Beara Peninsula. It is part of the Beara trails. The walkway is essentially collapsing into the sea due to these frequent, severe weather events. What we need is a fund to protect such amenities in the future. I would like the Minister of State to bring that point back to the Minister of State, Deputy O’Donovan, and the Minister for Public Expenditure and Reform, Deputy Michael McGrath.

**Deputy Mary Butler:** I thank Deputies Cairns and Christopher O’Sullivan, who are both more aware than I am that Bantry experienced significant flooding at around 6 a.m. yesterday. It appears that the source of the flood water was a mixture of tidal effluvium and pluvium as the main culvert through the town was also running full at the time of flooding. As the Deputies said, the fire brigade was on site and pumped water over the quay wall. It is estimated that 23 properties flooded on the south side of the square and New Street. It is difficult to know at this stage the level of the water but it is estimated that floodwater reached 1.5 inches on one property on New Street, the Gift Shop. The floodwater abated around 8 a.m. and the fire brigade pumped the last of the water from the north side of the quay.

I know how difficult it is when flooding occurs. I was in business for many years and to have water entering a premises is soul-destroying. Trading for businesses has been difficult enough over the past while. Coming into the three-week window before Christmas when trading is so important to stave off the challenges in the new year when things are much quieter, it is very difficult.

I agree with the Deputies on the importance of expediting the scheme and I will also raise the issue they mentioned. I am familiar with the Beara Peninsula. I holidayed in the area last year and have relatives living there as well. Coastal erosion on the Waterford coast is also a challenge for those of living in the area. I will raise these matters with the Minister and Minister of State. I empathise and sympathise with the businesses that were flooded yesterday morning. We know flooding very well in Portlaoise and it is the worst type of mess to try to clean up afterwards, especially when it gets into electrics. I hope things were better overnight. I thank Members for their time.

### **Flood Risk Management**

**Deputy Verona Murphy:** I thank the Minister of State for coming in this morning. I know she has a very busy portfolio and this is not her domain. Like my colleagues, Deputies Cairns and Christopher O’Sullivan, I will take up the offer to meet the Minister of State, Deputy O’Donovan.

The Enniscorthy flood defence scheme is a project which has been kicked down the road far too many times in the past ten or 15 years. The minutes of a Wexford County Council meet-

ing in June 2012 outline the plans put forward by the Office of Public Works. Two current Members of this House, the Minister of State at the Department of Justice, Deputy Browne, and Deputy Mythen, were present at the meeting, at which a representative from the OPW noted that Enniscorthy had major tidal issues; that the OPW could estimate the flood at Scarawalsh; that climate change would affect flooding in the town; that the removal of the Seamus Rafter Bridge and construction of a new bridge further downstream, as well as the introduction of glass walls, would be needed; and that the cost to the town if no scheme was put in place would be €66 million, whereas the scheme would cost between €25 million and €40 million.

Since then there have been many false dawns. Every time the river bursts its banks we hear the issue raised again, yet we still have no action. Enniscorthy has no flood defence. The only constants on the topic are local independent councillors Jackser Owens and John O'Rourke, both of whom have asked me to raise this issue. Anyone familiar with the town will know the problems associated with flooding and that many business and homes are located in places that are prone to flooding should the River Slaney burst its banks. There are obvious consequences for the owners from a general damage and disruption point of view, but also from an insurance point of view and for their peace of mind. However, most of them cannot get insurance on their properties.

The experts looking at all aspects of this project have decided that the glass wall system, the removal of the new bridge, deepening and widening of the river and the general improvement of the aesthetics at the quayside is the best plan. What we need to see now is action. The video overview of the plan is very impressive and will transform the quayside in Enniscorthy.

However, since the meeting of June 2012, there has been significant flooding in the town, particularly in 2015. There have been other minor incidents since, which have caused significant damage. A progress report was published about a month ago, on 5 November. It states the project was submitted for review in April 2021. The issue with that is that we have no word on who is reviewing it or how long the review will take. At the end of the day, there are 236 properties affected by the lack of a flood defence in Enniscorthy. It is a significant issue. Today, more than 12,000 people in the town are affected by a boil water notice. There is disarray. This has gone on for far too long. We were promised an answer by the end of 2021. We are three weeks from the end of 2021. When will the review of the scheme be completed and when will the scheme be signed off to go to construction?

**Deputy Mary Butler:** I thank the Deputy for raising this important issue. I hope Enniscorthy did not flood in the last day or two during Storm Barra. We have experienced flooding far too often, especially due to the various climate challenges we face.

I thank the Deputy for her question in regard to the much-needed Enniscorthy flood relief scheme.

The Enniscorthy, River Slaney, flood defence scheme is being proposed by Wexford County Council, on behalf of the Office of Public Works, as a scheme under the Arterial Drainage Acts 1945 and 1995. This is a significant scheme within the €1.3 billion flood relief investment programme of the Office of Public Works nationally, as part of the national development plan from 2018 to 2030, from which the relevant funding for the Enniscorthy scheme will be made available. On completion, the scheme will protect 236 properties in the town, as the Deputy has mentioned.

The proposed scheme includes river channel widening, river deepening, bridge relocation and the construction of extensive glass panelled flood walls through the town. The estimated total project budget will be approximately €51 million when other costs such as fees, site investigation works, environmental mitigation, VAT, property-landowner compensation and future maintenance costs are taken into consideration.

The scheme is going through the confirmation process under the Arterial Drainage Acts, following submission to the Minister for Public Expenditure and Reform for assessment in mid-2020. It is important to note that under section 7E of the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019, the Minister can “(a) make an order confirming the scheme; (b) refuse to confirm the scheme; or (c) refer the scheme back to the Commissioners for revision in specified respects”.

There is a statutory obligation incumbent upon the Minister for Public Expenditure and Reform to ensure that all aspects of complex legal and environmental compliance issues are satisfactorily resolved before a decision can be made on the Enniscorthy scheme, on the basis of the options available to him. The Department of Public Expenditure and Reform is currently awaiting finalised reports and recommendations from the expert environmental consultants on this matter before making a determination. A decision on the Enniscorthy flood relief scheme, as per the three options available to the Minister, will be made at the earliest possible opportunity.

As for the question posed by the Deputy, subject to ministerial confirmation it is hoped that construction will commence in 2022 with an estimated construction period in excess of three years. Another question is whether the funding is secured. The OPW has made provision for the full scheme costs in its multi-annual budget projects and remains committed to progression of the project. In terms of the land acquisition, the vast majority of works will be completed on lands owned by Wexford County Council. Other landowners impacted by the scheme have been consulted and are fully aware of access or purchase elements that may affect their properties. There are no major obstacles expected in this regard.

**Deputy Verona Murphy:** I thank the Minister of State. As she will appreciate, most of what she has told me I already know and the people already know. The question that people are asking is as follows. Why is it taking so long?

The reality is that 236 properties are affected. All of the stakeholders that were engaged in the discussion, such as Irish Rail and property owners, are all aware. They are all in agreement and are all ready to sign legal agreements post confirmation that this project is going ahead. As far as I can see, there seems to be only one Department delaying this whole project. Nothing has been asked for since April 2021. At every council meeting that I attend at Enniscorthy district level, this project comes up. The Independent councillors bring it up only to be told by the party councillors that there is nothing to ask for and nothing to see yet, since April, there has been no level of constructive engagement to move this project along.

The Minister of State has said that it is hoped to commence construction in 2022. How is that even possible or conceivable at this point when we do not know if the project is going to be signed off on and we do not know if the funds are in place? Yes, the funds are accounted for by the OPW and you can see that over 12 years, the costs have risen to €51 million. The longer this project is delayed, as the Minister of State will appreciate and we all know now, and the longer we leave things then we will need to do another review. There is more public moneys spent and more taxpayers' moneys wasted each time we delay and another environmental study

has to be carried out.

I ask the Minister of State, on behalf of the people of Enniscorthy, to ask the Minister to have this project signed off by December 2021 or to give a serious clarification as to why that is not going to happen.

**Deputy Mary Butler:** I understand the importance of this project. Enniscorthy has a long history of flooding. Following the extreme flood event that occurred in 2000, the Office of Public Works, in conjunction with Wexford County Council, undertook a study of the flooding problems in the town so it is not that it is a unique situation. I come from Waterford and the Deputy is well familiar with the glass wall defences on the city quay. The difference that they have made is unbelievable. I can remember the quay flooding and sandbags stacked in front of shops. Since those flood defences have been put in place there has been a massive difference.

If the Minister for Public Expenditure and Reform confirms the scheme, then the tender for the new bridge construction will be advanced first, and the Deputy obviously knows that. Following contract or appointment the bridge works will be the first major element commenced with flood defence works along the river commencing thereafter and running in parallel. Enabling works involving service diversions are expected to commence in the coming months.

Turning to the query on foreshore licences in the original question, I have been advised that the foreshore consent application process is being managed by the Department of Housing, Local Government and Heritage. The public consultation process is complete and the foreshore consent documentation has been referred to the marine licence vetting committee for assessment. The documentation is currently being assessed by independent environmental consultants.

Finally, I wish to acknowledge the huge amount of work that the Office of Public Works, Wexford County Council and their consultants have put into the development of this important scheme. I hope that we will see the progression of flood defence works in Enniscorthy at the earliest possible opportunity. I will convey the thoughts and concerns of the Deputy to the Minister, and I thank her for her time.

### **Mental Health Services**

**Deputy Martin Browne:** I raise the issue of funding for voluntary mental health services in general. This week, within my constituency of Tipperary, one particular organisation raised concerns about its future due to funding shortfalls. I sent a letter to the Minister of State on a matter that concerned the CARMHA, or Connect And Recover from Mental Health and Addiction, organisation on Monday and thank her office for an acknowledgement. I hope my correspondence results in the Minister of State being able to contact the organisation and finding a way to get some sustainable funding for them.

Let me describe the CARMHA organisation, which is based in Nenagh. It provides free counselling and peer support services for addiction and mental health services, which is otherwise termed as dual diagnosis. The organisation was established in 2018 as a direct response to the unmet personal and community needs identified around addiction and mental health issues in rural Ireland. The service has been developed through a collaboration between addiction and mental health professionals, people with lived experience of addiction and mental health issues,

family members and a group dedicated community workers. CARMHA provides its services in an integrated way and has a very successful track record. That track record is attested to by the fact that the service has catered for many referrals from the Probation Service, among other State agencies, since it has opened. This week, representatives of CARMHA took the step of going on Tipp FM to tell us that their funding is running so low that if things do not improve, the service will be closed by the new year.

I am aware that the Minister of State has said in previous correspondence that the Department of Health no longer provides any direct funding for organisations and that the HSE funds a range of service providers under either section 38 or section 39 of the Health Act. Before she tells me that I want to tell her that the organisation has been knocked back before. It previously had discussions with the HSE and was left with the distinct understanding that the services it provides do not fit the criteria for funding. When this is told to an organisation providing such an important service and that is as clearly committed to its purpose as is CARMHA, then it is not going to pack up and finish up. The organisation may be disheartened by the Department's response but it will still continue on because what it does matters. With the support of the public and some very kind donors it continues to provide for those who need them. CARMHA is now at the point where the Minister of State must intervene. I cannot overstate the urgency of this matter and the future of this service depends on her response.

The Minister of State must be aware that organisations such as CARMHA started up to address an unmet need. They made, and continue to make, a huge effort to help the people who need the services that they deliver in the surroundings that they provide. Will the Minister of State do something similar? Will she call CARMHA and find a way forward with it? Unless the organisation gets real support, then the people of Nenagh will lose a service that they have fully backed all along, the people who use this service will be severely impacted and the health services will have one less service on which to rely. As Minister of State with responsibility for mental health, the Minister of State is in a unique position to at least assist CARMHA in sourcing the funding it needs so that it and, more importantly, the people who use its services, can have the certainty that the services it provides now will remain available and funded into the future. Otherwise, in the new year, the lack of sustained funding may cause CARMHA to close its doors for good, which would be a travesty for Nenagh and the people from further afield who use its services.

The Minister of State is in a unique position to help and do something special here. I urge her to act fast. I am aware, through an Teachta Mark Ward, that the additional €10 million announced for mental health provision, which must be spent by the end of the year, has still not been spent. Many community groups that applied have not heard anything back about their applications. I ask the Minister of State to explain that. Will community groups that receive funding by the end of the year be able to carry it over into next year? These groups, including CARMHA, need sustained funding to ensure the services they provide today will be available tomorrow and into the future.

**Deputy Mary Butler:** I thank the Deputy for raising this important matter. The continued enhancement and improvement of our mental health and suicide prevention services remains a priority for me. I was pleased, therefore, to secure unprecedented funding of €1.149 billion for HSE mental health next year. This is an increase of €47 million over 2021.

Next year's new development funding will provide for the recruitment of 350 new staff across mental health and will allow for new initiatives in community mental health teams, in-

cluding CAMHS, out-of-hours supports, specialist eating disorder services and mental health services for older people. It will provide for dedicated funding to progress the national clinical programme on dual diagnosis for people with addiction and mental health difficulties, including the recruitment of staff in this particular area. The details of these new measures are being finalised as part of the HSE national service plan 2022, which will be published shortly.

A key approach of our new mental health policy, *Sharing the Vision*, is to improve access to all relevant services, including more integrated and person-centred care. *Sharing the Vision* recognises that people with a dual diagnosis should have access to appropriate mental health services and supports by addressing existing service gaps and developing stepped, integrated models of care. The national implementation and monitoring committee is tasked with driving and overseeing implementation of the policy's recommendations, including those relating to dual diagnosis. I am pleased to say it is progressing well in its work. Importantly, the dual diagnosis programme has a draft model of care, which takes account of service user views. It describes the clinical pathway for service users with substance misuse and moderate to severe mental health difficulties, with links to primary care substance misuse, community mental health and acute services. This is informed by international best practice and the experience of a national working group.

It is of note that the national drugs strategy, *Reducing Harm Supporting Recovery*, sets out the Government's strategy to address the harm caused by substance misuse in Ireland up to 2025. The Department of Health provides over €130 million to drug and alcohol services to support the strategy. In line with *Sharing the Vision*, there will be an enhanced focus moving forward on the development of tiered, integrated supports between primary care, addiction services and specialist mental health services to ensure the best possible outcomes for people with a dual diagnosis. The HSE already provides support for such work, where it aligns with the local objectives identified in the HSE service plan. This is done through a service level agreement for NGOs providing services to, or on behalf of, the HSE.

With respect to funding that is available for CARMHA, every organisation that wishes to apply for ongoing funding must make a business case to its local HSE community healthcare organisation, CHO, office. In the case of CARMHA, the relevant office is the CHO 3 office for north Tipperary. There is a process in place and service level agreements are arranged with many agencies. Criteria must be met, and the criteria are analysed. After all, taxpayers' money is at stake. There are over 1,000 voluntary organisations in the country. CARMHA must apply, through the local HSE CHO office, for funding to see if it can reach a service level agreement if its services are needed by the HSE.

**Deputy Martin Browne:** I appreciate where the Minister of State is coming from and that CARMHA has to apply for funding like other organisations. As I indicated earlier and in previous communications with the Minister of State, CARMHA has already applied for funding. What it and similar groups need is long-term funding to ensure their survival. Let us be honest, CARMHA and similar organisations are filling a gap and their services are needed because vital resources are missing in other areas. I ask the Minister of State to contact the organisation directly with a view to finding a solution so that it and other groups can continue to fill that gap.

As I said, the Probation Service and other services are sending people to CARMHA and similar organisations. The State itself is sending people to organisations like CARMHA because it knows there are gaps in the system. While I appreciate that public money is involved, I do not think the Minister of State will find anybody who will say that CARMHA does not pro-

vide value for money. Hundreds of people use the services it provides. If CARMHA and other groups have to close at Christmas or in the new year, it will put extra pressure on our health service. The Minister of State will be under pressure to provide more funding. Can some of the €10 million in funding be used to help these kinds of groups?

Deputy Kerrane completed a survey recently on the cost of living. Of more than 14,500 people who responded, 77% noted that the increased cost of living had a negative impact on their mental health. This is the kind of problem we are facing. Organisations such as CARMHA will be vital in trying to deal with that. I ask the Minister of State to pick up the phone and contact the organisation.

**Deputy Mary Butler:** I thank the Deputy for raising the issue. I met representatives of CARMHA previously in Tipperary when I met many organisations. Addiction is a responsibility of the Minister of State, Deputy Feighan. With respect to available funding for organisations that provide support to those with mental health difficulties, every organisation that wishes to apply for ongoing funding must make a business case to its local HSE CHO office. In the Deputy's case, the relevant CHO is CHO 3. As I said, there is a process in place and criteria to be met. As Minister of State, it goes beyond my function to pick up the phone and tell the HSE or any community healthcare organisation to allocate funding to a particular organisation. There are different governance issues and criteria that must be met. These are clearly set out and any organisation can apply for funding.

I will be making an announcement at the end of week on how the €10 million will be spent. The matter is currently being finalised. Community groups, departments of psychiatry, various community homes and day-care centres for those with mental health issues will all benefit from it. I wanted to bring the needs of the service user to the fore in this. There has not been a call-out for voluntary groups yet, so Deputy Ward was misinformed. I explained that to him in the House last week. The call-out will be in January and will be overseen by Mental Health Ireland. Any organisation that is affiliated to Mental Health Ireland, of which there are over 1,000, can apply for funding in January following the call-out. There will be strict criteria in relation to governance, for example, requirements that applicant organisations have a bank account, chairman and secretary. These are the normal procedures that have to be followed when taxpayers' money is being spent. Details will emerge by the end of the week. All the organisations can apply for funding early in the new year.

## Housing Schemes

**Deputy Chris Andrews:** I thank the Minister of State for facilitating this important matter. In 2004, 62 apartments were part of an affordable housing scheme at Poolbeg Quay, at the end of Sean Moore Road in Ringsend. There was huge excitement for those who got apartments and disappointment for those who did not. In 2004, these affordable homes - two-bed apartments - cost, on average, €146,000. The residents bought them in the belief they would be of a high quality. It was not unreasonable for people to think, when they invested so much money and got mortgages, that checks would have been carried out in order that they would have homes fit to live in for many decades. People expect their homes to be built properly. People do not expect their homes to be hazardous and defective just 17 years after being built. Surely, it cannot be the residents' fault for not detecting these defects. One would imagine the arms of the State and the big business involved would not allow this to happen.

We must ask ourselves how have we reached a situation whereby ordinary families, such as the residents of Poolbeg Quay, Ringsend, have to pick up the tab for what seems to have been a systemic failure. Most people assume that banks or mortgage suppliers will carry out checks. There is an assumption that they will ensure that everything is done correctly so that a building is good for living in. Some 59 of the residents have their mortgages with Dublin City Council. Three have sold their apartments and paid the clawback amount.

Some 17 years after they were built, there is serious damage to these apartments. There is major water ingress into the apartments, which are in serious need of repair. The roofs are in a dangerous condition. Recent quotes the residents got estimate that it will cost €250,000 to fix them. That is €250,000 which the residents do not have. If the residents were unable to pay their mortgages, it would be an issue for Dublin City Council because the mortgages are with the council. The residents are in a 20-year clawback arrangement with the council. This matter has everything to do with Dublin City Council, which cannot be allowed to wash its hands of this matter. Dublin City Council should have carried out building inspections. Given the fact that the council was facilitating loans, it had a responsibility to ensure that the apartments were built to certain standards. Proper inspections should have been carried out. The council should also have inspected the apartments as part of its building controls. The council signed off on these apartments in the context of the loans issued.

The builder is deceased. However, the builder's companies cannot be allowed to walk away. I have been contacted by residents of Poolbeg Quay who are devastated by this turn of events. The big worry is that it will turn into another Priority Hall. We cannot leave people out to dry because others failed them. Will the Minister of State meet with the residents and listen to their stories? When he hears the details, I know he will support them. They need the support of the State, be that through the council or a direct scheme. I urge him not to forget the residents and not to turn his back on them. I ask that he meet with and listen to them.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Malcolm Noonan):** I tried to do some background research into this matter earlier because I was not terribly familiar with the scheme. I know the Deputy raised this issue a number of weeks ago. I thank him for raising it again this morning. I will outline the Department's response.

The programme for Government sets out a number of commitments in respect of the important policy area of building defects and provides for an examination of defects in housing, having regard to the recommendations of the Joint Committee on Housing, Planning and Local Government in its report, *Safe as Houses? A Report on Building Standards, Building Controls and Consumer Protection*. These commitments are further supported by actions contained in the Housing For All strategy. In this context, the Minister, Deputy Darragh O'Brien, established a working group to examine defects in housing under the chairmanship of Mr. Seamus Neely, former chief executive of Donegal County Council. The plenary working group has been meeting monthly since last March, with the exception of August, in addition to having subgroup meetings. The group's terms of reference were adopted in May and are focused on purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013 in Ireland. The Minister considers it worthwhile to state these terms of reference for the information of the House.

The primary term of reference of the working group is to examine the defects having regard to the recommendations contained in chapter 4, item 4, of the Joint Committee on Housing,

Planning and Local Government's Safe as Houses? A Report on Building Standards, Building Controls and Consumer Protection. Item 4 is entitled "Addressing the legacy of bad building and poor regulation".

The second term of reference of the working group is to establish the nature of significant, widespread fire safety, structural safety and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013 in Ireland. This is being done through consultation with affected homeowners, homeowner representative organisations, owners' management companies, relevant managing agents, public representatives, local authorities, product manufacturers, building professionals, industry stakeholders, insurance providers, mortgage providers and other relevant parties.

The third term of reference is to establish the scale of the issue. This will include work to estimate the number of dwellings affected by defects identified, including those already remediated. The fourth term of reference is to consider a methodology for the categorisation of defects and the prioritisation of remedial action. In the case of defects with fire safety implications, the working group is considering how the framework for enhancing fire safety in dwellings can be applied to mitigate the risks arising from fire safety defects pending the remediation of defects and the code of practice for fire safety assessment of premises and buildings, which is currently being developed by National Directorate of Fire and Emergency Management.

The fifth term of reference is to suggest mechanisms for resolving defects in the context of legal rights, duties and obligations of developers, builders, building professionals, insurers, mortgage providers, building control authorities, fire authorities, owners' management companies, owner-occupiers, renters and landlords. The working group will also evaluate the potential cost of technical remediation options and pursue options on possible financial solutions in order to effect a resolution in line with the programme for Government commitment to identify options for those impacted by defects to access low-cost, long-term finance.

The Minister is satisfied the group is working effectively and efficiently on this complex matter, and I look forward to a report in due course following completion of the deliberations. It would not be appropriate for me to comment on specific residential developments at this juncture. I assure the Deputy, however, that when the Minister receives the report of the working group, full consideration will be given to its contents. I will take back to the Minister the request the Deputy made in respect of his meeting the residents in this specific case. There is no doubt that the residents, having bought their homes in good faith, have been left in an awful situation.

**Deputy Chris Andrews:** This is effectively putting the Government on notice regarding the issues that residents of Poolbeg Quay, Ringsend, are experiencing. The financial worry is leading to huge stress and concern. It is having a real impact on residents and families and their mental health. It is important that the Government does not abandon them. The residents are not going to leave this matter. They will ensure everything is done in order to get what they deserve, which is justice and equality. The big institutions should not be allowed to walk away from issues they should have resolved. They should not have left it to the residents to pick up the tab in respect of those issues. That is what is happening here.

The residents have significant mortgages. The worry of paying this back, while also trying to fix the significant defects, is massive. The people who got mortgages and invested in these properties did not expect that, after 17 years, some of their homes would not be capable of be-

ing lived in . The latter is going to be the case shortly unless repairs are carried out. It is vital that those repairs be done. I urge the Minister and the Minister of State to meet the residents. They are very reasonable, but they are in a difficult position. All they are looking for is fair play and support. Dublin City Council is trying to wash its hands of the matter. That cannot be allowed to happen. We do not want another Priory Hall. We want the residents of Poolbeg Quay, Ringsend, to be treated fairly. The issues are easily resolvable, and it is important they be resolved as soon as possible.

**Deputy Malcolm Noonan:** I assure the House of the Government's commitment in respect of this important policy area of building defects, which is reflected in the programme for Government and in Housing For All. The Government is committed to dealing with the issue of defects in housing. In this regard, we will continue to drive regulation in the construction sector and more sustainable methods of construction in order to ensure that the mistakes of the past are not repeated.

*10 o'clock*

I am of the view that the issue of addressing defects in housing requires detailed consideration. The working group established by the Minister, Deputy Darragh O'Brien, is the most appropriate forum for considering the complex issues involved. As I have already mentioned, the working group's focus is on significant widespread fire safety, structural safety and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013. The working group continues to meet regularly in this regard. In its deliberations, the group is engaging with a range of interested parties including homeowners, public representatives and local authorities. Consultation with the relevant parties has commenced and further arrangements in this regard are currently being put in place. While I appreciate that the work may not be proceeding as fast as some stakeholders would wish, I am of the view that it is important that we give the working group time to undertake this work, as set out in the broader terms of reference I outlined earlier. The Minister looks forward to receiving the report of the working group on its deliberations.

I will take that request for the Minister to meet the residents back to him. It really is unacceptable that, having bought homes in good faith under an affordable housing scheme, they are now left with this awful legacy from that era.

### **Offshore Renewable Energy: Motion [Private Members]**

**Deputy Denis Naughten:** I move:

That Dáil Éireann:

recognises that:

— Ireland has one of the largest maritime areas in the European Union (EU), seven times larger than our land mass, and covers an area of almost 500,000 sq. km, representing a 220-million-acre marine resource;

— there is potential to develop over 70,000 megawatts of offshore renewable energy, providing Ireland with the opportunity to be a major exporter of green energy, powering much of Europe by 2050 via wind generated electricity and hydrogen;

8 December 2021

— while green hydrogen is in its infancy as a technology, Ireland is in a unique position to exploit its full economic and employment potential as an early technology mover;

— exploiting the full offshore renewable capacity will lead to an investment of over €100 billion, providing for a sustainable jobs dividend within our coastal communities, particularly along our western seaboard;

— the Oireachtas is progressing the Maritime Area Planning Bill 2021 which will provide a legal basis for the long-term protection and sustainable development of the maritime area, while also ensuring that there are clear timelines and a streamlined process in place for developments;

— our energy system is dominated by imported fossil fuels, in particular oil, which is used for transport as well as in residential heating and in the industrial sector, and natural gas, which is primarily used for electricity generation, industry, services, and residential heating;

— renewable energy not only avoids emissions but increases energy security and protects the long-term sustainability of our economy; and

— the Government has designated seven offshore wind ‘Relevant Projects’ which are seeking to supply over 3,000 megawatts of electricity to the national grid;

notes:

— that the Climate Action Plan 2021 commits to increase renewables to meet 80 per cent of our electricity needs by 2030;

— that if Ireland is to achieve its renewable energy commitments by 2030 it will require a doubling of offshore generation capacity off Ireland’s eastern and southern coasts;

— that offshore renewable development in Ireland is currently developer-led and there is real concern, despite Government policy to transition to a plan-led approach, that this will be sacrificed in order to achieve the ambitious 2030 commitments; and

— the process for the second auction under the Renewable Electricity Support Scheme (RESS) commences on 7th December, 2021, with the goal of increasing technology diversity by broadening the renewable electricity technology mix, with plans to soon commence the first offshore competition under the RESS (ORESS 1);

and calls on the Government to:

— immediately draft an offshore renewable action plan to bring together all of the key stakeholders, including all third-level and further education institutions and development agencies, including the Western Development Commission, to draw up a strategy to ensure that all possible offshore sites are fully considered in terms of the economic benefits, including high value jobs, which they can bring from the exploitation of the massive renewable energy resources off our coast;

— ensure that the proposed Maritime Area Regulatory Authority is established, resourced and operational within the next 12 months, to capitalise on the growing demand

for offshore renewable deployment;

— establish an offshore renewable development authority similar to the Industrial Development Authority that will drive a fully coordinated national action plan, and will have responsibilities ranging from research and development and supply chain development to the commercial deployment of renewable energy, ensuring that Ireland becomes the leading global clean energy exporter;

— direct the offshore renewable development authority to coordinate the Government implementation of the offshore renewable action plan, to source financial investment and to attract multinational players as well as promoting joint ventures with domestic enterprises and third-level institutions;

— instruct Enterprise Ireland, in conjunction with the offshore renewable development authority, to stimulate the establishment of indigenous businesses in the renewable energy supply chain through a national renewable energy business accelerator programme;

— instigate the urgent drafting of a green hydrogen strategy involving the emerging industry across the EU as well as key domestic stakeholders to assess hydrogen's suitability as a key future energy source for our economy and identify the main infrastructure investment requirements;

— designate Foynes Port and the Shannon Estuary as a European centre of excellence for the manufacture of offshore floating renewable energy technology;

— invest in the upgrading of all our ports with the capacity to facilitate the assembly, deployment and maintenance of offshore renewable technologies;

— immediately design a strategy in conjunction with the European Commission to fund and construct an Atlantic electricity interconnector which would land west/south-west coast renewable energy directly into the mainland European electricity grid; and

— ensure that all offshore renewable energy rights issued will not just be dependent on the speed of commissioning and price to the consumer but also take into consideration the annual community rebate along with the domestic employment generated in the manufacture, deployment, and maintenance of such infrastructure.

As the Minister will know, Ireland has a 220-million-acre maritime resource off our coast, where there is the potential to develop over 70,000 MW of offshore renewable energy. This motion calls on the Government to think outside the box and implement ambitious solutions to clean up our energy supply, provide sustainable long-term employment opportunities and ensure that Ireland becomes a global renewable energy exporter. A radical overhaul of Ireland's industrial development policy is required if we are to achieve our climate goals and fully grasp the economic opportunities off our coast. This cannot be done on a piecemeal or haphazard basis, as we have seen in the past. We must have a very strategic focus on what is in Ireland's long-term interests rather than just allowing this to be developer-led.

As I have said, there is potential to generate 70 GW of clean energy off our coasts. That is enough not only to meet our own long-term needs, but to meet the demands of both France and Austria as well. We need to lead from the front in this regard. We need to establish an Indus-

trial Development Authority of the seas to become a major global clean energy exporter, just as the Arab states have done with oil. We do not want to wait for another mainstream moment, a situation in which private developers would decide how to exploit Ireland's renewable energy resources and who that energy is supplied to. This is just like what happened with mainstream renewable power and Element Power's plans to erect 1,000 massive wind turbines right across the midland counties to supply electricity to the United Kingdom. Families around this country who are struggling to pay their electricity bills are the ones who will end up funding this speculation which, as the Minister knows, is beginning to start again. There has also been exploitation in the past when grid connections were auctioned off.

I fear that Ireland will end up giving away its renewable energy rights in order to hit our 2030 and 2040 targets in an attempt to be the good boy at the top of the class while electricity customers continue to pay for the most expensive electricity in Europe. We have to exploit this resource instead. We must design a bidding process based on job creation along our west coast and ensure that the State secures a royalty for every single megawatt generated and supplied to both our national grid and to the proposed Atlantic interconnector, which would supply electricity directly into the European grid from our western coastal waters. We must ensure that we have the cheapest electricity in Europe for our domestic customers. The way to do this is to establish an offshore renewable development authority. As I have said, this would be similar to the Industrial Development Authority and would drive a fully co-ordinated national action plan. The authority would also have responsibilities in areas ranging from research and development and supply chain development to the commercial deployment of renewable energy, ensuring that Ireland becomes the global leader in the export of sustainable clean energy. In the interim and before the establishment of such an authority, the Western Development Commission should be directed to take on this co-ordination role in the short term.

We also propose the development of an Atlantic electricity interconnector in conjunction with the European Commission. We will only be able to consume approximately 10% of the substantial amount of potential renewable energy off our coasts here within Ireland. We will have a surplus 90% that can and should be exported directly into the European electricity network. To do this, Ireland needs to immediately design a strategy, in conjunction with the European Commission, to fund and construct an Atlantic electricity interconnector that would land west coast and south-west coast renewable electricity directly into the mainland European electricity grid. As the Minister knows, we have an enormous potential supply of electricity to meet the demands of Austria and France. From engaging with his colleagues, the Minister will also know that Germany faces a very significant challenge in meeting its renewable energy targets. Germany has the greatest demand for electricity in Europe. We can help our European colleagues out in this regard.

**Deputy Michael Lowry:** In Ireland, we have a God-given opportunity to play a vital role in climate action. This comes with an opportunity to significantly boost our economy and create substantial employment. Ireland has the untouched potential to develop more than 70,000 MW of offshore renewable energy. We have the natural resources needed to be a major exporter of green energy which could power much of Europe by 2050. We are ideally placed to become a major player in the areas of wind-generated electricity and hydrogen.

To focus on our domestic situation, Ireland is expected to continue to experience strong and sustained growth in electricity demand between now and 2030. We have already heard signals that power outages are a possibility in the months ahead. It was estimated some time ago that Ireland's total electricity requirement would increase by up to 53% by 2030. Key drivers of this

growth in demand include our own economic growth. Significant economic growth is forecast, particularly in high-energy industries such as the data centre and electric vehicle industries.

The reliable provision of energy is increasingly seen as a key factor in attracting foreign direct investment. Multinational companies place high value on locating to a country where their needs can be met. Rather than highlighting the drain on our energy sources data centres cause, Ireland should instead focus on the means we have to meet these needs. Although solar and onshore wind generation can and will play a role, offshore wind is the only technology with the scale and deployment capacity to meet this demand in full.

While Government has already designated seven offshore wind projects with the aim of supplying more than 3,000 MW of electricity to the national grid, this only scratches the surface of Ireland's potential. With the exception of one of these projects, all are located on the eastern side of the country. The vast potential that exists naturally on the south-eastern and western coasts has been largely overlooked up to this point. This not only excludes these areas from the opportunity to exploit their enormous potential for development and employment but also robs these areas of the country of the lucrative capacity to develop and capitalise on the economic gains that arise from supplying offshore renewable energy.

The largest port in Ireland is situated on the west coast, at Foynes. It has the potential to tap into almost 70 GW of power that could be generated off the western seaboard. In July, the port company published a report it had commissioned which identified the potential to create up to 20,000 jobs in manufacturing and a further 10,000 jobs by 2050 in staging, installation, operations and maintenance of wind farms. There is a need to designate Foynes Port and the Shannon Estuary as a European centre of excellence for the manufacture of offshore renewable energy technology. That technology is based on commonsense and it should happen. It is crucial to Ireland's economic and global competitiveness that this potential does not remain untapped.

Capitalising on the onshore wind industry has been a big success for Ireland. The opportunity to continue to avail of onshore wind energy remains, but this is dependent on the ability to access it. According to the Sustainable Energy Authority of Ireland, SEAI, Ireland has a theoretical wind resource of 12,000 MW, although onshore wind is highly unlikely to be able to be deployed at a sufficient rate to meet future demand and European Union targets. Therefore, while onshore wind will continue to play an invaluable role in future renewable energy capacity, it will fall significantly short of meeting future demand. This is why we must prioritise and invest in the development of offshore energy now. The future will not wait for us.

Ireland must exploit its enormous potential for offshore energy development. If Ireland is to meet its future forecasted demand through to 2030 and beyond, the simple truth is it cannot be done without development and use of offshore wind. Ireland, like countries across the world, must continually strive to grow and develop. As a smaller country we must endeavour to ensure this growth and development is not focused on the larger centres of population but spread across the country to create balance.

**Deputy Cathal Berry:** I am delighted to be here this morning to address this really important motion on offshore wind energy. At the outset I pay tribute to my good colleague, Deputy Denis Naughten, and our group administrator, Ms Cáit Nic Amhlaoibh, who did most of the heavy lifting to prepare the motion

I have just three points to make in the time allowed. The first is about Ireland's geographical

location. We have all been under the impression that, geographically, we were disadvantaged because we are a small island on the periphery of Europe hundreds of kilometres away from our main markets. With the advent of renewable offshore technology, the calculus has been altered completely. We are the largest island in the European Union, ahead of Cyprus and Malta, and we are surrounded by the sea. Not only that, we have trade winds coming across the Atlantic, which are a huge untapped resource of which we should take full advantage for a number of reasons. That would bring much cheaper electricity for people and allow us to not only meet but exceed our climate action targets. It would also open a brand new sector of our economy and, most important, provide not only energy security but energy independence. Ireland would become a net exporter of energy for the first time rather than remaining a net importer.

The second point is that although all the potential is great, and it is good to have it, unless we have a governance structure in place to take full advantage, we will go nowhere. That is why I welcome the proposal to establish the marine area regulatory authority, MARA. That primary legislation is currently going through the Houses and that regulatory authority cannot come soon enough. Within 12 months or by this time next year, we must see the authority established, fully funded and staffed so it can be fully operational in Wexford. It is a key piece of the regulatory framework needed for us to progress these projects.

A second authority I would like to see is an offshore renewable development agency that we are hoping to establish. This is basically the IDA Ireland of the sea and it would do exactly on the sea what IDA Ireland does on land. It is all about attracting foreign direct investment, including big multinational players, to set up these floating wind farms and take full advantage of wind and other resources out there.

The third point is that while it is good to have potential and a regulatory framework, unless we have the required infrastructure, we are going nowhere. Infrastructure is one of the preconditions for success and we have much work to do in that regard. Our ports are not set up for this new wind energy revolution coming down the tracks, particularly the ports at Rosslare and Foynes. We must have port facilities that will allow for the assembly of these huge turbines and their maintenance. There will be many spin-offs from the jobs perspective for our coastal communities. My colleagues have mentioned the interconnector and we really need an electric interconnector between Ireland to the heart of Europe so we can export surplus energy that we will have in a few years.

This motion is a really ambitious call for us to have a second Ardnacrusha moment. Our grandparents built that mighty dam in County Clare in 1920, when the country was much poorer. They built it with their bare hands and we are still deriving benefit from it almost a century later. We are trying to do on the sea what our grandparents did on land in providing renewable energy to look after the next generations. We must ensure that they do not make the same mistakes we did over the past 50-odd years.

**Deputy Peter Fitzpatrick:** I welcome the opportunity to speak to the motion. Along with colleagues in the Regional Group I bring this motion before the House today and hope that all sides of the House will support us.

Ireland has one of the largest maritime areas in the EU and it is over seven times larger than our land mass. Our maritime area covers almost 500,000 sq. km, which represents a 220 million acre marine resource. With these resources we have the potential to develop over 70,000 MW of offshore renewable energy. What this means in real terms is that we in Ireland have an

opportunity to be a major exporter of green energy and could potentially power much of Europe by 2050.

We are in a unique position to exploit this opportunity. By doing so, we can potentially attract over €100 billion of investment, which in turn will not only provide green renewable energy but will also provide real sustainable jobs along our coasts, including areas in my own constituency such as Louth and east Meath.

As everyone knows, our current energy system is powered by non-sustainable imported fossil fuels. As we all know, we are very susceptible to price increases, as has happened over the past 12 months. We in the Regional Group believe we have a great opportunity to make ourselves almost self-sufficient with offshore renewable energy. The Climate Action Plan 2021 commits to increase renewables to meet 80% of our electricity demands by 2030. If this is to be achieved, Ireland needs a doubling of offshore generation capacity of the eastern and southern coasts.

Our motion calls on the Government to support a number of actions. It seeks the Government to immediately draft an offshore renewable action plan to bring together all the key stakeholders, including all third level and further education institutions, as well as development agencies that include the Western Development Commission. It should draw up a strategy to ensure all possible offshore sites are fully considered in terms of economic benefits, including high-value jobs they can bring from the exploitation of the massive renewable energy resources off our coast.

We are also calling for the maritime area regulatory authority to be established, fully resourced and operational within the next 12 months to capitalise on the growing demand for offshore renewable deployment. We are calling for an offshore renewable development authority to be set up similar to IDA Ireland that will drive a fully co-ordinated national action plan to make Ireland a leading global clean energy exporter. This new authority should be given the responsibility to co-ordinate the Government implementation of the offshore renewable action plan.

We are also calling for Enterprise Ireland, in conjunction with the offshore renewable development authority, to support and develop the establishment of new indigenous Irish businesses in the renewable energy supply chain. We are calling for the urgent drafting of a green hydrogen strategy involving the emerging industry across the EU, as well as key domestic stakeholders to assess hydrogen's suitability as a key future energy source for our economy. We are calling for investment in all our ports with the capacity to facilitate the assembly, deployment and maintenance of offshore renewable energy technologies.

We also need to immediately design and prepare a strategy in conjunction with the EU Commission to fund and construct an Atlantic electricity interconnector, which would land west and south-west coast renewable energy directly into the mainland Europe electricity grid. We want to ensure that all offshore renewable energy rights issued will not just be dependent on the speed of commissioning and price to the consumer but also take into consideration the annual community rebate, along with the domestic employment generated in the manufacture, deployment and maintenance of such infrastructure.

It is estimated that we in Ireland would only require 10% of the total offshore energy produced, leaving the remaining 90% available for export to the rest of Europe. This has massive

potential for us all at this time, as we are trying to turn to renewable energy sources for our energy needs. If we could export 90% of this renewable energy to our neighbours in Europe then surely we could drive down the cost of energy to the consumer.

We are looking for the consumer to switch to electric vehicles and heat systems with electrically powered heat pumps, all of which require massive energy resources. The motion before the House today shows that we in the Regional Group firmly believe that ambitious climate targets can be met. I sincerely hope that all sides of the House see the merits of this motion and support it.

**Minister for the Environment, Climate and Communications (Deputy Eamon Ryan):**

I was to share time with Deputy Leddin but he is not here so I will take the full ten minutes. I welcome and accept this Private Member's motion on offshore renewable energy from the Regional Group. It is absolutely timely and I imagine it will be supported across the House. What the Deputies say is absolutely true. This is a significant economic opportunity for our State, as well as being critical in meeting our climate and renewable targets. It has potential to completely transform the economic development of the State towards the west, north west, south west and the coasts right around this country. One of its benefits is that it would lead to better balanced economic development. We also have to see it in the context of a very large vision of how we turn this opportunity into an exporting possibility where we sell our power coming from our ocean, the Atlantic Ocean, into the rest of Europe. To deliver on that, again I agree with the intent of the motion, we need a really good regulatory planning framework. I want to set out today in broad detail what the Government is doing in that regard.

The national marine planning framework, NMPF, established in 2021 by the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, sets out objectives and policies which must be considered in all planning decisions related to the maritime area. At the same time, management of our maritime area is being reformed through the Maritime Area Planning Bill 2021. I commend all Deputies who were involved in getting it through the House in record time. It is in the Seanad at the moment and we expect it to be enacted before the end of the year. This is critical for the infrastructure we need to manage our offshore resources. One of the main features of the Bill is the creation of a new State consent, the maritime area consent, MAC, as a first step in this new planning process.

To meet our 2030 targets, namely, 5 GW of offshore wind and 80% renewables, we need a pathway to select a number of projects which had advanced under the foreshore regime to transition to the new maritime area planning regime. Under these special transition provisions in the Bill, I, as Minister for the Environment, Climate and Communications will have the responsibility for assessing and granting maritime area consents for a first batch of ring-fenced offshore projects, known as the relevant projects. These first MACs are expected to be granted in quarter 3 of next year. That will be a crucial step towards meeting our 2030 targets.

These relevant projects will still be required to apply for all of the requisite consents and planning permission, and will be subject to the full assessment procedures by An Bord Pleanála. After the assessment and grant of the first batch of offshore renewable energy projects, responsibility will be handed over to the new maritime area regulatory authority, MARA, which various Deputies have mentioned. It will be established and operational in the first quarter of 2023. Its establishment is one of the highest priorities of this Government to meet this economic opportunity.

In addition to developing the planning and regulatory frameworks for this new multibillion euro offshore industry, my Department is also developing a route to market for offshore wind under the renewable electricity support scheme, RESS. At least three RESS auctions dedicated to offshore wind are planned this decade. The draft terms and conditions of the first of these auctions, ORESS 1, were published for consultation by my Department in October. Final ORESS 1 terms and conditions will be brought to Government for approval in quarter 2 next year, with the objective of the auction commencing later next year. We are putting community benefit at the heart of this process, learning the lessons from previous attempts as Deputy Naughten said. All offshore wind energy developments will be required to make community benefit funds contributions and, owing to the larger scale of offshore wind developments, these contributions are expected to be significantly larger than those of onshore counterparts.

Ireland's intention is to move to a plan-led approach to the development of the offshore renewable energy sector. A new offshore renewable energy development plan, OREDP II, will be completed at next year. Together with the national marine planning framework, the OREDP II will provide a framework for the sustainable development of Ireland's offshore renewable energy resources into the future. Under this plan-led approach, all offshore transmission system assets will be owned by the Irish transmission system operator, EirGrid, which is publicly owned. Increased interconnection and eventual development of a European offshore meshed grid will be key to realising Ireland's short and long term offshore renewable energy objectives. The climate action plan commits the Government to updating the existing electricity interconnection policy next year, which will facilitate development of further interconnection with the EU and UK beyond the Celtic and Greenlink interconnectors currently at an advanced stage of pre-construction development. To assist this I am pleased to let Deputies know that we have just taken on the presidency of the North Seas Energy Cooperation group, ten countries across Europe working together to see exactly how we can design this North Seas interconnected grid, which would allow us to share power and get power at times when wind speeds are low. This economic opportunity is key. It will require investment of tens of billions of euro in Ireland's offshore renewable energy sector. This investment will deliver considerable benefit in terms of creating high-value indigenous jobs in the installation and maintenance of generation assets and associated infrastructure. Further jobs will be created in the development of indigenous supply chains and port infrastructure.

The Department of Transport, in conjunction with the Irish Maritime Development Office, IMDO, will shortly publish a policy statement outlining the proposed strategy for providing infrastructure at ports to facilitate development and future operation of offshore renewable energy projects. A Shannon Estuary task force will be established by the Government, led by the Department of Enterprise, Trade and Employment and supported by officials from Departments and State agencies, as well as county and city councils. This task force will consider the potential of the Shannon Estuary in terms of regional economic development for the renewable energy sector, as well as transport and logistics, manufacturing and tourism, and will develop a strategy to achieve this potential to be published in 2022 following approval by the Government. A cross-departmental offshore renewable energy team, chaired by my Department, has also been established to capture wider economic and business opportunities associated with the development of offshore renewables in Ireland. Furthermore, Enterprise Ireland has for the past several years focused on developing the Irish SME capability to engage with the offshore wind industry. This work stream has included identifying relevant Irish SME capability across a number of sectors and establishing and supporting an Irish offshore wind cluster, comprising more than 60 companies.

The Deputies are absolutely right to point out that our sea area is seven times our land area. It happens to be one of the areas of the world with a wind resource that is one of the strongest and most extensive. The first likely early stage of development will be the Irish Sea, particularly those relevant projects I mentioned earlier. We will then this decade move into the southern waters and into western waters. We are likely to see fixed bottom wind turbines in the Irish Sea moving to floating turbines as we move into western waters, which are deeper and a harsher environment but a far larger potential resource. There is massive potential there. The key issue is what we do when the power comes ashore. We are thinking bigger on this not only in port development but also industrial development. What is likely to happen is that the electricity power supply may be converted into hydrogen or ammonia and other fuel systems. That provides the industrial opportunity in the likes of Shannon Port, Cork Harbour, Rosslare Harbour or elsewhere. It is not just that it is supporting the offshore industry but also the new industries that may come from this.

It will not be without controversy. It will not be easy. We have seen in other countries that the development of offshore wind brings real challenges. People may not want to see turbines within sight of their shore. We need to get environment planning right so that it does not affect the critical marine biodiversity which needs to be restored and not just retained. If we can overcome those concerns - the planning concerns are the greatest - the potential for the country is limitless.

Deputy Berry mentioned the example of the building of Ardnacrusha; this is an Ardnacrusha-type moment. We need to think 50 and 100 years ahead. In setting up this industry on a sustainable basis, we have the potential to power our country and create employment across the country in a way unmatched by any other economic opportunity the State has previously had. That is why the Government supports the intentions and the broad outline of the Opposition motion.

**Deputy Verona Murphy:** I am pleased to support and sponsor today's motion relating to offshore renewable energy. On many occasions in this House, I have mentioned the need to capitalise on opportunities to develop offshore renewable energy. Our motion calls for several things to be prioritised. The first thing is to immediately draft an offshore renewable action plan and to draw up a strategy to ensure that all possible offshore sites are fully considered given the economic benefits, including high-value jobs which can come from the exploitation of the enormous renewable energy resources of our coast.

The first thing that is necessary to achieve our renewable energy targets is a plan. All the relevant stakeholders must examine our resources and capability, and develop a long-term plan for offshore renewable energy to take advantage of the tremendous resources that we have in the Irish maritime area. The plan needs to give value for money to the taxpayer and must involve joined-up thinking from the various Departments. Justin Moran of Wind Energy Ireland said that the lack of a robust planning system for the delivery of offshore renewables has arguably been the single greatest barrier to the deployment of offshore wind energy in Ireland.

The motion calls on the Government to ensure that the proposed maritime area regulatory authority, MARA, is established, resourced and operational within the next 12 months to capitalise on the growing demand for offshore renewable deployment. I understand that the permanent home for MARA will be in Wexford. MARA needs to be operational within the next 12 months to take advantage of the opportunities as they arise. Therefore, it is necessary to find a home for it until the permanent home is constructed and operational. As MARA will be one of

the main stakeholders in any offshore energy plan, it is necessary for it to be in existence before and during the planning and development phase rather than afterwards. I was little surprised when the Minister mentioned the first quarter of 2023.

The motion also calls on the Government to establish an offshore renewable development authority similar to IDA Ireland, as my colleagues outlined. That would drive a fully co-ordinated national action plan and would have responsibilities involving research and development, supply chain development and the commercial deployment of renewable energy ensuring that Ireland becomes the leading global clean energy exporter. It would make perfect sense for this authority to be in the same building as MARA. As the building is not yet built, there is ample opportunity to ensure that these related authorities are located side-by-side, remembering that parts of the Department of Housing, Local Government and Heritage are already located in Wexford.

It is vital to instruct Enterprise Ireland, in conjunction with the offshore renewable development authority, to stimulate the establishment of indigenous businesses in the renewable energy supply chain through a national renewable energy business accelerator programme. All this onshore development must not be achieved at the expense of the taxpayer. The development of private business in this area is crucial. Enterprise Ireland should play an important role in attracting private investment to the market. Government must ensure businesses are not turned off by over-regulation or unnecessarily onerous obligations, otherwise we will just be repeating the same mistakes made in the housing supply market for the past ten or 15 years. Private investment in this area will bring jobs, economic growth and most importantly efficient use of resources.

Investment in the upgrading of all our ports with the capacity to facilitate the assembly, deployment and maintenance of offshore renewable technologies is also vital. As an Independent Deputy from Wexford, I have a particular interest in the prosperity of Rosslare Europort. It is the closest port to mainland Europe and the closest port to the UK. The need for investment to ensure that it is ready and capable of seizing offshore renewable opportunities is crucial. The potential for the exporting of energy should be harnessed. It is vital that Rosslare Europort is capable of taking advantage of opportunities which may arise. Investment in Rosslare will provide a double bang for the buck of the taxpayer, as the port itself is in dire need of upgrading to cater for the 400% increase in commercial traffic since Brexit. There are 30 direct ferry sailings per week to and from mainland Europe keeping Ireland's trade and supply channel alive, but Government has not provided one shilling to assist in an upgrade. No funds have been allocated to ensure capacity is provided for the further growth of commercial or tourist traffic post Brexit. I appeal to the Government to change this.

**Deputy Seán Canney:** In the absence of Deputy Tóibín, I will step in. I welcome the opportunity and I thank my Regional Independent colleagues for introducing this important motion. Having listened to the Minister's speech, it is clear that he is aware of what we are all trying to achieve here. He repeatedly talked about what will happen in the future. The thrust of our motion is that if we are to create the offshore renewable energy dynamic that the country needs, we need to ensure we start now. The one thing we should learn from the past is to have justifiable timeframes for making decisions on planning applications, consents and environmental issues. I have first-hand experience of what has happened in Galway with the outer ring road. We cannot let that type of thing to go on for years and years, and we need to learn from that.

Getting foreshore licences has been a joke for decades and we have done nothing about it.

It is a never-ending litany where something goes into a dark hole and a licence may be issued years later. That needs to go, if we are serious about climate action and serious about realising the country's potential. This is not just an issue for Galway, Mayo or Sligo; it is a national issue.

We need to give this issue a commercial steer. The Minister outlined the development of ports and other infrastructure within the country as well as developing our seas to ensure we realise the full potential. Therefore, we need a single authority to grasp all of this. In his speech, the Minister mentioned several Departments that will be doing something with this. That type of approach is fragmented. The Government has the right ambition - we all have the right ambition - but to realise that we need to ensure we have the facility to do it in a tangible way. We need to do it now and not be talking about it in ten or 20 years' time. It is okay having the vision, which we all have, but we need to put that vision into action immediately. That MARA will not be in place until 2023 is a statement in itself and backs up our motion that we need to get that done as quickly as possible.

An Bord Pleanála is not resourced adequately for what it is dealing with in today's world. It needs to be resourced properly if we are serious about dealing with developments both on land and offshore. All the bodies involved need to be resourced. I reiterate that it needs to be done now. I refer back to the outer bypass in Galway. It is only one part of the infrastructure the country needs. I welcome yesterday's decision by An Bord Pleanála to give the green light to that project. I call on the Government to force that through so that we can gain access throughout the city. It is not just for the city but also for the port, Ros an Mhíl and the region generally. We need to develop all our ports and none of them should be left behind. I think all the ports and port authorities and the CEOs involved, some of whom we have met, are at one on this. There is something in this for everybody and we need to make sure it is done properly and fast. That is the thrust of what the Regional Group is saying. It is important that this goes back to the heart of the Government and that the development authority we have requested in the motion is put in place as a matter of urgency. If we are serious and real and if we want to make sure we deliver, we have to stop talking about something in the future. If we are to become the supplier of green energy to our country to develop all this new industry, an industrialisation we can achieve, and if we are to bring that green energy to Europe, we need to make sure we create a new connector. We need to do that now. We need to get it going. There is a European dimension to this and there will be European supports for it if the Government and we as a country take it on board and stop looking for the obstacles but, rather, get through them and make sure we deliver this.

**Deputy Darren O'Rourke:** I move amendment No. 1:

To insert the following after "resources off our coast;":

“— involve the fishing industry at the pre-planning stage of any proposed offshore energy installations and ensure that support measures are put in place where necessary to protect the livelihoods of fishermen and the sustainability of the industry;”

I thank the Regional Group for bringing forward the motion. Sinn Féin's amendment complements the motion and recognises the need to involve fishing communities in the development of offshore wind. I hope the amendment will be accepted.

Ireland has one of the best offshore renewable energy resources in the world, with a sea area approximately seven times the size of our landmass and a long-term potential for greater

than 70 GW of ocean energy opportunity within 100 km of the Irish coastline. It is vital that this valuable natural resource is developed for the benefit of both our climate and our citizens. The Government must realise the potential of offshore wind and act on it in the interests of the people of Ireland, but it looks set to do neither. We hear from those at the coalface of this sector about the maritime planning Bill, delayed by a year; the marine area regulatory authority, delayed by at least a year; licences for surveys, impossible to get; interested parties looking elsewhere and going elsewhere; and a hydrogen strategy of which people ask, “What is that?” As for preparations at our ports, the Government says it is thinking about developing a plan and that it might get EU money. The Government’s failure to deliver on its objectives today to meet its own targets is building in failures for the future, and future governments will be burdened by the Minister’s incompetence. Those in the sector say we have a very limited window in which to get our house in order. Those with a keener eye say that the 5 GW offshore target for 2030 is already missed and that the Minister knows it. He dithers on floating offshore, he has failed to put in place the legislation and regulatory framework and, as a result, he denies the people of Ireland, particularly our fishing and coastal communities, the opportunity to benefit and to make the transition. Jobs are already being lost to England and elsewhere, we are told, and the truth is that the Minister knows nothing about a just transition. He is failing to realise this potential in the interests of the Irish people.

The people do not trust Fianna Fáil or Fine Gael to deliver a good deal for the Irish people when it comes to our natural resources or anything else, for that matter. They will remember the Corrib, where the people got the scraps from the table. They are living with the national children’s hospital and the details of the national broadband plan. A deal prepared by the same climate and communications Department that had expected to deliver for the Irish people on offshore wind is being laid bare in a day-by-day exposé in *The Currency* online, past, present and future.

One way in which the Government can ensure that our offshore potential is developed for the public good is for the State to lead from the front when it comes to investment and development in renewable energy and to be ambitious, bold and visionary on behalf of the Irish people. Semi-state companies such as the ESB, Bord na Móna and others should be provided with the resources to develop and retain ownership of offshore wind projects and not just be bit-part players but be ambitious, bold and visionary. It is not a lot to ask but it seems to be too much to expect from Fianna Fáil, Fine Gael and the Greens.

There is a role for the private sector, for sure, but it is essential that the State does not become as reliant on private renewable energy companies for our future energy needs as we are currently reliant on private fossil fuel companies. We should not switch from one master to another. With offshore wind we have the opportunity for transformational social and economic change in our regions, coastal communities and urban and rural settings, but it has to be harnessed and managed. As of today, and as of the past 20 years, Irish governments are failing. The Minister should not take my word or Sinn Féin’s word for it. He should look at the report of the Climate Change Advisory Council, CCAC, published just today. Marie Donnelly was on the radio this morning speaking about the implementation gap. It is there in lights. As for meeting targets, we are significantly off track, in the CCAC’s words. Marie Donnelly was asked, if we do not change how we do things, whether we have a snowball’s chance in hell of meeting our 2030 targets. She had a one-word answer: “No”. I ask the Minister to heed this warning and to act. The CCAC report spelled out that this Government and previous governments have been all talk and no action. We need to deliver on the piece of this jigsaw of which

the State is in control. There is huge opportunity for local communities, the Irish economy and the Irish people but it needs to be realised. I call on the Minister and his Government to heed the warnings.

**Deputy Pádraig Mac Lochlainn:** This is an important motion, and there is a need for urgency on the issue. I wish to speak to the amendment submitted by Sinn Féin to the motion. It is about the need to have the affected fishing communities directly involved in the pre-planning process and to ensure that their livelihoods are protected. There are enough issues facing our inshore and offshore fishing communities in Ireland. They have been failed by the Common Fisheries Policy. I reiterate - this might shock the Minister as he may not know it - that only 15% of the fish caught in the Irish exclusive economic zone under the Common Fisheries Policy goes to the Irish fishing fleet. Some 85% is given away to the fishing fleets of other member states. It would be reasonable to share the waters, but 85%? That is the context in which we say our fishing communities have been squeezed really badly.

This is an opportunity to coexist. There are opportunities, if this is managed properly, to develop offshore wind energy. One of the issues now is that people cannot consider going beyond 12 nautical miles for floating wind energy infrastructure that does not need to be fixed. It can be moved. It is connected through seabeds by cables. Rather than infrastructure that is close to the shore, which would have an impact on fishing grounds, this type of offshore energy could work better. There is also the need for transferable licences. There are skippers of fishing boats in Ireland who cannot transfer their licences through other marine work. That needs to be looked at. There needs to be an approach to our marine infrastructure and our marine resource that can serve the interests of the Irish people, which would involve this type of wind energy while also protecting our fishing communities. It is critical that whatever we do, our fishing communities are partners in the process and coexist with offshore energy such that one is not opposed to the other.

**Deputy Pat Buckley:** I congratulate the Regional Group on bringing forward this motion and I hope that its members will accept the Sinn Féin amendment.

Ireland relies heavily on imported energy today. Once we use up the fuel in the Corrib gas field, we will be nearly completely reliant on gas we import via the gas pipelines from the UK. We have seen what can happen when Russia decides to limit the amount of gas it wants Europe to have. Ireland has a solution to energy security right now. We have all seen the energy of the wind during Storm Barra. Not only could Ireland's offshore wind give us a secure source of energy but it is sustainable and renewable and is our own natural resource. Ireland has more than 70 GW worth of offshore wind. That is more than enough to provide us with all the electricity we need today and into the future. We could use the extra electricity to separate hydrogen from oxygen and water and give us energy that could be stored and transported, complement renewable electricity and stop us relying on fossil fuel pipelines from the UK. Not only that, but we could help Europe to become the first climate-neutral continent by exporting green energy and give our citizens a source of income for decades to come. This can be helped by a hydrogen strategy for Ireland and a clear statement on how we will use our incredible natural resources for the benefit not only of our citizens but of our planet. While it is welcome to see the progress of the Maritime Area Planning Bill it will take time before the new implementation body, the maritime area regulatory authority, is up and running. We need to keep our eye on the ball. We need to support the existing systems right now. We need to make sure the permits and licences needed for offshore wind development surveys are progressed now. This means we need to resource existing teams such as the foreshore unit, even if it is going to be reorganised in fu-

ture. Recently, we saw the Norwegian energy company, Equinor, leaving Ireland, calling out the slow pace of regulation here. We need to learn from this and send a clear signal that when it comes to wind energy Ireland is open for business.

We must also involve our fishing industry and protect the livelihoods of fishers and the sustainability of the industry. We have this natural resource, we own this natural resource and we should use this natural resource.

**Deputy Réada Cronin:** My party will support the Private Members' motion and I thank the Regional Group for tabling it. We welcome that the Government will accept the motion. As my colleague, Deputy Mac Lochlainn outlined, we hope it will also support our amendment. We are a tiny island. It is the first land the wind coming across the Atlantic Ocean meets. This means that as an energy source offshore wind is a big win for us. It gives us an opportunity to be able to ensure we can provide affordable energy for our people rather than the very expensive electricity bills we receive at present.

I want to highlight not just the importance of offshore energy as we meet our emissions target but the energy sector in its entirety. Since energy is vital to how we live, work and communicate, it is vital that this essential public service should not be left to the mercy of the markets. To leave such a vital public service in private ownership would be wrong and, frankly, very irresponsible. The State must be in there to lead powerfully and responsibly from the front. We cannot allow our people to face a crisis in energy such as the crisis they face in housing and homelessness because of the vagaries of the market. It is essential that semi-State bodies such as the ESB and Bord na Móna are given every support necessary to develop offshore capacity and, just as importantly, to keep ownership of that capacity. The State cannot and must not be left dependent on private capacity as it is at present with fossil fuels. We know the trouble this is causing for us.

Consulting with local communities is essential, not as a glossy and meaningless public relations exercise but as a real listening and learning engagement. The people are central to this and a Government that disrespects the people does so at its peril. As a member of the Oireachtas Joint Committee on Environment and Climate Action I am especially anxious that community groups are given every help and opportunity to get involved in offshore energy through co-operatives. This underscores the idea and the fact of offshore energy as a public good and a public asset and not simply a market commodity to be traded by the few for profit. With climate change we are facing new ways of living and being in our world. As my comrade, Deputy O'Rourke outlined, the Government is not acting with the urgency needed to deliver for our people. The co-operative and community will matter more than ever because there is meitheal in the wind around us.

**Deputy Pauline Tully:** I am happy to support the motion and Sinn Féin's amendment to it. Ireland has huge potential not only to meet its 2030 greenhouse gas targets but also to become a leading provider of green energy in Europe. However, this will not happen if proper and robust planning is not carried out now and the substantial investment needed in the sector provided.

Ireland is not on track to reach our target of offshore wind by the end of 2030 as things stand. Proper resources must be invested in our planning infrastructure to ensure it is equipped to deal with the scale of what is required if we are serious about meeting carbon emission targets. From what I can see, An Bord Pleanála is not resourced to deal with what is coming. It is also essential the maritime area regulatory authority is operational as quickly as possible to

allow these projects to proceed.

The only port in Ireland capable of dealing with the construction of offshore wind farms is in Belfast. Proper port facilities need to be developed further down the east coast and on the south coast. This needs to be done as quickly as possible. Recently, the Minister, Deputy Eamon Ryan, indicated he was setting up a cross-departmental top team to drive the development of port infrastructure. However, there does not seem to have been any further movement on it since he made this announcement in September. A strategy is needed to bring together all those who will be involved in the provision of offshore wind energy.

The Irish electricity grid needs to be strengthened. The North-South interconnector could have been long established if EirGrid would agree to underground the project. We already depend on electricity for so many aspects of our lives and this will increase as we move more and more to electric cars, electric public transport systems and electric heating systems. Electricity is essential but it must be affordable. In order for this to happen, the State must take a leading role in the provision of electricity and ensure that semi-State bodies such as the ESB and Bord na Móna lead the way in the provision of onshore and offshore energy. However, they cannot do this unless they are properly resourced.

Many foreign private companies are eager to develop this sector because they see the potential. We must not give away the rights to renewable energy to foreign investors as was done before with regard to other natural resources. There must also be consultation to ensure proper buy-in from the people who live in our coastal communities, especially those involved in fishing, to ensure their livelihoods are not affected. We must not just be mindful but we must ensure that marine protected areas are just that. Strong consideration must be given to allowing community groups and co-operatives to become involved in the provision of wind energy. We have the potential to become the leading provider of energy in Europe and no longer depend on fossil fuels from abroad. This can only happen with proper planning and resources. Let us ensure this happens.

**Deputy John Brady:** The offshore renewable energy support scheme draft terms stipulate that all offshore wind farms developed under the scheme must have a community benefit fund associated with them. This is something I fully support. However, the Department has proposed that offshore community benefit funds be managed centrally on a national level through a combined single fund rather than locally on an individual project basis. This is very different from the approach being taken by the Department for onshore community benefit.

Two significant offshore wind projects are planned for development off the Wicklow coast in the coming years. The Codling wind park will be the largest in the State, with up to 140 turbines spread out over 125 sq. km. We also have the Arklow bank project that will see up to 62 turbines spread out over 67 sq. km. It is estimated that the community benefit fund between the Codling wind park and the Arklow bank project could be as much as €10 million year. If the Government proposals are put in place Wicklow would lose out considerably as, unlike the scheme for onshore projects, the funds will not be ring-fenced for communities in Wicklow. The community dividend from these developments belongs to Wicklow because Wicklow will be the county that will be most impacted by the development of these two substantial projects. The Government proposal contravenes the existing practice that covers onshore wind farms, which allows these funds to be administered locally on an individual project basis. The existing scheme for onshore community benefit allows for a third-party administrator to take responsibility for the administration of the community funds in accordance with the good practice

principles handbook.

I made a submission to the consultation process, which concluded on Monday. I outlined my opposition to the proposed change to the current best practice that covers the administration of the community benefit fund accrued by local communities from local onshore wind farms. This could potentially result in a loss of millions of euro to Wicklow. Organisations and communities have bought into the two projects that are working their way through the process. It is a serious and significant matter and one that needs to be opposed and examined. I urge all Deputies in Wicklow, including Ministers, to have a look at this to ensure the communities will benefit from these two massive projects in Wicklow, which I fully support.

*11 o'clock*

However, there needs to be a community dividend for that and it needs to be kept within Wicklow rather than managed centrally. I seriously urge the Minister and the Department to consider this issue to ensure Wicklow benefits fully from this community benefit fund in much the same way as onshore communities are benefitting from the projects in their parts of the world. There should not be discrimination in terms of how onshore and offshore projects are dealt with. Communities need to ensure they benefit from the roll-out of those projects.

**Deputy Ivana Bacik:** I am glad to speak for the Labour Party in support of the motion. I commend the Regional Group on tabling it and I am glad the Government is accepting it. It is important that we have cross-party support on this important issue of the development of offshore renewables. All Members are conscious that Ireland is facing three specific crises in the context of energy and energy supply, the first of which is the rising cost of energy bills. All present are conscious that the average household is facing significantly increased costs as all 14 energy suppliers have increased prices at least once this year and in September the Commission for Regulation of Utilities warned there will be higher charges due to record demand and reduced supply. We have real concerns regarding fuel poverty for many households in winter. Second, there is a concern and crisis building in respect of security and certainty in energy supply. In response to a parliamentary question tabled by my colleague, Deputy Sherlock, in recent weeks, we learned that there have been seven amber systems alerts in the past 12 months. The third, and most existential, crisis is the urgent need to decarbonise energy and avoid a devastating rise in global temperatures due to the climate emergency in the next decade and beyond.

We know that in order to address these crises we need to develop significantly our capacity for offshore wind generation. All Members will have seen the report of Wind Energy Ireland - I am grateful to it for supplying the briefing - setting out its concerns that we are not currently on track to reach our renewable energy targets through offshore wind generation. We know that by 2030 we must increase our generation of electricity from renewable sources from 30% to at least 70% or 80% and bring about a 30% reduction in CO2 emissions and a 32.5% improvement in energy efficiency. All Members are conscious that a robust, fair and transparent framework for offshore renewables must form part of this puzzle. Indeed, we need to see greatly enhanced grid capacity. Wind Energy Ireland states that we need a stronger grid and to develop further our delivery of onshore wind capacity in order to meet renewable targets.

However, we still lack the detailed annexe and timeline that was promised when the climate action plan was published several weeks ago. I and my party welcomed the ambitious but necessary targets in the climate action plan. We want to work constructively to ensure those targets are reached but we are concerned that without that detailed annexe, we simply do not have the

necessary level of information to see how we are going to reach those targets and what are the steps to be taken in the next few months, the next year and the next decade to reach those targets.

I note the Climate Change Advisory Council today published a very critical review of the approach of the Government to reaching those targets, with Marie Donnelly pointing out a time lag in implementation, gaps between ambition and practical implementation and, in particular, referring to the absence of publication of that detailed annexe and timeline that I have previously asked about in the House. I have asked the Minister of State, Deputy Ossian Smyth, who is present, about it, as well as the Minister, Deputy Eamon Ryan. We really need to see that detail.

The situation is the same in the context of offshore wind capacity. Anyone who had the pleasure of flying into Copenhagen airport pre-Covid will have seen the mass of offshore wind turbines there. It is no surprise that Denmark is leading the way on offshore renewables. Ireland does not yet have anything like that capacity or infrastructure or the investment necessary to develop that infrastructure to increase our offshore wind generation in the way we need.

We know that demand for electricity will increase as we increasingly electrify transport and all our other amenities, so we need to move much more urgently on offshore wind. We are having this debate not only in the context of the critical review from the Climate Change Advisory Council, but also the repeated warnings from Mark Foley, chief executive of EirGrid, regarding the challenges in meeting our targets and, of course, the announcement of the withdrawal of Equinor from Ireland in recent weeks. Although all present know the establishment of the maritime area regulatory authority, MARA, will be a significant step in the creation of a better planning and infrastructure building system for offshore development, we need to see more urgency. I was glad to hear the Minister, Deputy Ryan, outlining a timeline for establishing the option processes for renewables and I note that he stated he hopes the first option will take place in the final quarter of next year, but we need to see much more urgency on all of these developments. Other speakers have referred to the Ardnacrusha scheme and the significant ambition and dynamism in respect of the construction of that hydroelectric scheme approximately 100 years ago. This month, we are marking the centenary of the signing of the Anglo-Irish Treaty, but we should also be marking and celebrating the development of Ardnacrusha and channeling that focus and energy into building very quickly the green energy infrastructure we need, including offshore wind energy infrastructure. The motion before the House sets out some very important points on how we can do that.

I refer to the need to focus on other renewables. The motion addresses that issue too. I have tabled parliamentary questions on the issue of green hydrogen, seeking to explore precisely what initiatives we can take in Ireland to ensure the roll-out of green hydrogen in a way that is cost-effective, being cognisant that cost of production is currently a significant obstacle to this going forward. I understand the issue is to be discussed at the European Council of energy ministers later this month. I hope the Government will be proactive in promoting this alternative and I look forward to getting an update after that meeting has taken place.

On the issue of solar, I, like many other Deputies, have received many queries from constituents in Dublin Bay South requesting an update on the Government's microgeneration scheme and the potential for installing solar panels. These queries are from individuals, households, schools, sports clubs and others that are keen to do this. We are seeing significant public buy-in on this, just as we are seeing significant public buy-in on moving to electric vehicles, EVs. However, in this case, too, the infrastructure is not in place. It is really difficult to get publicly

accessible EV charging facilities. We are still awaiting Dublin City Council's plan on this. It is very frustrating when I am being asked why we cannot simply have more public access EV chargers. The situation is similar for those seeking to install solar panels. I have tabled parliamentary questions on why we have not seen new regulations and exemptions for schools seeking to install such panels, for example. I am glad to hear these new regulations are due for publication early next year but people are keen to move now on this microgeneration, which has significant potential for community buy-in.

As regards energy storage, in October I asked the Minister, Deputy Ryan, his position in respect of the storage of electricity generated from renewables. I am glad to see the programme for Government contains a commitment to incentivise electricity storage. It is mentioned in the climate action plan but, again, we need more detail.

Finally, I refer to the biodiversity emergency we are facing. We must be conscious that when we are developing offshore infrastructure, we are not doing so at a cost to marine biodiversity. Yesterday in the House I launched the Dublin Bay Bill, which would provide for a new statutory authority to promote and enhance environmental protection in Dublin Bay. That initiative is crucial in the context of rolling out offshore wind energy generation and anticipating the forthcoming policy statement on port infrastructure necessary to develop offshore wind capacity.

The Labour Party welcomes the motion and the opportunity to debate this very important issue, but we are anxiously awaiting and seeking much more urgent and detailed implementation plans from the Government on offshore wind generation and all these other necessary measures to reach our climate targets.

**Deputy Jennifer Whitmore:** I welcome the opportunity for this debate on this important and timely issue. Marie Donnelly appeared before the climate committee yesterday and she re-emphasised the importance of renewable energy in terms of our ability to meet our target. One of the issues she addressed was the speed at which that needs to be implemented because many things rely on renewable energy, such as EV targets, transport targets and the retrofitting of many homes. It is a critical part of our path to zero carbon and the speed of implementation is very important. Other Members spoke about the barriers to that at the moment. It is disappointing that biodiversity has played such a small part in the debate so far. Ireland is actually one of the largest countries in Europe in that an area the equivalent of ten times its land mass is under the sea. We run the risk of seeing this area purely as an economic resource. The debate so far indicates that this is how it is viewed. It is viewed as something out of which we should squeeze as much economic benefit as possible, not as a living entity in its own right — a very complex system with many interconnected components that play an enormous part in regulating our climate.

Our oceans are very important, more important than any renewable energy targets will ever be. They are critical to the regulation of the climate. That is not coming across in the debate. We have heard words such as “resources”, “economic opportunity”, “revenue”, “infrastructure”, “assets”, “development”, “industry” and “business opportunity”. Even when the Minister spoke about the Shannon Estuary task force, he spoke about transport and regional development. Estuaries are incredibly important from a biodiversity perspective. It is disappointing that no reference was made to this. The environmental sector needs to be represented on the task force.

The Minister did mention the word “biodiversity” but it was not in the written speech that he provided to us; it was an add-on. Biodiversity must not be an add-on in this debate. Many of us talk about how we have managed much of the infrastructure on the island and how much of it has been developer led over the years and under successive Governments. That has not benefited our communities and country very much. We run the risk of allowing our oceans to be developer led also. We need to be cognisant of that and make sure it does not happen.

Where planning in this area is concerned, we have put the cart before the horse. While the Minister talks about marine area consents, which everyone wants as early as possible given the importance of speeding up the process, there is no indication as to what areas need to be protected, why they need to be protected and the benefits of protecting them. There will essentially be no protections, which is worrying.

Under the EU biodiversity strategy for 2030, member states should protect at least 30% of the EU’s land and marine areas, and at least 10% of land and marine areas should be subject to particularly strict protection. I am aware that this is an EU-wide target and that the Government has not agreed to an Ireland-specific target of protecting 30% of land areas, but the programme for Government commits to realising our outstanding marine space target of 10% and aiming for 30% of marine protected areas by 2030. How can we know what marine spaces are to be protected if the assessment is not done before we start granting consents? There is no point in protecting areas that do not need protection. Protections need to be ecologically coherent. They need to make a difference for the species and ecology we are trying to protect. It is not just a case of saying to the developers that they should find the spots that suit them best and that we will apply the environmental criteria to the rest of the areas. That seems to be the approach that is being taken.

We have not really acknowledged the co-benefits. If this can be done properly, we can have a very successful wind industry. We need a very successful one to meet our targets. I am realistic about that. That is where we need to be going but our approach needs to be balanced with environmental considerations. That is possible. When the two approaches work together, the environment can benefit from the establishment of wind farms. In this regard, there are discussions taking place. In Wicklow, there is a project called the Native Oyster Reef Restoration Ireland, NORRI, project. It is a native oyster restoration project. There is great potential in this regard because, where native oysters grow, there are kelp beds with considerable carbon storage potential. The potential can be realised in conjunction with wind farm development. The project in question is supported by Wicklow County Council but it is also getting support from those behind the wind farms that will be off the Wicklow coast. That is the kind of vision we are considering. It is interesting.

The BT Young Scientist & Technology Exhibition is coming up in January. There are two students from St. Mary’s College in Arklow working on a seaweed carbon capture project. If the Minister is visiting or looking into such projects, he should make note of this one in particular. Ciara and Lauren from St. Mary’s are running it. It is really interesting. It demonstrates interest at local level in these kinds of projects. It also demonstrates the importance of what is known as blue carbon. We need to be considering these areas to determine how we can innovate in them, provide funding and make progress. We must determine how we can proceed in addition to having the wind farms we need to meet our targets.

I am aware that there has been a lot of debate on the Maritime Area Planning Bill, in respect of which my colleague Deputy Cian O’Callaghan tabled a significant number of amendments.

Since the Bill has passed through the House, we need to put in place interim measures that will protect the environment. They need to be transparent and robust. We cannot afford to look back in several years and say we got it wrong. Many of our onshore wind farms were put in the wrong place. They were put in peatland areas and have caused enormous damage from landscape and carbon release perspectives. We need wind farms but we need them in the right place, and we need them to be dealt with properly. Many good suggestions were made in the debate on the Maritime Area Planning Bill. I ask the Minister to reconsider them because it is important that we get it right now. The infrastructure is being put in place now. There is a risk that if this is not done properly, it will delay us in meeting our objective for wind farms. We could end up with appeals and judicial reviews if the environment is not considered fully in their development. I ask the Minister to consider this as part of the entire package.

**Deputy Richard Boyd Barrett:** I thank the Regional Group, including Deputy Naughten, for tabling this important motion on the critical subject of the development of our offshore wind energy resources. There is no doubt but that we need to develop our renewable energy resources quickly. A key part of that will be the development of our offshore wind capacity. Particularly given our huge maritime area and geographical location, we are well placed to play our part in moving away from fossil fuel energy, which we know is threatening the sustainability of life on our planet. There is an existential crisis so it is critical to address the problem. We are also aware that there is a major problem with the availability of energy generally and its cost, which we have seen ratchet up in a dramatic way. This is having a huge financial impact on those who can least afford it. There is a lot at stake, and there are many good points in this motion.

The simple fact that we have to discuss the detail of this motion is terribly important. There is a lot to discuss. Often we have been quite general in our approach to these issues. This is an attempt to get serious about the discussion. It is absolutely correct to call out the danger of a developer-led approach to developing our maritime area. I will talk about that a little more later but now want to make more positive points on the motion. It can facilitate more balanced development, including balanced regional development, to benefit other parts of the country and without concentrating everything in Dublin. That is a strong point that we need to take very seriously because we have unbalanced development in this country that needs to be addressed.

The issue of community gain or social benefit, as I would rather like to put it, from the development of our marine resources and our energy resources is also critically important. Well done to Deputy Naughten and the Regional Group for doing that.

However, a number of questions need to be answered and I do not have all the answers in this regard. These issues need to be discussed. Having spent a good deal of time dealing with the Maritime Area Planning Bill recently, to which Deputy Whitmore alluded and also tabled many amendments, I have major concerns about the developer-led approach. We know a developer-led approach to development onshore was not good and often led to the wrong types of developments in the wrong places, was not properly regulated and, at its worse, did extreme economic damage to this country and precipitated the greatest economic crash we ever saw. In that case, it did not produce cheaper housing, which became more expensive. It did environmental damage and so on.

To address onshore wind energy, what we do not need is a repetition of what happened at the Derrybrien wind farm. If we do not do proper environmental impact assessment in trying to meet the imperative of developing renewable energy, we can cut off our nose to spite our face. Coillte gave over a mountain, cut down the forest for the building of wind energy and a

mountain collapsed because nobody had done the proper assessment. We are still paying heavy fines for it. There was also the recent case in Donegal and we still do not know what full cost impact that could have, either environmentally or financially.

I find it deeply concerning that Wind Energy Ireland, an association that has been mentioned a number of times today and, indeed, some of its arguments have been used, is arguing, in its documents on the development of offshore renewable resources, explicitly against a plan-led approach and explicitly for a developer-led approach. Why would it not do that given that it is a commercial corporate interest? It is interested in making money. We should not assume just because it is building wind turbines that somehow it has a more benign attitude towards the potential impact of what it does on the environment when money is the imperative. I am deeply concerned it is explicitly arguing for that approach. We must not bend to that approach.

I am particularly worried, given our previous record of failing to comply with environmental directives for onshore development, that we have only just over 2% of our marine area designated for marine protection, while Germany has 45%, France has 45% and most countries in Europe have a far higher percentage designated than us, and EU directives explicitly require us to have that network of marine protected areas and to take an ecosystem approach. Let us be clear, the protection of biodiversity and addressing the biodiversity crisis cannot be the poor relation of addressing the climate crisis because the biggest carbon sink, bar none, is the marine. We cannot afford to destroy the marine supposedly in the name of addressing the climate crisis because we will sabotage our efforts to address the climate crisis and potentially do damage to the marine. That cannot be allowed to happen.

Again, I do not know all the answers but we need to discuss in detail the question of the viability of further offshore floating wind - fair play to the proposers for referring to this in the motion - where potentially there can be less impact on communities but we get all the benefits and even slightly increased costs can be counteracted by the fact there is greater availability of wind further out at sea. Floating offshore wind has been developed in Scotland, Japan, Maine in the United States, Portugal and so on. I have heard officials say it will be a few years before we can do that here but I do not accept that and I want to know more about it. I do not like the fact that the major sites earmarked for development, potentially bypassing the need for protecting marine areas, the so-called relevant projects, are selected by the developers without having the proper environmental screening and marine protection that we are required to have.

I commend the motion but it must be the beginning of a much more in-depth, detailed conversation about how we balance the imperative to develop our offshore renewable energy while protecting our precious marine resources.

**Deputy Richard O'Donoghue:** Ireland has a very ambitious plan when it comes to cutting emissions, especially in the electricity sector for which a target of 80% is planned. I find that difficult to understand, particularly as demand is set to increase with upcoming demand from data centres, an increase in population and demand for power points to service electric cars. Offshore renewable energy has the answer and all the power generated at sea will be a resource for the economy. The development of power grids that facilitate the connection of offshore wind to Ireland and European power grids will require a massive infrastructure but, undoubtedly, will be welcomed.

The Rural Independent Group welcomes the alternatives whenever, and I emphasise this, they become available. For this reason, it pains me to ask the Government again why it would

penalise the Irish people with a crippling carbon tax before such alternatives are in place?

I have concerns about the development of ports around deep water and reinforced quays in terms of their identification. I am concerned Ireland has not embraced floating wind farms rather than the fixed bottom sector to contribute to the 2030 emissions targets. The former are noted for the 2050 emissions targets. That sends out the wrong message to companies such as Equinor, which had no confidence in our commitments and left the market. We are considering offshore wind turbines only in respect of meeting our 2050 emissions targets. Companies have decided Ireland is not at the races and have left the market because of our failure to make investments in offshore wind energy. That is a failure on the part of the Government.

I will give the Minister of State a simple example from the farming community, which the Government is trying to cripple. Last week, a farmer with 130 average size cows who pays €850 per month for electricity installed solar panels to run his farm on solar power and reduce emissions. The cost of the solar panels was €21,500. He got a grant of €3,000 and then had to pay 13.5% VAT on installation. How long will it take for him to recoup the initial cost of €21,500? Surely there is supposed to be an incentive for farmers to install solar power. I will give a breakdown of the cost involved. The solar panels cost €21,500. The Government gave a grant of €3,000 and then asked the farmer to pay 13.5% VAT for their installation, at a cost of €2,497.50, bringing the cost involved to €20,997.50. This means the Government gave the farmer a grant of €502.50, not €3,000. We are supposed to be incentivising farmers to help us in this area. On the one hand, the Government is saying it is incentivising them but, on the other hand it, it is taking back the incentive.

I also have concerns we are not developing quickly enough turbine technician apprenticeship programmes in schools. Coming from the business sector, I know that if we build a unit, we will need a trained person to service that unit. Are we going to import everything for that? We have competent students who would take up apprenticeships and learn how to work, fix and design wind farms. Again, however, the Government has been caught on the back foot. It is not investing in the youth of today in the context of technology going forward. We will be caught again because the Government is going to look for it outside of Ireland. People outside Ireland, for example, on the Continent, look to Ireland because of our education sector and how bright the Irish people are, but our Government is not so bright, given that it will not invest in apprenticeships for renewable energy. This is, again, me coming to the Government, showing it from a business perspective how to future-proof.

We in the Rural Independent Group welcome renewable energy, but all the Government has done is create a layer of tax that means nobody in this country can invest in solar panels or in reducing emissions because its answer to the current fuel crisis was to add tax through the percentage system it uses. I again go back to business. With the banking sector, people can get a fixed-price mortgage that shows the percentage they will have to pay, gives a structure to every household that has a mortgage and shows how much money will come out of the household's account to pay for the house. The State applies a percentage rate on the cost of fuel coming into the country. As a result, if there is a fuel increase in this country, the State takes a percentage on top. In 2020, the State took 81 cent per litre of fuel, while in 2021, it is taking €1.05 because when the cost of fuel increased, the State took its percentage and the tax was added.

That tax hits every farmer and every person in Ireland. It costs more money to produce food, which means the next person adds on the cost, and in turn, everyone who goes shopping tomorrow morning will pay more for it. People will pay more not only for their food but also

for their fuel because the Government has added a tax. In the short term, until the cost of fuel decreases, I ask the Government to take a common-sense approach and apply a fixed tax for fuel. I understand there has to be tax to pay the bills but, at a time of crisis such as the Covid pandemic, when there is an international fuel crisis, the Government did not act. It could have fixed the price on fuel, and if there was a cost increase, we would accept that but we do not accept that we must pay additional tax on top of the increase. The State would still get its tax. The Government is penalising everyone, whether through the clothes on my back or the food I will eat today. Everything depends on fuel prices, and the answer of the Government was to increase the tax, given the percentage rate it applies. I reiterate we all know we have to pay tax but, at a time of crisis, the Government has failed the people. With the increases, it is taxing everyone more.

I have been informed farmers are coming to Dublin on Sunday and that members of the Irish Road Haulage Association are coming on Monday. They will not leave until the Government sees common sense. They will be here to protect everyone in Ireland and they want the Government to see that because they have been given no alternative and no hearing by the Government. The only Minister who has come back to me was the Minister for the Environment, Climate and Communications. I spoke to him on Zoom and he told me he was going to talk to the Minister for Finance. I got one phone call from the Taoiseach to say he would look into it. The people are coming to Dublin and it is not just the 25 counties outside Dublin. People from rural County Dublin, too, have contacted me to thank me for looking out for them because they feel the Government is not listening. People from the 26 counties of the Republic, therefore, and from the six in the North are coming to Dublin to make the Government see common sense.

**Deputy Marian Harkin:** I thank the Regional Group for making such a comprehensive and forward-looking proposal on the real possibility of developing our offshore renewable energy resources. The proposal is visionary, but down to earth at the same time. It is visionary in that any proposal to develop more than 70,000 MW of offshore renewable energy, which would not only eliminate our dependence on fossil fuels as a nation but allow us to export huge quantities of energy to the EU, is a mega project. Equally, it is down to earth in that we know it is possible and feasible and has great potential, but we need to put the necessary agencies in place with the remit to deliver a fully co-ordinated national plan. This will involve research and design, supply chain development and management of the process from initiation to delivery. I acknowledge it sounds a bit much, but this could be our Ardnacrusha moment if we recognise our potential to transform how we develop our renewable energy resources and act on that recognition.

One aspect of this project must be that there will be community buy-in and real community benefit. By the latter, I do not mean an attempt to buy off communities. I have seen, and am still seeing, those attempts to bribe communities by promises of short-term gain instead of a continuous, stable benefit to local communities. There must be no windfall gains but a plan-led, not developer-led, model of development. Our offshore wind resources can be to Ireland what oil has been to communities, especially coastal communities, in Norway. We need the State to take the leading role here. Time and again, I have seen the negative impacts of exclusively private sector, profit-driven models on the building of infrastructure, from homes to onshore wind turbines to broadband. A project such as this would impact on generations to come and must be State led. Offshore renewable energy must be the primary source of our wind energy.

There have been so many negative experiences throughout the midlands and now in County Leitrim, where there are two proposals on how wind turbines should be positioned for onshore wind generation. Less than two weeks ago, I raised with the Minister of State, Deputy Noonan,

the issue of the siting of two different wind farms on mountainsides and, largely, on peaty soil in County Leitrim. We still await the publication of the wind energy guidelines, which we are told will give due regard to local communities and individual families within the vicinity of turbines, yet the applications for wind farms keep coming. As long as there are no guidelines, it will be simply the same free-for-all. It is no wonder we get it wrong again and again, just as we are getting it wrong at Croagh wind farm, near Dromahair, and at Dough in Manorhamilton. I have stood at the back door of somebody's house looking up at the side of a mountain less than 1 km away, where it is proposed to erect a 185 m monster wind turbine. To give some context, that is twice the size of the Statue of Liberty. This is how wind policy is being planned and delivered right now. It alienates and divides communities.

The proposal from the Regional Group is visionary but has real, down-to-earth potential.

**Deputy Catherine Connolly:** I too thank Deputy Naughten and his colleagues from the Regional Group for tabling the motion. I support its sentiment, without hesitation. I support the call that MARA be established and operational within 12 months, the upgrading of the ports, the overall message and acknowledgement we must reduce our dependency on fossil fuels and the acknowledgement the current circumstances are developer led. I could not but agree with all that.

I am not nitpicking but I am not sure about the suggestion we should “exploit” our resources. If the biodiversity crisis and the climate crisis have taught us anything, it is that we should get rid of those words of exploitation but rather use our resources. Our maritime area is an absolutely wonderful resource and, as Deputy Naughten and others pointed out, we have one of the largest such areas in Europe, at seven times our land mass. Even so, we cannot go back. We face an existential crisis and we cannot go back. All development in the future must be sustainable and we should use our resources in the most sustainable way for the maximum number of people and for the common good. I do not think Deputy Naughten would have a difficulty with that. I think “exploit” is a word we should get rid of. We talk about this in the context of 2.13% of Ireland's marine area having been designated as protected.

We are massively behind on that, which is something I have a significant difficulty with. When we discussed the Maritime Area Planning Bill that is going through the Dáil and Seanad, we were told this was a parallel piece of legislation. I do not accept that. It should have been the first piece of legislation. We know from EirGrid and the windmills on land that they are developer-led as well. As a result, we have no plan and no overall vision even though this is a wonderful opportunity if we do it right to make Ireland green and an example to other countries and to show the way, even though we are a small country, albeit with a huge marine area.

I have a major problem with the community benefit. Deputy Harkin mentioned that. I believe it is a divide-and-conquer approach. The word “unity” is a misnomer. It is even less involvement when it comes to offshore energy - quite understandably because it is quite complicated - that the community could not own. There is a significant possibility for the community to own onshore wind and to bring people on board - to bring the likes of me on board to look at how areas in Galway such as Claddagh, Shantalla and Bohermore can become self-sufficient - but not by means of this divide-and-conquer approach.

I refer to the Convention for the Protection of the Marine Environment of the North-East Atlantic. There was a ministerial meeting and we signed the Cascais Declaration. There are 29 paragraphs in that. If I had more time, I would go through them all. Paragraphs 15 and 16 deal

with offshore renewable energy and state:

15. Offshore renewable energy will play a key role in decarbonising our economies in the coming decades but knowledge gaps still exist about its impact on the marine environment. We will take action to promote and facilitate the sustainable expansion of renewable energy developments while respecting our commitments to a healthy and biologically diverse marine environment.

16. Human activities are reaching further into the ocean than ever before, unlocking new opportunities for sustainable use of resources in the OSPAR maritime area. We will lead on assessing the impacts on the marine environment of human activities taking place under our jurisdiction or control in ABNJ, in line with the precautionary principle and to avoid serious harm to the environment.

Unfortunately, the motion does not quite capture that but I note that Deputy Denis Naughten is nodding, and that he has no difficulty with it. I would think that this is the beginning of an urgent conversation in the context of realising that we cannot exploit our oceans any more and recognising that nature is part of us and that we must work hand in hand if we are going to deal with the existential crisis facing us but still have jobs for our people and real and meaningful community involvement, leadership and benefit.

**Minister of State at the Department of the Environment, Climate and Communications (Deputy Ossian Smyth):** As the Minister for the Environment, Climate and Communications mentioned, Ireland has one of the best offshore renewable energy resources in the world with a sea area of 400 km<sup>2</sup>, which is about seven times the size of our land mass. We have more offshore energy potential than most other EU member states. Ireland's coast is one of the most energy-productive in Europe with a long-term potential of 70 GW of ocean energy opportunity, which includes wind, wave and tidal, within 100 km of the Irish coastline. The climate action plan includes a suite of actions to realise the potential of Ireland's offshore renewable energy while the programme for Government commits to the achievement of 5 GW of installed offshore wind capacity by 2030 and a long-term plan to take advantage of a potential of at least 30 GW of floating wind thereafter.

Aside from helping to reach our renewable energy and emission reduction targets, offshore wind development will entail investment of tens of billions of euro, which will deliver long-term high-value indigenous jobs relating to installation and maintenance of generation assets and associated infrastructure and services. It will provide development of indigenous supply chains and further associated employment and the development of small and large-scale port infrastructure breathing new life into maritime assets. Community benefit payments to local hosting areas for use in education, energy efficiency, sustainable energy and other climate action initiatives are so important and have been mentioned by various Deputies. Owing to large-scale offshore wind developments in particular, these contributions are expected to be significantly larger than those of on-shore counterparts.

Ireland's ambition for the offshore renewable energy sector is contingent on delivering a licensing and regulatory regime for offshore renewable energy. This will provide certainty to project promoters and provide a pathway to realising the necessary investment in offshore renewable energy. This is crucial to our climate ambitions. In order to achieve our 2020 targets, the Department has been working closely with the Department of Housing, Local Government and Heritage on the development of the Maritime Area Planning Bill. This Bill, which is ex-

pected to be enacted before the end of this year, will establish a new agency to regulate development of the maritime area. This agency is to be called the maritime area regulatory authority, MARA. The transition protocol of the Maritime Area Planning Bill designed relevant projects. These are projects that were applied for or granted a lease under the Foreshore Act 1933 or offshore wind projects that were eligible to be processed to receive a valid grid connection offer at December 2019. The relevant projects are expected to be the first to enter into the new maritime area consent regime under the Maritime Area Planning Bill. The Bill provides the Minister for the Environment, Climate and Communications with the power to invite maritime area consent applications from those projects in advance of the establishment of MARA. It is important to note that the relevant projects will still be required to apply for all the requisite consents and planning permission and will be subject to the full assessment procedures by An Bord Pleanála with regard to planning.

The main pathway for the delivery of the renewable electricity objectives set out in the climate action plan would be via the renewable energy support scheme, RESS. This scheme is designed to provide support to on-shore and offshore renewable electricity projects in Ireland through competitive auctions. With a primary focus on cost effectiveness, the RESS delivers a broader range of policy objectives, including community participation through community benefit funds, increasing technology diversity, delivering an ambitious renewable electricity policy to 2030, increasing energy security and sustainability and ensuring the cost-effectiveness of energy policy.

The Department of the Environment, Climate and Communications is developing the terms and conditions of the offshore wind-specific auctions under the RESS. Owing to the specific scale and nature of typical offshore wind farms, dedicated auctions are initially required to support the long-term potential of the technology in Ireland. At least three offshore auctions are planned for this decade. The first offshore wind auction, ORESS 1, is planned to launch in quarter four of next year. A new framework for Ireland's future offshore electricity transmission system was developed by the Department and approved by the Government in April 2021. The new policy provides for the future development, operation and ownership of Ireland's offshore electricity transmission system. The new policy provides for a phased transition from the current decentralised offshore transmission system model to a centralised model over the course of this decade in line with free scheduled offshore RESS auctions. This phased approach should be seen in the context of the wider transition towards a plan-led approach to future offshore renewable energy development in our marine area.

The enduring centralised offshore grid model with transmission system assets to be planned, developed, owned and operated by EirGrid has been identified as delivering maximum societal benefits. The Government recognises that more interconnection with our nearest neighbours and the future development of a European offshore mesh grid would be key to realising Ireland's short and long-term offshore renewable energy objectives. The climate action plan commits the Government to updating the existing electricity interconnection policy next year, which will facilitate further interconnection with the EU and the UK beyond the Celtic and Greenlink interconnectors, which are in an advanced stage of pre-construction development.

I will address an important area of work, namely, managing the relationship between offshore renewable energy, biodiversity and marine protected areas. The national marine planning framework, which was established in June 2021 by the Department of Housing, Local Government and Heritage is Ireland's first marine spatial plan. It aims to plan when and where human activities take place at sea and ensure these activities are efficient and sustainable. The

protection of biodiversity is one of the overarching policies of the national marine planning framework. The framework already applies to decision makers and State actors in the maritime area. Existing measures such as environmental impact assessment and appropriate assessment requirements already apply to the maritime area. These environmental protection measures include the conservation of Ireland's Natura 2000 network of sites and the protection of listed species and habitats.

Offshore renewable projects will also be subject to full environmental assessment procedures by An Bord Pleanála during the maritime planning permission application procedure and must comply with all relevant applicable provisions of European and national environmental law. Any available data that may indicate the potential for an area to be designated as a marine protected area will be considered as part of the planning assessment to be undertaken by An Bord Pleanála as part of the new regime. Decisions will be based on the environmental data available at that time. Officials from the Department of Housing, Local Government and Heritage, the Department of Environment, Climate and Communications, and the Department of Agriculture, Food and the Marine, are actively examining further opportunities for engagement with the fisheries sector, having identified and recognised a need for effective engagement between the seafood and offshore renewable energy industries. Work has commenced on the establishment of the seafood industry and offshore renewable energy working group, one of the primary goals of which will be to develop a communications protocol between these two industries.

I have hopefully demonstrated the level of work across government to develop our offshore renewable energy sector sustainably, to realise the economic benefits for citizens and the State into the future and, as importantly, realising that the potential of our offshore resources will not be done at the expense of environmental and biodiversity considerations. We will continue to engage with other maritime users and stakeholders such as the fishing industry.

We are supporting this motion. I am also happy to support the amendment from Sinn Féin. I am glad that the debate overall was constructive. It was substantial and there was a lack of pantomime and theatrics today. People really engaged properly on this. I believe we do need to have an all-island approach to this. We are sharing territory and this applies in our marine areas also. We are sharing the same atmosphere. It is important that we can balance our power needs around the whole island. Everything we can do to advance that is important. I welcome today's motion and debate. It was useful. I paid attention to everything that all Members said and have tried to take everything on board. I will be following up on some of those things later.

**Deputy Matt Shanahan:** I thank the Minister of State for his comments and I thank the Government for supporting the motion, which has been crafted from a large body of work by colleagues and me in the Regional Group.

It is clear that Ireland is not on track to reach our target of 5,000 MW of offshore wind by the end of 2030. We have significant planning difficulties, as the Minister of State is aware, and probably regulatory difficulties too, as was evidenced by the exit of Equinor from the Irish renewable energy market. The planning system can only be as strong as it is resourced. Our projects and our coastal communities deserve a system that is fair, transparent, robust, swift and suitable to purpose. To that point, I believe that the Minister of State needs to look at the resources within An Bord Pleanála, which need to be beefed up given what is coming down the pipe with new applications for renewable projects.

The offshore wind farms that Ireland seeks to build in the next ten years are going to be some of the largest and most complicated infrastructure projects the State has ever undertaken. Even though they will be largely undertaken by the partners, the State will be centrally involved. It is very important that we see the establishment of the maritime area regulatory authority as quickly as possible. Ideally, this needs to be up and running in advance of 2023 when phase 2 projects will be considered and when the 2025 auctions will also occur.

Our group motion has called for an offshore renewable development authority. This is about strategic planning, something we do not always do well in Ireland. We cannot afford to miss this opportunity now. We must get all stakeholders involved and we must ensure that we listen to all voices. We have also asked for the construction of an Atlantic interconnector. I accept absolutely that this is a very big ask but we must have been thinking in this regard. We are talking about really big project stuff and potentially the future economic development of Ireland over the next 50 to 100 years. We must think big. We have also asked for the designation of Shannon Foynes Port on the Shannon Estuary as a European centre of excellence for the manufacture and development of renewable energy technologies, and particularly turbine manufacturing, which is something we must get up to speed on very quickly in this country. We ask that all key stakeholders, including third level institutions and development agencies, be part of an offshore renewable energy action plan.

On ports and supply chain infrastructure we are doing a lot of work currently on the east coast to south coast. I must point out to the Minister of State that Rosslare Europort and Waterford Port are adjacent to all of this work. I ask that the Government would give considerable thought to resourcing these ports with regard to infrastructure and supply chains.

We need also to support a strategy for new grid infrastructure, and especially the North-South Celtic interconnector and the Greenlink interconnector. We cannot build the promised 5,000 MW of offshore wind energy if the Irish electricity grid is not strong enough to accommodate that volume of power. The grid capacity is key. Connecting the grid capacity will deliver on the actions the Government has committed to within the climate action plan. It will also signal to the international supply chain Ireland's determination to develop our enormous offshore renewable energy potential.

With regard to floating wind energy the programme for Government contains a commitment to produce a plan to develop more than 30 GW of offshore wind energy off the Atlantic coast. As the Minister of State is aware, this energy can be used to produce green hydrogen, which can become a major part of Ireland's future energy matrix. Again, one of the biggest barriers we face is that there is no mechanism to allow offshore wind energy projects to obtain a licence to carry out surveys beyond 12 nautical miles. Until this is put in place it is not possible for these projects to proceed with even the early stage survey work. I put it to the Minister of State that this is a key requirement of the Government's plan.

As the Minister of State has highlighted with regard to the just transition, we need to consider all of our coastal regions, our sea fishers, our seafood industry and the needs of our biodiversity and marine protected areas. I am aware that we have a community dividend secured within the tendering service, but I believe it will be more difficult within the offshore sector.

We have a great opportunity to position Ireland as a centralised and decarbonised economy within Europe. We can absolutely attain the title of Emerald Isle, and one of the greenest economies in the world, if we grab this opportunity.

**Acting Chairman (Deputy Alan Dillon):** The time has elapsed. I ask that we conclude the debate.

**Deputy Denis Naughten:** Standing Orders clearly state that the final ten minutes is protected so we have exactly five minutes remaining. That is under Standing Orders. It is quite clear.

**Acting Chairman (Deputy Alan Dillon):** I thank Deputy Naughten for clarifying that.

**Deputy Seán Canney:** I thank both Ministers for their positive reaction to our motion. It is important also that they have taken on board the Sinn Féin amendment, which also ties in with what we are saying.

I will recap on some of the comments by speakers. I thank every speaker for the positive contributions, as the Minister of State has alluded to. It is important to have sustainability in what we are doing into the future. Sustainability means that we do things right and in a way that Ireland Inc will benefit from this. It is important to reiterate that in essence our motion seeks to establish an offshore renewable development authority, to construct an Atlantic interconnector and to designate Ireland as a European centre for excellence in the manufacturing of offshore renewable energy technology. These are three basic points but these measures will take huge effort and huge commitment from us as a country and from us as politicians. We will need to have the energy within ourselves to make sure that we do this and that we do it now.

The planning regimes we have are all very fine but in the Minister of State's response he spoke about the Department of Transport looking to publish a policy statement debate about our ports. We need to go beyond policy statements at this stage. The Shannon Foynes Port, the Port of Galway, and Rossaveel Port in our own area on the west coast, need to have plans. I do not mean plans or policies to be talked about; we need to be able to develop these ports to make sure we capture the benefits that will arise. The Shannon Estuary task force comes under the Department of Enterprise, Trade and Employment. Again, we welcome what is going on there but we need to make sure that it is co-ordinated. The cross-departmental offshore renewable energy team is chaired by the Minister, Deputy Ryan's Department. Enterprise Ireland is also focusing on the development of SME capacity. Because we have all of these very important strands in place, the motion is showing the need to ensure that we have one lead authority to make sure that everything is done in a timely fashion. This is the essence of the Private Members' motion. We must learn from our mistakes. The onshore wind energy strategy has been piecemeal. This is a problem. When one considers the issues that are now arising, such as local authorities refusing to give consents to developers to put cables underground, this is the type of gap we are creating that needs to be sorted out urgently.

*12 o'clock*

With offshore energy, we need to make sure that we do not make the same mistakes and that we pick up on the possibility of them happening. We must also ensure that we protect our biodiversity, as stated, which is very important to us out on the seas. We should not make the same mistakes as the past, but, more importantly, we need to take ownership of this potential for the development of Ireland. It is not for Ireland west, south or east; it is for all of Ireland and we need to take full advantage of the potential there. However, we need to do it now. MARA should be in place next year. We should not have to wait until 2023 for that. I do not see why we have to wait until then to get it in place. While we do not have the facilities or the organisations in place that are supposed to drive this on, nothing is happening. That is the issue.

I accept the bona fides of everyone in government to push this along but we need to have a centre, a head to deliver it and direct it to make sure that everything happens on time so that we become the centre of excellence in Europe for green energy. We can produce enough energy to feed a great deal of Europe's demand. We can take the potential from that. We need Ireland to have ownership. The benefits must accrue to Ireland. We do not want to end up sitting, looking out onto our seas to watch floating turbines being dragged out to Denmark and Norway for servicing and maintenance when they should be coming to our shores. We have to develop the infrastructure here to take on this enormous potential. As others stated, this is the new Ardna-crusha moment. For me, it is the new industrial development. Offshore energy will create that for us. We can be at the centre of it. We can be at the centre of Europe for it but we must do so in time.

Amendment agreed to.

Motion, as amended, agreed to.

### **Ceisteanna ó Cheannairí - Leaders' Questions**

**Deputy Mary Lou McDonald:** The Government's approach to housing is failing miserably. Dublin City Council and Cork City Council commissioned KPMG to conduct analysis of future housing needs as part for their development plans for the period 2022 to 2028. These reports are frightening. They reveal that the housing crisis is set to get even worse in the coming years, even if the Government delivers on current policy. Here are the facts according to the reports.

In Dublin, average house prices are expected to rise by 36% to more than €500,000. That is mind-boggling. Rents in Dublin will increase by 50% to an average of €2,500 per month. That is not for a family home; it is for a one-bedroom apartment. In the Taoiseach's home city of Cork, the outlook is just as bleak. In his neck of the woods, by 2028 the average cost of a home will be just under €500,000. Renters in the city that the Taoiseach represents, his constituents, are set to be hammered. Rents in Cork are expected to increase by an incredible 36%. These are the projected price increases even if all of the Government's targets are met.

Let us imagine a family starting out in Douglas or Carrigaline listening to and realising this. Ordinary workers in Dublin, Cork and throughout the State are already struggling to meet astronomical housing costs. Wages have not increased, and they certainly will not increase at anything like the same rate as price inflation over the next seven years. How on Earth does the Taoiseach expect people to be able to put a roof over their heads?

A generation is today locked out of affordable housing and home ownership is a pipe dream for many. We thought the Government's housing crisis could not get any worse but the message from the reports to which I refer is that we have seen nothing yet. Without a radical change in Government housing policy, we are looking at a serious catastrophe; a disaster for workers and families, for society and for Ireland's long-term economic attractiveness and stability.

These are significant reports. They were conducted on behalf of the two largest local authorities in the State in order to allow them to plan the development of their cities. They are

based on the most up-to-date data from the CSO and the ESRI. For a Government with an ounce of cop-on, alarm bells would be ringing very loudly. Instead, we get deafening silence, heads stuck in the sand, no urgency to respond, no forward-thinking, and, frankly, no common sense.

The Government needs to change the direction of its policy away from the interests of developers and investor funds and focus it squarely on meeting the housing needs of workers and families. The very first thing it should do is significantly ramp up investment in the direct delivery of genuinely affordable homes. The target of 1,250 affordable homes next year is nowhere near enough. We need 8,000 genuinely affordable units every year in order to avoid the nightmare projected in these reports. That is the level of ambition required.

Léiríonn na tuairiscí a rinneadh do chomhairlí cathracha Chorcaí agus Bhaile Átha Cliath go bhfuil sé beartaithe go leanfaidh an ghéarchéim tithíochta ar aghaidh agus go bhfuil sí chun éirí níos measa fós. Tá athrú polasaí Rialtas dáiríre ag teastáil go práinneach.

My questions are simple. Has the Taoiseach read the reports? Is he concerned by the forecasts they contain? Does he accept that a fundamental change in Government housing policy is required to end the housing crisis?

**The Taoiseach:** The Government has prioritised housing as the key social issue that needs to be addressed. In that context, it produced Housing for All, which is the very opposite to the so-called deafening silence on the part of the Government to which the Deputy referred. I have listened to her for quite a long time on housing but I see very little substance. I see a lot of sloganeering, sound bites and nice catchy phrases, but I do not see real substance from a policy perspective.

**Deputy David Cullinane:** You do not see the houses either.

**The Taoiseach:** I would say to Deputy Cullinane that if Sinn Féin had voted for the proposals relating to the Oscar Traynor Road site, I would believe a bit more in its credibility. Sinn Féin needs to explain.

*(Interruptions).*

**The Taoiseach:** I do not understand how Deputy McDonald can stand up and rant on in the sound-bite manner in which she does and sit down without explaining to anybody why Sinn Féin voted against 853 social, affordable and cost-rental homes at the Oscar Traynor Road site. The latter was the latest in a series of deliberate decisions by Sinn Féin to oppose substantial housing proposals for Dublin. In Dublin City Council alone since the local elections, Sinn Féin has voted against 5,000 homes in Dublin.

*(Interruptions).*

**Deputy John Brady:** Will the Taoiseach answer the question?

**An Ceann Comhairle:** The Deputy is not the leader of Sinn Féin.

**The Taoiseach:** It voted against 1,200 social, affordable and private homes in Donabate. It voted against them. How can we declare something a crisis in that light? I have said this to all, but Sinn Féin in particular has been opposing projects across the board that involve social and affordable housing.

The Minister for Housing, Local Government and Heritage has committed to 4,000 new affordable purchase and cost rental homes in 2022 and €676 million has been allocated in respect of affordable measures across the board. The help-to-buy scheme is to help enable people to afford housing, yet Sinn Féin opposes that also. I do not see the policies from Sinn Féin. When you read through its documents, they are threadbare. The Government is saying that, realistically, we can provide up to 11,500 to 12,000 social houses next year. Those are social houses, something the Deputy ignored in her contribution. Close to 10,000 of those will be direct builds through local authorities or approved housing bodies. Sinn Féin just comes along and says “Oh, we think that should be 20,000”.

**Deputy David Cullinane:** As did the ESRI.

**The Taoiseach:** It is like Tommy Cooper long ago, it is a case of just like that. “Just like that, we will make it 20,000”. The Minister says there will be 4,000 affordable and, just like that, Sinn Féin will say “We will make it 8,000”. There is no substance behind it. It is just empty rhetoric as far as I can see. The Sinn Féin approach to housing is to exploit the housing crisis to suit its electoral and political base. That is the fundamental objective there.

Whatever one’s view are, Housing for All represents a very comprehensive approach to housing. The Secretary General of my Department chairs an implementation group comprising Secretaries General of the other key Departments involving key work streams from workforce planning right through to finance and securing State lands for the building of housing. There is now a very comprehensive delivery mechanism at the heart of Government to deliver on the Housing for All objectives. We now know that in the 12 months between October 2020 and this October we have had 31,000 commencements. That is the highest number of commencements in a decade. Thus, the policies we have announced are having an impact. House construction was hit by Covid at the beginning of the year with the lockdown up to April, and likewise with the previous lockdown in 2020. I argue the Government’s policy in Housing for All is far more detailed and substantive-----

**Deputy Matt Carthy:** It is not working

**The Taoiseach:** -----than anything Sinn Féin has to offer.

**Deputy Mary Lou McDonald:** And it is not working. Whatever the Taoiseach’s view of me, I am sure he will agree the ESRI and KPMG are not, surely to God, ranting as well, or are they? The evidence they have adduced through a very comprehensive study, using data from the Central Statistics Office, CSO, and ESRI, which are hardly ranters or ravers, show house prices will be at €500,000 on average, or more than that in Dublin and Cork, respectively, and rent will increase by 36% and 50%, respectively. If the Taoiseach thinks that reflects a policy that is working then he is even more adrift from reality than even I feared, at his worst moment.

**Deputy Matt Carthy:** Hear, hear.

**Deputy Mary Lou McDonald:** This crisis is set to get worse if the Government persists with its current policy. Those are the facts. We saw figures from the Banking and Payments Federation Ireland, BPF, showing almost half of first-time buyers must run to their parents for help to secure a deposit. It is called the bank of mammy and daddy. Not every mammy and daddy are in a position to bankroll every son and daughter. Those who can are the fortunate ones. All the evidence stacks up that this Government is failing. Its housing policy is failing. However, the really alarming thing is it will not look to the evidence and it will not set out a

coherent plan for success in housing. It prefers instead to attack the Opposition.

**The Taoiseach:** The Housing for All strategy was announced some months ago. It is the plan. I challenge Deputy McDonald to come up with a detailed, substantive alternative plan to the Housing for All strategy because she knows deep down the detail is there and it is comprehensive. The issue is now delivery and implementation because supply is key to the housing crisis. That begs the question of why her party on the ground consistently opposes-----

**Deputy Aengus Ó Snodaigh:** Not true.

**The Taoiseach:** -----significant housing.

**Deputy Mary Lou McDonald:** We do not.

**The Taoiseach:** It does.

**Deputy Matt Carthy:** Is giving away public land to private developers the solution?

**The Taoiseach:** Deputy Carthy has said it - it is ideology.

**Deputy Matt Carthy:** That is the cause of the housing crisis in the first place.

**The Taoiseach:** On Oscar Traynor Road, how long more are we going to have to hang around waiting?

**Deputy Matt Carthy:** The Taoiseach has not recognised the role of Fianna Fáil policies in causing the housing crisis.

**An Ceann Comhairle:** Deputy Carthy, stop interrupting please.

**The Taoiseach:** Deputy Carthy has been very helpful in his interruption because he has confirmed Sinn Féin voted against the Oscar Traynor Road proposal.

**Deputy Aengus Ó Snodaigh:** Yes.

**The Taoiseach:** That is 853 social, affordable and cost rental houses.

**Deputy Aengus Ó Snodaigh:** We have never denied it. The Taoiseach's own councillors voted against-----

**The Taoiseach:** As a party, Sinn Féin has voted consistently-----

**Deputy Matt Carthy:** The Government is giving away public land to its private developer friends.

**The Taoiseach:** -----and its Members come in here then and attack the Government.

**Deputy Matt Carthy:** Fianna Fáil caused the housing crisis.

**The Taoiseach:** It is thousands of houses.

**Deputy Aengus Ó Snodaigh:** The Taoiseach should answer the question.

**The Taoiseach:** The party opposed 1,200 units in Donabate. I am answering Deputy Ó Snodaigh's question.

**Deputy Aengus Ó Snodaigh:** He is not.

**The Taoiseach:** The Deputy is not displaying sincerity.

**Deputy Aengus Ó Snodaigh:** There is no point when-----

**The Taoiseach:** The Deputy and his party are not displaying credibility when they come in here and attack, attack and attack. Their solutions are absent.

*(Interruptions).*

**An Ceann Comhairle:** The Taoiseach's time is up.

**Deputy Mary Lou McDonald:** Is KPMG insincere as well?

**The Taoiseach:** I argue, and I have said it about all parties, that if we are all agreed housing is the number one crisis then Members opposite must ask themselves the question-----

**Deputy Aengus Ó Snodaigh:** No, you have to ask yourself----

**The Taoiseach:** -----as to how they can in good conscience-----

**An Ceann Comhairle:** Deputy, please.

**The Taoiseach:** -----object to projects that have been years in planning with the councils and involve social, affordable and cost-rental housing.

**Deputy Matt Carthy:** They will not be affordable. That is the problem.

**An Ceann Comhairle:** I thank the Taoiseach. His time is up.

**The Taoiseach:** How can they continue to oppose them?

**Deputy John Brady:** The Taoiseach should ask his councillors about it.

**An Ceann Comhairle:** Can we please behave with a little more-----

**Deputy Mary Lou McDonald:** I hope the Taoiseach makes a new year's resolution to actually answer questions that are put to him. It is kind of embarrassing for the Head of Government to behave like that.

**An Ceann Comhairle:** Could we all make a Christmas resolution to behave with a bit of decorum, please?

**Deputy Mary Lou McDonald:** Honest to God.

**The Taoiseach:** I make the point that I did not interrupt anybody when they were speaking.

**An Ceann Comhairle:** No, he did not, in fairness.

*(Interruptions).*

**Deputy Matt Carthy:** He did not answer our questions either.

**Deputy Mary Lou McDonald:** Micheál's headline achievement for 2021. Well done.

**An Ceann Comhairle:** I call Deputy Catherine Murphy.

**Deputy Catherine Murphy:** I agree with the Taoiseach on the importance of people getting the booster. I received mine about ten days ago. In the same week it was announced walk-ins would be accommodated. People in the queue I was in at Citywest were being told only people with appointments would receive a booster. The wait that day was about three and a half hours. The following day it was five hours. Cork City Hall and Croke Park were also reporting long queues. It is, therefore, understandable people would make appointments with their pharmacy instead. Yesterday, the Taoiseach said that in the week commencing 22 November, there were 208,000 appointments for boosters but only 80,000 people turned up and last week there were 180,000 appointments but only 93,000 people turned up. The obvious question that arises is why there were approximately 30,000 fewer appointments last week than the previous week. Yesterday the Taoiseach failed to mention the ongoing problems with the booking system. Eligible people can now get boosters from their GPs, pharmacies or, indeed, a vaccination centre. The only problem is the systems do not seem to be capable of talking to each other. People in the eligible groups for a booster but who have had Covid in the past six months, which makes them ineligible, are still getting appointments. Is the system capable of picking that up? Instead of blaming people for not turning up to their appointments will the Taoiseach tell us what is being done to resolve the problems with the bookings system?

This is especially important given that appointments for the over-50s are coming on stream tomorrow and only 42% of the over-60s have received a booster. Will the Taoiseach tell us when he expects that cohort to be completed? Will he share with us the vaccination plan, as it is known, from now into the new year by cohort, vaccination type and timeline? That type of information would be hugely important in allaying concerns about the new variant but also to give people hope for the new year, including sectors impacted on by restrictions.

I welcome that NIAC has today approved vaccines for children. When will these vaccinations commence? Where will they be administered? Will the capacity be increased in parallel with the booster campaign? Importantly, when will the information campaign for parents on vaccines for children going to start? We saw what happened when the Government brought in the mandatory mask wearing for schools overnight and then threatened to exclude children for non-compliance without first explaining the basics of why it was deemed necessary. Does the Government have an information campaign ready to go to explain the benefits of vaccines for children so parents have all the facts they need and disinformation is not guiding their decision making?

To recap, is the number of appointments actually increasing? What is the Government doing about the system and the double bookings? Will the Government give us an indicative vaccination plan into the new year before Christmas? The information campaign is vital for parents. When will that be rolled out?

**The Taoiseach:** I thank the Deputy for raising the issue. What I said yesterday and today is not blaming people. It was to underline the importance of the booster, especially in light of the arrival of the Omicron variant. I was talking to the President of the European Commission and others. There is still a bit to go on interpreting the data, research and science. The science seems to indicate we are looking at a more infectious and more transmissible variant but that vaccination still gives protection against disease, hospitalisation and admission to an ICU. There must be a very clear message from all of us to people that when they get their opportunity to get the booster that they take it. It will give you a very quick increase in antibodies and your

capacity to resist severe disease and illness from both Delta and Omicron.

If one looks at how transmissible Delta is, early evidence suggests Omicron is more infectious and has an advantage over Delta. We can see what is happening in the UK and in other countries where evidence is coming out about how rapidly it is developing, and that is a concern. The best possible protection is to get the booster dose. Some early tests are showing that. They are also showing that the first and second doses have a weakening effectiveness against Omicron but the third dose significantly improves your capacity to avoid severe illness and disease. Yes, the HSE is working through its systems and so on, which are open to 50-year-olds and 60-year-olds this week. It is constantly reviewing how best to maximise uptake in the next number of weeks through its booster campaign. We are at just more than 1 million booster doses, which is about fourth in Europe. Looking immediately ahead, the most effective thing we can do as a country is to do everything we possibly can to get the booster to as many people as quickly as we can. That is what is required. I say to people that if they get the opportunity to get the booster, they should take it.

Pharmacies are helpful but they by no means cover anywhere near a critical mass of those being vaccinated. To be fair, GPs have been very strong when it comes to the older age cohorts. That has to be said. I pay tribute to the GPs for their work and to those pharmacies who have taken the booster dose up.

On children and vaccinations, NIAC has now made recommendations for the administration of paediatric vaccines. It has recommended that children aged five to 11 years, especially those with an underlying condition, living with a younger child with complex medical needs or living with an immunocompromised adult, should receive the Covid-19 vaccine developed by Pfizer. This should be offered in parallel with booster doses for those of all ages with underlying conditions. The recommendations go a little further, which I can elaborate on later. The Department of Health and the HSE are now working on a plan involving the information campaign advised by the Deputy. They will publish that plan in the next number of days.

**Deputy Catherine Murphy:** Many members of the public felt blamed yesterday, even though it was not their fault. There is a system failure. The Taoiseach needs to find ways of fixing that system so that we are not duplicating, being wasteful and people are not queueing longer than they need to, which is one of the reasons they might be put off in the winter and will make alternative arrangements. The Taoiseach needs to give us an assurance about those systems because there is a problem there. The HSE has acknowledged that.

I know we cannot be certain about things because they will change, but an indicative vaccination plan across cohorts and vaccination types would be very helpful as we go into the new year. For example, the Janssen vaccine becomes less protective in a reasonably short period of time. We need to see that plan before Christmas. The public would find a degree of reassurance in that, especially given what the Taoiseach said about Omicron.

On the trade-related aspects of intellectual property rights, TRIPS, waiver, nobody is safe until everybody is safe. Europe has to change its attitude. The Taoiseach mentioned talking to his European counterparts. We have to push that to make sure other jurisdictions have the kind of cover they need. We will all have different variants if that is not done.

**The Taoiseach:** The HSE acknowledges that it has to improve systems, but it is more than that. In my conversations with all the principals yesterday, there was a sense, to be frank, that

the same urgency that applied to getting a first and second dose was not quite there for the third dose. That is not to cast blame or anything like that, but to urge everybody that the booster has very significant and positive impacts in strengthening the immune system against new variants of this disease, and especially from getting severely ill and ending up in hospital or an ICU. We know that up to 50% of those who are in ICU are unvaccinated and the figure is similar for those who are hospitalised.

Again, we have had a voluntary system, which I support wholeheartedly. I do not believe in any mandatory approaches to vaccination at all. We have achieved very high levels of vaccination through the voluntary system in Ireland and that is the approach we should take. Even now, people are coming forward to get their first dose, which is encouraging, because of the points we have been making.

On the TRIPS waiver, the European Union has been the best continent. It has exported approximately 750 million doses to 150 countries.

**Deputy Mattie McGrath:** Last Friday evening, Members debated yet another extension of the draconian powers that have been handed to the Minister for Health for more than 20 months now. While Members were in the Chamber, the Taoiseach took to the airwaves to talk to the public and went over the heads of some members of the public to talk to the children. He told us that we were implementing new more draconian measures than we previously signed into law, which will be debated further in this Chamber this evening. For more than 20 months now, the Minister for Health could sign into law whatever he chose, which has had massive impacts on the livelihoods of our citizens throughout the country. On Friday, for example, the Taoiseach announced the introduction of tighter restrictions on the hospitality industry with the closure of nightclubs and a suite of measures, including the reduction of numbers and table service. This is not to mention the arts and entertainment industry, which has been wiped out completely.

With the apparent admission that Covid passes do not stop the transmission of Covid, one would think the Government would move to scrap these discriminatory passes altogether. Instead, it has doubled down and put more pressure on people. That is a retrograde step. What studies have been carried out into the effectiveness of Covid digital certificates in stopping or reducing the transmission of Covid-19? Will the Government publish the studies on the effectiveness of certificates and bring them before the House for debate? We have had no debate on it and we have no evidence.

The Irish Council for Civil Liberties which, among others, is opposed to the extension of Covid passes noted that whenever the Government introduces legislation that effects and impacts the rights of citizens, it must carry out a ballpark test on its “necessity and proportionality” - those are the council’s words and not mine. It stated:

It must show evidence that the measure[s] introduced ... [are] necessary to achieve a particular aim. To that end, [the] Government has yet to ... [provide any] evidence.

Will the Government bring forward the evidence, if it has it, and have it debated in the House on what specific benefit the system has, and will have, in the coming months, despite the massive impact it has on our people?

I want a straight answer from the Taoiseach about digital passes. Have they any benefit in stopping the transmission of Covid? I believe they have not. As I said, the data clearly suggests that they do not work to stop transmission. Since the introduction of vaccine certificates, we

have seen 323,000 positive cases. The Government needs to produce the evidence and show us clearly why certificates have not curbed the spread of Covid or diminished it in any shape, make or form. I want the Taoiseach to present this information, if he has it. He should have it because he talked about the science. Show us where the science is. These certificates are discriminatory and, as I said previously, are providing medical apartheid to the people of our country.

**The Taoiseach:** It is good to see the Deputy back. I thank him for raising these questions. He called the re-enactment of the public health laws last week “draconian”. These laws have been debated in the House on a number of occasions since the pandemic started. Public health comes to the forefront during a pandemic and laws are brought in for its duration. These are not laws one would use in ordinary times. They are used for a purpose, they are specific and they are designed to try to protect lives and health. That is the motivation. The laws were previously debated and approved by this House. We are guided by public health advice. There is sometimes a tendency to be annoyed and frustrated by that advice and so on. I know the Deputy has a particular stance on this, about which he has been consistent. It is fair to say he is not in favour of restrictions, generally. The key issue is that one cannot manage a pandemic without a legislative framework that allows one to be nimble, quick and to do things to protect lives and the health of people. There is a parliament here which can debate these issues, but it is not possible to do it without public health legislation of the kind we have. It is not the kind of legislation any government wants to bring in. Why would we want to bring in legislation that restricts the normal things of life? There is no joy in doing that, believe me.

If the Deputy recalls, back in July, the chief medical officer strongly advised that if we were to reopen hospitality, the status of vaccination in the country and among individuals was key and he recommended a system of vaccination verification, to protect people. That led to a robust debate in this House in July. I recall it. The Dáil passed that legislation and it enabled us to open both outdoor and indoor hospitality throughout the summer to great effect. It worked.

The evidence on vaccination is clear. The Deputy is not disagreeing with that. He welcomes, encourages and supports vaccination. If I understand correctly, that is his position. The evidence is there that if one is not vaccinated, one will pick up the disease much more easily and be vulnerable to disease, sickness and so forth. I am looking at other countries in Europe. Austria has now brought in a lockdown because of the level of people unvaccinated in the country. At least, we have avoided the types of approaches other countries have now had to take.

**Deputy Mattie McGrath:** I thank the Taoiseach for the welcome but not the answer. I asked him specifically about the Covid certificates and whether he had evidence they have lessened the impact or reduced the cases. Clearly, they have not and he has no evidence. If he had, he would produce it. The Taoiseach referenced the debate here. There was no prelegislative scrutiny of any of the legislation that went through, including the Bill which will be debated here this evening. Many of his backbenchers and all his three parties were bemoaning the fact we were extending it last July and here we are extending it again to next July.

We want to see an end date. The public want to see one. It is war weary and fatigued and business just cannot survive. The Taoiseach knows that and he met the arts industry last week and I am glad he did so, because it has been especially badly treated. It is the ordinary man in the van, with his guitar and ag seinm cúpla amhrán agus rudaí mar sin. Our culture and heritage is being hammered. The Taoiseach does not have any evidence and he has not produced it, nor has he briefed Opposition leaders for 13 months. He has not had a meeting. We all backed him, at first, to get rid of the imminent matter, of course we did.

However, we saw through the figures and the lack of investment, in spite of all the money in extra ICU beds and everything else - it is one holy mess - not to mention the booster and the carry on now. I ask the Taoiseach to show me the evidence that vaccination certificates work, which discriminate against people. I have countless cases of people in awful trauma and anguish who cannot get a vaccine for medical reasons. Others chose not to and they are being discriminated against left, right and centre.

**The Taoiseach:** First, it is not possible to have prelegislative scrutiny. Prelegislative scrutiny in the Dáil is now taking up to six months in some cases----

**Deputy Mattie McGrath:** At committee.

**The Taoiseach:** In some cases, it is taking up to six months. There is no way one can deal with a pandemic, going through the luxury of-----

**Deputy Mattie McGrath:** That is no excuse.

**Deputy Paul Kehoe:** It is.

**The Taoiseach:** It is. It is very rational.

**Deputy Mattie McGrath:** No, it is not.

**The Taoiseach:** It is taking six months for prelegislation on many key Bills, never mind a public health emergency. Is the Deputy seriously suggesting we could do it?

**Deputy Mattie McGrath:** They can.

**The Taoiseach:** We cannot do it. Unfortunately, the experience has been that it takes too long. We are extending the timeframe for the operation of the legislation that is expiring, in essence, and consolidating-----

**Deputy Mattie McGrath:** How is that the case?

**The Taoiseach:** -----the existing powers that were there in different Acts and so forth. I accept the point that people are war weary of this pandemic. Of course, they are. It has gone on much longer than people may have anticipated.

**Deputy Mattie McGrath:** It has.

**The Taoiseach:** On the other hand, we are in a different position this year compared to last year in terms of the where the economy is and the degree to which it has bounced back. There are 30,000 job vacancies in quarter 3, compared to 19,000, two years ago. The hospitality sector, entertainment and tourism have been hardest hit and we will do everything we can to support those sectors.

**Deputy Catherine Connolly:** As the Taoiseach may be aware, I have repeatedly highlighted the Government's failure to carry out even the most basic human rights assessment of any of the draconian legislation enacted by this Dáil, including the most recent Bills on hotel mandatory quarantine and the consolidation of four separate pieces of legislation into one. While this might be understandable, in the initial months, following the declaration of a pandemic, back on 11 March 2020, when there was a lack of information, a sense of urgency and an overwhelming sense of fear, almost 22 months later, it is simply unacceptable and unforgivable.

The importance of carrying out a human rights assessment has been highlighted, repeatedly, by the Irish Council for Civil Liberties. It has simply been ignored. Amongst many concerns, it has highlighted that the regulations restricting rights under emergency legislation, without Oireachtas scrutiny, despite the Taoiseach's rhetoric, are there since March 2020. Thorough, effective scrutiny is necessary for a valid proportionality assessment, as required under the Constitution and human rights law, for any laws that actually or potentially restrict rights.

It said, amongst many other things, that Government must demonstrate that such measures are necessary and proportionate to a specific, legitimate aim and that they constitute the most minimal interference with rights possible in the situation. It goes on, foolishly in terms of what the Government has done, to say the importance of clarity of messaging is crucial to instil public confidence and understanding of new laws. The clarity of message is absolutely crucial to bring all of us on board when we face a public health threat of the magnitude we have faced.

Instead of that assessment, on even the most basic level, we have got the language of division, demonisation and discrimination. The current spin, which has changed many times to suit Government agenda or indeed some of the pharmaceutical companies, is now all about personal responsibility. That is deeply duplicitous, because for those who have reflected, researched and come to a considered decision that a vaccination is not for them, for one of many reasons, this group, which is far from homogenous, is now the subject of appalling comments and screaming headlines. I will refer to letters I received from a consultant on two occasions and I am sure he has also written to other Deputies, to highlight he is absolutely for vaccination and people should take it, but he also highlights the group of people that has had an adverse reaction to the first or second dose, or for other reasons and for which absolutely no provision has been made.

The Taoiseach's spin hides, obfuscates and confuses what has not been done. It ignores what the Policing Authority reports have consistently told us, that the vast majority of people in Ireland have been surprisingly compliant. It ignores the Council of Europe resolution, which is very detailed and the Taoiseach might read it some time. It talks about the importance of looking at the voluntary aspect of vaccinations and bringing people-----

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Catherine Connolly:** -----on board. It ignores the fact we have ignored the poorer countries. We have a letter here from the nurses of more than 30 countries telling us it is unacceptable. It ignores the fact we have not been given any update on public health infrastructure on the ground in order that we can competently deal - am I over time?

**An Ceann Comhairle:** The Deputy is way over.

**Deputy Catherine Connolly:** I beg your pardon, a Cheann Comhairle.

**An Ceann Comhairle:** The Deputy was so engrossed, I could not interrupt her.

**Deputy Catherine Connolly:** What do I say? My apologies. I will stop.

**The Taoiseach:** I disagree with the basic premise of the Deputy's argument. She speaks of a Government agenda. The only agenda I and the Government have is to protect people's lives and health in the middle of a global pandemic which is a one-in-100-year event. There is no other agenda than that. I do not know what the Deputy meant when she said it was just to suit the Government's agenda. Our motivation is to protect people and their lives. I will be honest

with the Deputy. That needs balance between competing interests and rights. There is always a challenge in public health in balancing those rights. In a public health crisis or pandemic, we have to give higher priority to public health advice. I have no issue with evaluating it through the prism of human rights but we are combating the spread of the virus. There is a range of bodies, agencies and statutory authorities in a modern democracy and government has to balance all of that but we are dealing with a pandemic that has killed millions around the world. We should not forget the severity and deadly nature of this disease.

We have had a voluntary vaccination programme. We have not had a mandatory or compulsory programme, nor should we have one. There is an obligation, people can have arguments and we have to provide the evidence. It is not spin. We are being told what is emerging from hospitals by hospital authorities. They give us the profile of those in ICU and in hospital, their vaccination status and so forth. I am not making that up. I have an obligation to put that before the public and the House.

I accept there are people who cannot be vaccinated because of adverse reactions or medical conditions. They should be provided for and I have asked that proper systems be developed where people with genuine medical issues or adverse reactions are facilitated in terms of participation in society. The vast majority of people have been compliant. That is why we have been effective as a country in dealing with this disease, relative to other countries in terms of death rates, illness and so forth. People have taken the messages on board. People adapted to the messaging three weeks ago. They saw the dangers rising in respect of Delta and the case numbers and changed behaviour.

There is nothing the Government would like better than to be back in a normal situation, dispense with the legislation that Deputy Mattie McGrath spoke about and get back to ordinary living because it is not the most popular thing in the world to be restricting people's personal liberties and freedoms.

**Deputy Catherine Connolly:** I am on record as taking the Covid pandemic very seriously. This is about a human rights assessment of the serious draconian measures that were brought in on a temporary basis. The question is simple. Why has the Taoiseach not done it and when will he do it?

When we have spin, we do not have confidence. I have lost all confidence in the Government's approach to this. When I see an emphasis being put on night clubs while day centres and respite centres are not open and children are being appealed to by the Taoiseach to take on more responsibility, there is something seriously wrong with that message. It also ignores the fact that the cross-party committee which published its report last year has been utterly ignored. Mr. Justice Meenan's report in relation to a compensation or redress scheme has also been utterly ignored.

David Nabarro, WHO special envoy on Covid-19, described the idea that people will be discriminated on the basis of their Covid immunity status as a scary possibility in April 2020. There is an onus on the Government to carry out a human rights assessment, explain why it has not done that and indicate when it will do it.

**Deputy Mattie McGrath:** Hear, hear.

**The Taoiseach:** We talk about spin and we all have our own perceptions of spin. The Deputy just did a bit of spinning when she said I was putting more responsibility on children. I

did nothing of the sort. I acknowledged the challenges that faced children, what they have done to date and how difficult it has been for them.

**Deputy Catherine Connolly:** You did that and then you went on-----

**The Taoiseach:** The Deputy is no exception in the House either, in terms of having the capacity to spin. I did not interrupt her. The point I was making was that children and young people have gone through an awful lot in this pandemic. Their quality of life has been in many ways reduced by the pandemic. It is the Covid-19 pandemic that is driving all of this. Those in the engine room have to keep going to protect people. We do not have the luxury of doing all the comprehensive evaluations people would like us to do. We are mindful of the issues for people in their daily lives. They are fed up with this pandemic. What is the most fundamental human right of all? It is to protect life and limb. That is a fundamental obligation of government. I would go before any human rights commission and say my fundamental responsibility and that of the Government is to protect people's lives and to take expert advice and assess it. This Oireachtas assesses that advice as well as to whether it will protect people's lives and limbs and whether to go with it.

### **Ceisteanna ar Reachtaíocht a Gealladh - Questions on Promised Legislation**

**Deputy Mary Lou McDonald:** Yesterday, I raised the contract signed by government with National Broadband Ireland, NBI, and pointed out that the majority shareholder of that consortium is Oak Hill Advisors, a firm with more expertise in dealing with distressed debt than infrastructural projects. Broadband roll-out is behind schedule and there are major concerns regarding the structure of the contract with NBI. It was the single biggest contract entered into by the State, with more than €2 billion of public money on the line for a network the State will not even own.

When the contract was signed, the Government gave assurances that the consortium would have to put up more than €200 million of its own funds. That has not happened. The company has invested less than half of that amount and has already recouped €50 million in fees. That looks like a sweet deal for the consortium and a bad deal for Ireland.

Has the Taoiseach ensured that no taxpayer money will be used on this project until the more than €200 million of the consortium's money has been invested in the network? That was the commitment that was made. It is vital we get this sorted out. The people of rural Ireland, in particular, have waited long enough for broadband and the Government must get this right.

**The Taoiseach:** As I said yesterday, this was robustly debated at the time for a considerable length of time in terms of issues leading up to awarding of the contract, the best way to do it and so on. It was done transparently. The Deputy referenced yesterday the memo from the Department of Public Expenditure and Reform that was published at the time. It was weighed up at the time and we had our view. I was in the Opposition. The contract has been signed and the key issues now are to get delivery in terms of the broadband plans, that all contractual obligations are met and, critically, that we get broadband delivered to these areas under the remit of the plan.

**Deputy Mary Lou McDonald:** Can you answer my question?

**The Taoiseach:** I have.

**Deputy Mary Lou McDonald:** That is not an answer to the question.

**Deputy Alan Kelly:** The welcome announcement of the recommendation of vaccines for five to 11-year-olds is something I am strongly in favour of. I seek clarity for the public because we need it. Will this be done through mass vaccination centres or GPs? The vaccine is recommended for those with underlying illnesses or those living with a child with complex needs or with somebody older who is immunocompromised. I understand that but I have a concern about how we kick this off and the language used. Already a discourse is emanating that this is really just for those three categories. I am 100% in favour of this and very pro-vaccine. I urge the Taoiseach today to clarify that while these three cohorts are being prioritised, we are promoting this vaccine for all children. I believe from the discourse I am hearing that there will be challenges on this, more so than in the rest of the vaccine roll-out. I urge the Taoiseach to start an information campaign immediately to deal with this issue from today.

**The Taoiseach:** I thank the Deputy for his comment. His point is valid. The advice from the national immunisation advisory committee, NIAC, is that it strongly recommends that children aged five to 11 years with an underlying condition, living with a younger child with complex medical needs or living with an immunocompromised adult should receive the Covid-19 vaccine developed by Pfizer-BioNTech. This should be offered in parallel with booster doses for those of all ages with underlying conditions. Its idea is that that should not be delayed unduly. NIAC has also recommended that vaccination should be offered to all other children aged five to 11 years in parallel with the offer of booster doses to those aged under 40. The Covid-19 vaccine that has been recommended is the Pfizer vaccine for children aged five to 11 years, and it goes through the doses recommended as opposed to the dose for adults. It is a two-dose schedule three weeks apart.

We now need to give time to the Department of Health and the HSE to comprehensively deal with this. They will announce the comprehensive plan, along with an information campaign.

**An Ceann Comhairle:** Thank you, Taoiseach.

**Deputy Alan Kelly:** How that is kicked off is important.

**The Taoiseach:** That is what they are going to do. I think they will take on board what the Deputy says.

**Deputy Alan Kelly:** Time is of the essence.

**Deputy Cian O'Callaghan:** I want to ask the Taoiseach about tenants not getting their deposits back from landlords. Tenants who are renting from Period Door Properties are owed more than €200,000. Despite 36 determination orders in their favour, they have not received any of their deposits from the landlord, which has gone into liquidation. Tenants have lost out on about €1,800 each, which they simply cannot afford. As the Taoiseach will know, legislation for a deposit protection scheme was introduced in 2015. Six years later, the deposit protection scheme has still not been set up. What is the Government doing to help these tenants to get back their deposits, which they are legally entitled to do, and when will a deposit protection scheme be set up?

**The Taoiseach:** The Minister for Housing, Local Government and Heritage has already

committed in that regard, particularly in terms of students and so forth. He is very actively considering that and, I think, he already has proposals developed in regard to helping people, in the first instance, not to have commit too much in advance and to get their deposits back.

**Deputy Richard Boyd Barrett:** Huge numbers of musicians, performers, entertainers and taxi drivers who, as a result of the dramatic reduction in people going out and the new measures on numbers and percentages in theatres and venues which impact on the night-time economy, are applying for the much-trumpeted restoration of the pandemic unemployment payment, PUP, and are receiving letters denying them it because they had signed on for jobseeker's allowance last week and because they are on the part-time self-employment scheme, the whole point of which was to allow people to earn a little and get some support. All of that ability to earn is now gone because their industry has been decimated coming into Christmas.

**An Ceann Comhairle:** Thank you, Deputy. Time is up.

**Deputy Richard Boyd Barrett:** People are taking massive hits on their income and they are being denied access to the PUP. What is the Taoiseach going to do for these groups of people who have been bit by measures the Government has taken?

**The Taoiseach:** Again, as has been announced, the rate of payment of the PUP will be linked to prior earnings. All individuals, including the self-employed and students, who lose their employment on or after Tuesday, 7 December because of the effects of the new public health restrictions are eligible. The PUP will be available for self-employed workers, such as taxi drivers, if they lose their jobs as a result of the latest restrictions. There is also a provision whereby self-employed workers such as taxi drivers can earn up to €960 over an eight-week period and still receive the PUP. There is flexibility for self-employed workers to carry out some limited work and still avail of the PUP.

**Deputy Richard Boyd Barrett:** Why then are people being denied it?

**Deputy Verona Murphy:** On 5 October, in this House, the Minister for Health, Deputy Stephen Donnelly, stated: "Enabling people with care needs to continue to live independently at home for as long as possible is a priority for the Government." Today, we have 5,000 people waiting for home care support hours. According to private home care providers, 3,000 additional staff will be needed to fill the gap. Carers are not on the critical skills list for permit application on the basis of a review which states that evidence suggests the contracts of employment and terms and conditions being offered are significant factors in the recruitment challenges faced by the sector. In Wexford, we have 1,000 people waiting for home care. Yesterday, I spoke to a woman who was in tears as she is number 1,000 on the waiting list for home care support. She has a broken knee and a broken wrist and she cannot get any home care support.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Verona Murphy:** I ask Taoiseach to please outline a plan.

**The Taoiseach:** Real progress has been made on resourcing home care hours. As the Deputy will know, about 5 million additional hours were provided in 2021-----

**Deputy Verona Murphy:** I agree, but people cannot access them.

**The Taoiseach:** -----and these will be maintained in 2022. There is an issue with securing workers. The Minister of State, Deputy Butler, is working on this with the sector. In the me-

dium term, the issue is improving conditions and so forth but, in the immediate term, it is how we can make it more amenable for people to come into the sector. It is not an issue of resources any more; it is about securing the necessary workforce to provide for the demand out there.

**Deputy Mattie McGrath:** On the same issue, this is a shocking crisis all over the country. The Taoiseach said earlier that the Government's primary role is protecting people's health and caring for people. People are being abandoned. Money is being thrown at this, but we cannot get people to do the work. I salute the carers and the people providing home help, but they are running from Billy to Jack doing what they can in limited time. People are ending up in hospital because they cannot get home care packages. The situation is as bad in Tipperary as it is in Wexford. All over the country, there is a huge shortage.

Christmas Day is approaching. Over Christmas Day and St. Stephen's Day, people will not have a visit from anybody. People will be left to fend for themselves. What kind of a moral compass does the Taoiseach, the Minister for Health and the Minister of State, Deputy Butler, have to do that to old people? There is no point blaming the crisis on the shortage of staff. The HSE should have seen this coming. We have been banging on about in here for years. The Government has thrown money at it throughout the pandemic, but it cannot get the operators. The bottom line is people are suffering and getting sicker and families are struggling. Some of these people do not have families. It is a terrible situation.

**The Taoiseach:** The Minister of State, Deputy Butler, does have a moral compass. I do not think the Deputy should suggest anything to the contrary. The number of people waiting for home support across different categories has reduced from over 9,000 at the start of 2020 to approximately 5,300 at the end of September 2021. The issue is recruitment of additional home support workers. That is the issue. Everything that can be done will be done. Demand has increased but resourcing has also increased. Significant additional people have come into the service to work. We now need to do everything we possibly can to recruit more people. The Minister of State, Deputy Butler, has established a cross-departmental strategic workforce advisory group to get the views of stakeholders and examine the workforce challenges in home support and nursing homes. That group will also look at the issues of recruitment, retention, training, career development and sustainable employment of home care workers into the future.

**Deputy Thomas Pringle:** Yesterday afternoon, the Tánaiste and Minister for Enterprise, Trade and Employment told the media that it was hoped the Government would be in a position to announce the financial supports for the entertainment sector on Wednesday. He went on to say that it may well be that we will need to use the vehicle of the Seanad to do that in the next couple of days and, if not, we may be able to do it in the new year. I know the Tánaiste believes these new restrictions are peculiar. To be honest, I find his lack of urgency more than a little peculiar. The lack of empathy for what people are suffering is astounding.

My offices in Donegal are inundated with calls related to the restoration of the PUP, the lack of clarity around revamp of the existing schemes and in regard to the Government's lack of understanding of life on the ground. It is unfair to leave this on the long finger over Christmas. The Government needs to restore payments to a proper level for these workers affected by the current restrictions. A proper level is not the level the Tánaiste's right-wing *laissez-faire* focus groups have arrived at. Will the Government commit to bringing any required legislation before this House prior to the Christmas break to give people peace of mind?

**The Taoiseach:** There is no lack of urgency and no lack of empathy in terms of the situa-

tion that certain sectors of our economy find themselves in because of the restrictions relating to Covid-19 and the impact of Covid-19 on their particular sectors. It makes a lot of sense, however, as we move from wave to wave and different phases of this pandemic, to adjust the mechanisms we have at our disposal to support people. One can do the overall broad economy but as I said yesterday, a range of sectors have come back very strong in the economy. There has been a very strong rebound and so we want to target our resources to those sectors that need them. By doing that, we give ourselves more sustainability into 2022. We do not know what twists and turns this pandemic is going to present to us so we need to have that capacity. The economic recovery and the way we have done things in the past year and a half demonstrate the wisdom of our approach.

**Deputy David Stanton:** The Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, has said that within the next 30 years, 2 million of our citizens could be impacted by rising sea levels.

*1 o'clock*

It is projected that we will have a permanent sea level rise of up to 1 m within the next 30 years. Should we not be planning for this now, as other countries are? The national coastal change management strategy is long overdue. Will the Government take this issue seriously and what are its plans to offset the inevitability of a permanent sea level rise? Our cities will be impacted.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy David Stanton:** In my constituency, Cobh, Youghal and Midleton will be flooded if this happens.

**The Taoiseach:** I agree with the Deputy, who has made a fair point. We need to work on adaptation more aggressively. I will check the current status of the national coastal change management strategy. We have to prepare. In the past two days, we saw the benefit of preparation and planning by our emergency teams and the different Departments, agencies and local authorities. When things go well, the debate is always, "Should we have done X, Y and Z in preparing?" The inevitable debate is now happening but the bottom line is that I have admired the level of preparation a lot of the agencies did and likewise with climate change and the impact on our coasts and so forth.

**Deputy Patrick Costello:** I raise the issue of accessibility of testing services. While this is obviously a nationwide issue, I will give just one example from my constituency. Until recently, the HSE had a community testing centre at the old health centre on Emmet Road in Inchicore. That is now closed and people in the area who are looking to be tested are having to go out to Citywest or Dublin Airport. According to the Central Statistics Office, CSO, there are places in my constituency where 75% of households do not have access to a car. How are they supposed to get to Citywest or the airport when we are telling them not to use public transport? I have raised with the HSE the need for local community services that are accessible to people who do not have access to a car and who cannot or do not drive. I got a reply from the HSE but not really an answer. Will the Government ensure there are accessible testing services at a community level-----

**An Ceann Comhairle:** Thank you, Deputy. The time is up.

**Deputy Patrick Costello:** -----instead of forcing people to schlep all the way out to City-west when they do not have a car?

**The Taoiseach:** First, to be fair to the HSE and everybody, we are doing 225,000 PCR tests a week now. I remember the hue and cry in here more than a year ago when 100,000 tests were being done. We are now at 225,000 and the target is to get to 250,000. Within that framework, obviously, the HSE will do everything it possibly can to make testing more accessible to people. That can be challenging in terms of logistics and getting the right locations. I will take on board what the Deputy said and communicate it to the HSE.

**Deputy Darren O'Rourke:** On Saturday, the Minister for Finance, Deputy Donohoe, said taxi drivers would not be included in the reopened PUP scheme. On Sunday, the Minister for Social Protection, Deputy Humphreys, said they potentially would be if they could show they had lost their job as a result of the latest restrictions, and there was reference to a Revenue or social welfare audit. Will the Taoiseach indicate whether taxi drivers will be included and, if so, how they will be assessed? Regarding the concept of losing one's job, we know 100% of late-night work is gone as well as at least 50% of other work. If the Department of Social Protection is so inclined, it can point towards the remaining work and say it is available to all taxi drivers to fight over. It is not enough to sustain them, however, especially over the Christmas period. Will the Taoiseach outline how the Government will support the taxi drivers over Christmas, which is a couple of weeks away?

**The Taoiseach:** I said earlier in reply to a question by Deputy Boyd Barrett that the PUP will be available to self-employed workers such as taxi drivers if they lose their job as a result of the latest restrictions.

**Deputy Darren O'Rourke:** What does "lose their job" mean?

**The Taoiseach:** There is also a provision whereby self-employed workers such as taxi drivers can earn up to €960 over an eight-week period and still receive the PUP. There is flexibility for self-employed workers to carry out some limited work and still avail of the PUP.

**Deputy Darren O'Rourke:** They have been refused it.

**The Taoiseach:** Sometimes the manner in which the questions are being put suggests we are in lockdown. We are not. Our economy is the fastest growing economy in quarter 3 in the entirety of Europe. Large sectors of the economy are at full throttle. The point I am making is that things are not at a standstill. That makes it more challenging.

**Deputy Darren O'Rourke:** Work for taxi drivers has dried up.

**The Taoiseach:** It has not entirely dried up. Obviously, there has been an impact on hospitality in terms of all the cancellations.

**An Ceann Comhairle:** Thank you, Taoiseach.

**The Taoiseach:** That affects taxi drivers and, therefore, they can apply for cover.

**Deputy Aindrias Moynihan:** A large number of parents have been raising different concerns with me about the situation of Covid within the school environment, particularly the measures to deal with it. For some, the wearing of masks is a real difficulty and open windows for ventilation is a big problem for many. Parents are asking about measures to improve the envi-

ronment for children in the classroom, including ventilation systems being installed, the use of masks and, in particular, the option of vaccinations being available to children in the classroom if they so wish. Will the Taoiseach outline the plans regarding these and other measures that can improve the classroom environment for both school staff and children?

**The Taoiseach:** Children in school is a priority, as everybody agrees. In terms of the development of the child, that development is optimal when he or she has the capacity to go to school. The overriding objective of the Government is to keep our schools open and have children enjoying education in school. Obviously, Covid has impacted on children and created anxieties and pressures. The manifestation of that has been seen most recently in the advice to wear masks. The next phase will be vaccinations. I pay tribute to principals, school management and teachers, who are doing everything possible to be sensitive but also to create a happy atmosphere in schools. I have been to schools recently where there were very happy children enjoying their education. That has to be said too, notwithstanding all the challenges.

**An Ceann Comhairle:** Thank you, Taoiseach. The time is up.

**The Taoiseach:** On the vaccination front, the HSE will be producing a comprehensive plan.

**An Ceann Comhairle:** The time is up.

**The Taoiseach:** The Deputy should remember there are close to 3,800 schools in the country. There will be logistical issues if we have to do it in every single school.

**Deputy Joe Carey:** I strongly support the Taoiseach's comments in the House encouraging people to take up the third dose or booster vaccine. Initially, when the vaccine programme was being rolled out, a number of issues arose in regard to getting the vaccine to housebound people. I am getting those same complaints now in terms of the third dose. The family of a 99-year-old person from east Clare has been in touch with me looking to get the third dose for that person. I am dealing directly with the HSE on this and I hope we will get there. I can pass the details on to the Taoiseach. The overall issue is that there is no established pathway for people who are housebound to get vaccinated. That needs to be dealt with now. Families of loved ones who want to get the vaccine should be encouraged to do so and shown how to get it.

**The Taoiseach:** In terms of the over-70s group, GPs have largely been responsible for the provision of the vaccines and they have done an excellent job.

**Deputy Denis Naughten:** Not in the home.

**The Taoiseach:** To be fair, they have done an excellent job.

**Deputy Denis Naughten:** They are not doing it in the home.

**The Taoiseach:** I did not say that. Will you calm it, Deputy? I am saying that, overall, they did a good job.

**An Ceann Comhairle:** We are running out of time.

**The Taoiseach:** For the first, second and current dose, the ambulance service teams did a lot of work. We are in the middle of a very difficult situation in the acute services as well, so there have been challenges in that respect. If Deputy Carey gives me the details, I will follow it up.

**Deputy Sorca Clarke:** This morning, some parents in my constituency received the follow-

ing message from their local school: “If someone in your household has Covid-19 and cannot isolate from others, your child would need to stay at home for 17 days even if they feel well and get a negative PCR test.” This refers to something that public health advisers and the HSE refer to as constant exposure or ongoing exposure, where there is one person in the house who tests positive but, for whatever reason, cannot isolate and does not have access to a dedicated bathroom, which creates this situation. I am going to put to the Taoiseach the questions these parents have been putting to me this morning. Will homeschooling be facilitated when situations like this arise? Given we have a seven-day average of 4,659 cases, it is safe to assume there are a number of children in this situation at this point in time.

**The Taoiseach:** Will the Deputy repeat the start of her question?

**Deputy Sorca Clarke:** I will indeed. I am referring to what is called constant exposure or ongoing exposure. Will homeschooling be facilitated for those children who are required to stay out of school for 17 days? Second, where a parent is required to be at home to provide vital care for a child, will that parent have access to the pandemic financial supports, whether illness benefit or the PUP?

**The Taoiseach:** Parents of children in such situations should first contact their local school. Is the Deputy suggesting that anybody who is a close contact and who is staying at home should be provided with homeschooling?

**Deputy Sorca Clarke:** No, the child. If you have a child-----

**The Taoiseach:** That is already-----

**Deputy Sorca Clarke:** No, this is for children who are out for 17 days.

**The Taoiseach:** The homeschool programme has, as the Deputy knows, already been extended significantly.

**Deputy Sorca Clarke:** This is for 17 days.

**The Taoiseach:** I am talking about the solution that the Deputy is suggesting. It needs to be realistic. The first port of call should be engagement with the principal of the local school regarding the educational needs of the child.

**Deputy Sorca Clarke:** Has the Taoiseach had engagements with the schools? Will the parents be able to access financial supports?

**An Ceann Comhairle:** The Deputy cannot ask several questions. I call Deputy Paul Kehoe.

**Deputy Paul Kehoe:** On 8 December 2000, Trevor Deely went missing in Dublin. Trevor, a 22-year-old employee of Bank of Ireland Asset Management, had attended a Christmas party that evening. On leaving the party, he stopped off at the bank where he worked and disappeared shortly afterwards. The last sighting of him was at 4:14 a.m. on Haddington Road. The search for Trevor continues. In fairness, his parents, Michael and Ann Deely, his siblings, family, colleagues and friends have put huge effort in over the past 21 years in the search for Trevor. A man dressed in black who had been seen in two pieces of CCTV footage on that night is deemed crucial to the investigation. An Garda Síochána has conducted extensive searches and a wide-ranging investigation, but to no avail. As we approach Christmas, this is a difficult time for

the Deely family and for the families of Annie McCarrick, JoJo Dollard, Fiona Pender, Ciara Breen, Fiona Sinnott and Deirdre Jacob. Can the Taoiseach confirm that every effort will be made and that State resources will be used to ensure that the existing investigation will continue in order that, hopefully, some form of closure might be achieved?

**The Taoiseach:** I thank the Deputy for raising the sad and tragic situation of Trevor Deely and the fact that his family and the other families referred to have not received closure. All resources will be made available to An Garda Síochána and the relevant State agencies to pursue the issue.

**Deputy Pa Daly:** I thank the Ceann Comhairle for giving me the time to speak about the hospital in Dingle. In 2008, Ospidéal Pobal Chorca Dhuibhne was granted funding of €16.4 million and promised to deliver badly needed services for West Kerry, including 76 beds, an X-ray service and a place where minor injuries could be treated. The hospital, however, has not fared well under successive Governments and is operating now at 30 beds below capacity. It never provided more than 54 beds. Given the storm that happened recently and the extra pressure that is on health service, there is a need for extra services on the peninsula. Eight residential beds and eight short-stay beds have been closed due to lack of staff. The fact that the hospital has never delivered on its full potential is, in my view, a disgrace. As a former Minister for Health, what is the Taoiseach going to do about the matter?

**The Taoiseach:** I remember we were involved in getting it established and getting the momentum behind getting the new facility built. One of the major issues, notwithstanding the fact that we have recruited over 11,000 extra healthcare workers in the past two years, is that it still remains a challenge to recruit the necessary medical and nursing personnel to facilities. Again, we will work with the HSE to see what we can do to expand the facility in Chorca Dhuibhne.

**Deputy Denis Naughten:** Two years ago, the Dáil referred the Patient Safety (Notifiable Patient Safety Incidents) Bill 2019 for Committee Stage consideration by the health committee. This new law will provide for mandatory open disclosure in the case of serious medical mistakes. We have all dealt with incidents where individuals or their next of kin have been refused honest answers to the most basic of questions by the health service. Sadly, the pandemic and the cyberattack have been used in some instances to justify the continuation of this practice. My question to the Taoiseach is when will Committee Stage of this vital Bill be taken?

**The Taoiseach:** I will revert to the Deputy on the matter.

**Deputy Christopher O'Sullivan:** I want to raise the issue of the wearing of face masks by children in primary schools. I fundamentally get the necessity to follow NPHEH advice, and I have always supported the Taoiseach in that. Following that expert advice has served the Taoiseach, the country and the people well. There comes a point when we have to ask whether the benefits of a measure outweigh the potential harms of that measure. I am doing this on behalf of the parents, guardians and school principals, who have contacted me in respect of this issue. They have concerns about developmental issues relating to young children, psychological issues, educational issues, learning difficulties, etc. When will there be a review of this policy, particularly in light of the fact that the virus does not have a massive impact on young children's health in general and that the numbers of hospitalisations, etc., are starting to balance out?

**The Taoiseach:** The advice in this regard came from the Chief Medical Officer and NPHEH. They are primarily concerned with the high levels of case numbers involving five- to 11-year-

olds in particular. The recommendation was that mask-wearing should be for those aged nine plus. We will continue to keep this under review. We will continue to get feedback from the schools and evaluate this, but it is in line with public health advice.

**Deputy David Cullinane:** A number of months ago, Ministers and the three leaders of the parties in government, made a lot of noise about the bonus and recognition payment for those on the front line in healthcare. Many Ministers fell over themselves to talk about how that was going to be expanded to others on the front line outside of healthcare. There was a lot of expectation built up and a great deal of noise. The budget came and went, but people heard nothing. Since the budget, that noise has been replaced with radio silence. Maybe the Taoiseach can amplify the noise that was there in the past and explain to me and the people listening when those on the front line in healthcare and elsewhere who have been through the wars over the past number of months and years are going to get the bonus and the recognition payment that was promised?

**The Taoiseach:** I thank the Deputy for raising the issue. There has been engagement with social partners about this. There is no question that front-line workers, particularly in the healthcare area, have been exceptional, in ICUs and elsewhere. Certainly, we are looking at a range of proposals. The intention remains to respond to that issue. When those deliberations are finalised I will come back to Deputy Cullinane.

### **International Protection (Family Reunification) (Amendment) Bill 2017 [Seanad]: Referral to Select Committee**

**Deputy Thomas Pringle:** I move:

That the Bill be referred to the Select Committee on Justice pursuant to Standing Orders 95(3)(a) and 178(1).

Question put and agreed to.

### **Estimates for Public Services 2021**

**Minister for Public Expenditure and Reform (Deputy Michael McGrath):** I move the following Supplementary Estimates:

#### **Vote 6 — Chief State Solicitor's Office (Supplementary Estimate)**

That a supplementary sum not exceeding €3,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Chief State Solicitor.

#### **Vote 12 — Superannuation and Retired Allowances (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which

will come in course of payment during the year ending on the 31st day of December, 2021, for pensions, superannuation, occupational injuries, and additional and other allowances and gratuities under the Superannuation Acts 1834 to 2004 and sundry other statutes; extra-statutory pensions, allowances and gratuities awarded by the Minister for Public Expenditure and Reform, fees to medical referees and occasional fees to doctors; compensation and other payments in respect of personal injuries; fees to Pensions Authority and other professional fees, miscellaneous payments, etc.

**Vote 17 — Public Appointments Service (Supplementary Estimate)**

That a supplementary sum not exceeding €3,665,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Public Appointments Service.

**Vote 20 — Garda Síochána (Supplementary Estimate)**

That a supplementary sum not exceeding €22,900,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Garda Síochána, including pensions, etc.; for the payment of certain witnesses' expenses, and for payment of certain grants.

**Vote 22 — Courts Service (Supplementary Estimate)**

That a supplementary sum not exceeding €3,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Courts Service and of the Supreme Court, the Court of Appeal, the High Court, the Special Criminal Court, the Circuit Court and the District Court and of certain other minor services as are not charged to the Central Fund.

**Vote 24 — Justice (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Justice, Probation Service staff and of certain other services including payments under cash-limited schemes administered by that Office, and payment of certain grants.

**Vote 26 — Education (Supplementary Estimate)**

That a supplementary sum not exceeding €267,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Education, for certain services administered by that Office, and for the payments of certain grants.

**Vote 29 — Environment, Climate and Communications (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Environment, Climate and Communications, including certain services administered by that Office, and for payment of certain grants.

**Vote 30 — Agriculture, Food and the Marine (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Agriculture, Food and the Marine, including certain services administered by that Office, and for payment of certain grants and subsidies and for the payment of certain grants under cash-limited schemes and the remediation of Haulbowline Island.

**Vote 31 — Transport (Supplementary Estimate)**

That a supplementary sum not exceeding €91,348,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Transport, including certain services administered by that Office, for payment of certain grants and certain other services.

**Vote 32 — Enterprise, Trade and Employment (Supplementary Estimate)**

That a supplementary sum not exceeding €1,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Enterprise, Trade and Employment, including certain services administered by that Office, for the payment of certain subsidies and grants and for the payment of certain grants under cash-limited schemes.

**Vote 33 — Tourism, Culture, Arts, Gaeltacht, Sport and Media (Supplementary Estimate)**

That a supplementary sum not exceeding €35,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, including certain services administered by that Office, and for payment of certain subsidies and grants.

**Vote 34 — Housing, Local Government and Heritage (Supplementary Estimate)**

That a supplementary sum not exceeding €198,915,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Housing, Local Government and Heritage, including grants to Local Authorities, grants and other expenses in connection with housing, water services, miscellaneous schemes, subsidies, grants and payment of certain grants under cash-limited schemes.

**Vote 37 — Social Protection (Supplementary Estimate)**

That a supplementary sum not exceeding €473,541,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Social Protection, for certain services administered by that Office, for payments to the Social Insurance Fund and for certain grants.

**Vote 45 — Further and Higher Education, Research, Innovation and Science (Supple-**

**mentary Estimate)**

That a supplementary sum not exceeding €230,000,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2021, for the salaries and expenses of the Office of the Minister for Further and Higher Education, Research, Innovation and Science for certain services administered by that Office, and for the payments of certain grants.

Votes put and agreed to.

**Ceisteanna - Questions**

**Brexit Issues**

1. **Deputy Neale Richmond** asked the Taoiseach when the Cabinet committee on Brexit will next meet. [58578/21]

2. **Deputy Mary Lou McDonald** asked the Taoiseach when the Cabinet committee on Brexit will next meet. [60150/21]

3. **Deputy Alan Kelly** asked the Taoiseach when the Cabinet committee on Brexit will next meet. [60117/21]

4. **Deputy Brendan Smith** asked the Taoiseach when the Cabinet committee on Brexit will next meet. [60328/21]

5. **Deputy Christopher O'Sullivan** asked the Taoiseach when the Cabinet committee on Brexit is meeting next. [60329/21]

6. **Deputy Christopher O'Sullivan** asked the Taoiseach when the Cabinet committee on Brexit is meeting next. [60567/21]

7. **Deputy Neale Richmond** asked the Taoiseach when the Cabinet committee that deals with Brexit will meet next. [60573/21]

**The Taoiseach:** I propose to take questions Nos. 1 to 7, inclusive, together.

The Cabinet committee on Brexit and Northern Ireland was established by Government on 6 July 2020 and had his first meeting on 29 October 2020. The Cabinet committee last met on 4 March 2021 and was scheduled to meet again on Monday, 29 November, but had to be postponed due to the need for a meeting on Covid-19. A revised date has yet to be confirmed. It should be noted that relevant issues arising on Brexit and Northern Ireland are regularly considered at meetings of the full Cabinet. This week's Cabinet consider two comprehensive memos on North-South co-operation and on the shared island initiative. The Cabinet committee on Europe which last met on 14 October also discussed related matters. In addition to the meetings at the full Cabinet and of Cabinet committees, I also meet with Ministers on an individual basis to focus on particular issues where required.

**An Ceann Comhairle:** I ask that Deputies could limit the supplementary replies to a minute and a half so that we can get through everyone. I call Deputy Richmond.

**Deputy Neale Richmond:** I thank the Taoiseach for his reply. There are four matters I would like to raise. Many of them follow on from yesterday's discussion on North-South relations. I would appreciate it if the Taoiseach could elaborate on what efforts the Government is making to work with industry, individuals and sectoral groups to prepare for the new Brexit checks that are due to come into place on 1 January. What is being done to continue the excellent efforts to diversify the trade routes in order that we can trade directly with our largest market, namely, the Continent? What impact is Brexit having on overall Anglo-Irish relations? Without getting into too much detail, the political climate in London is a little confusing today and there is a big fear that whatever controversy the British Government faces will lead to it using the dead-cat strategy, such as by invoking plan B on Covid or making yet another threat to trigger Article 16. I ask the Taoiseach to elaborate on the continuing efforts between himself, European partners and the British Government to ensure Article 16 is not needlessly triggered.

**Deputy Louise O'Reilly:** Data published last month by the British Office for National Statistics demonstrate the economic benefits of the protocol for the North's economy. In fact, the figures show that the North has performed better economically than Britain in tackling the challenges caused by Brexit. The data from Britain tell a very different story of the impact of Brexit on its economy. Its Office for Budgetary Responsibility has forecast that the long-term impact of Brexit on growth will be worse than that of the pandemic, with the hit to GDP likely to be twice that of Covid. As my colleagues in the North have highlighted, there is a growing body of evidence that demonstrates that the protocol is protecting the North's economy through its unique access to the EU's Single Market. The majority of businesses, people and parties in the North opposed Brexit and want to see the protocol not just working for the economy but maximised in terms of its potential. Tory threats to trigger Article 16 have also been firmly rejected by businesses and industry in Britain. The Confederation of British Industry has been categorical in its demand of Boris Johnson that his Government should not go anywhere near Article 16. Businesses in the North and Britain want the Tories to pursue a better relationship with the EU, not deepen the fallout from Brexit, which seems to be their current strategy and is supported by unionism. During the Taoiseach's recent discussions with the British Prime Minister and unionist leaders, was there a recognition of the protections the protocol has provided to the North's economy or its additional potential for the future?

**Deputy Alan Kelly:** News came on Monday that Ireland is to receive approximately €920 million from the EU's Brexit adjustment reserve fund, with an additional €244 million to be paid in 2025. That is very welcome but we need to ensure that EU funding goes to the traders and sectors that need it most, including those in our fishing sector, businesses dealing with Brexit challenges and, of course, agriculture and food. What plan does the Government have for this money? Can the Taoiseach provide detailed breakdowns for this year and next year? I understand that a portion of the money will go to assist the fishing sector, compensating it for loss of trade and hopefully protecting jobs. How will the public be kept up to date on this? Will there be one big announcement? Has the Government discussed the matter? Has the sub-committee met to discuss it? Can the Taoiseach give some indication of the structure for how this funding will be allocated this year and in the forthcoming years?

**Deputy Brendan Smith:** As we all know, the Ireland-Northern Ireland protocol is part of the withdrawal agreement. I know from my interactions with businesses in neighbouring counties north of the Border that they are anxious that the protocol works and that whatever

difficulties and issues there are to be resolved as soon as possible, without any threats of anybody triggering Article 16. They are anxious that the Government, along with the European Union, continues to work towards resolving whatever outstanding issues there are. Professors Katy Hayward and David Phinnemore of Queens University have done excellent work over the past number of years with regard to Brexit. They recently carried out some surveys on people's attitude to the protocol in Northern Ireland. Two of the major issues of concern were the availability of medicine and the need to reduce the customs paperwork for products travelling from Britain to Northern Ireland. The Taoiseach gave us an assurance some time ago with regard to medicines that those issues would be resolved. All of us want to see that happen. I ask the Taoiseach to give us a progress report on where we are at with the medicines issue, as well as the possibility of having the customs paperwork reduced. It is a particular difficulty for smaller businesses and we want to ensure they will not continue to be impacted adversely by Brexit.

**Deputy Christopher O'Sullivan:** As the Taoiseach knows, Brexit had a disproportionate impact on the fishing sector. The Common Fisheries Policy review is looming. What is the Government's approach to that review in terms of addressing the burden share and quota share issue facing the Irish fleet? I understand that there will be a meeting of the European Council on 12 and 13 December, including marine and fishing ministers, to discuss quota share. Surely that is an opportune time to discuss the issue of burden sharing and the fact that the Irish fleet is not getting a fair share of the quota. It is an opportunity to highlight the inequity of our quota share in species such as hake, haddock and monkfish, which are predominantly caught in Irish waters but of which we have a tiny percentage of the quota. What is the general approach to addressing that quota share issue? I know the Taoiseach is well aware of it from visiting west Cork and meeting stakeholders.

**Deputy Richard Boyd Barrett:** I want to follow up on the question Deputy Connolly asked earlier. As the Taoiseach knows, Deputy Connolly and I are very strongly in favour of the vaccination programme. We think people should get their boosters and we agree about the injunction to protect life and limb. However, there are human rights considerations for the small number of people who cannot be vaccinated for health reasons or who have not yet been persuaded, sometimes because they do not really understand the issue. I just want to draw a contrast with the North of Ireland in this regard. The North is avoiding that issue of discrimination against that small group by giving people options other than the vaccination certificate, namely, testing, in order to allow them access to theatres, bars, restaurants and so on. In fact, that is the case in most of Europe. The Government should consider doing that because, even though I am absolutely a believer in the vaccination campaign, that sort of divisiveness and finger-pointing at a relatively small group is not helpful. It smacks of the mandatory approach that the WHO has warned strongly against and which I think is counterproductive. I ask the Taoiseach to consider that so we can end that sort of divisive situation.

**The Taoiseach:** I thank all the Deputies for raising these matters. Deputy Richmond raised issues around the protocol and Brexit. All efforts are continuing to be made in terms of preparation. To be fair to the Government, and the previous Government, Ireland has prepared well for Brexit compared to what is happening in the UK. That seems to be evident in the challenges many SMEs have had in the UK in respect of form-filling and all the bureaucratic challenges and barriers that have come up because of Brexit. The Deputy is right about future dates and deadlines and that work continues with all sectors. I was in Rosslare recently to see the preparations and work that have been under way there.

On the matter of Article 16, I understand what Deputy Richmond is saying about the domes-

tic British political situation. In all our exchanges, particularly at the meeting of the British-Irish Council we had with the Secretary of State, Michael Gove, and others, there was a clear sense, to be fair, that they were not going to be motivated by domestic political considerations. There was a sense that they wanted to bring this to a resolution and that they wanted, preferably, to do it in the context of a negotiated solution between the European Union and the United Kingdom. Those expressions of opinion and points were put well and cogently by Michael Gove and subsequently by the British Prime Minister in a telephone conversation I had with him. That is the preferred route of travel and everybody wants to pursue it in that manner.

On the points raised by Deputies Kelly and Brendan Smith, at the British-Irish Council the Scottish and Welsh First Ministers were at pains to point out the challenges Brexit has posed for them. That was particularly the case with the Welsh First Minister due to the reduction of trade in the ports and the potential impact on their respective economies.

Regarding the points Deputies Christopher O’Sullivan and Kelly made on the Brexit adjustment reserve fund, the Minister for Public Expenditure and Reform has included that in the national development plan and will be allocating it specifically to certain areas for prioritisation. The key one will be fishing - we are very conscious of that - but also included are rural communities, the food industry, agriculture and other sectors that will be most impacted as a result of Brexit and the costs and measures we have had to introduce to deal with Brexit. It is very welcome funding of more than €1 billion that we have secured. The Minister for Public Expenditure and Reform will be providing greater detail in respect of that in due course.

Deputy Brendan Smith is absolutely correct; that is our sense as well. Industry and businesses in the North believe the protocol is working for them. What is interesting is that, if someone is a farmer in Northern Ireland or involved in the dairy industry, the seamless flow North and South is absolutely indispensable to his or her business. Likewise, access to the Single Market for Northern businesses is important, gives an advantage and helps them to export more and, potentially, attract foreign direct investment into the North. That is important, as is access to Great Britain’s market, of course, which is the biggest market for Northern Ireland. That is the ideal landing zone for the protocol, but we must do it in a way that, as the Deputy said, minimises the checks in respect of small to medium-sized business.

Real progress has been made in respect of medicines. I would argue that we are close to a position on medicines that should meet the concerns that the British Government and people in Northern Ireland have in respect of access to the latest medicines and those authorised by the British regulatory authorities. The devil is always in the detail and there is some remaining work to be done on that. The same applies to customs and sanitary and phytosanitary, SPS, checks. The initial assessment from the Commission was that the proposals put forward by Commissioner Maroš Šefcovic would reduce SPS checks by about 80%. The work is ongoing between Commissioner Šefcovic and Lord Frost. We hope they can reach a proper, sensible agreement that will be to the benefit of everyone. As I said yesterday, all the participants at the British-Irish Council were very clear and articulated to the British Government that we did not want any more disruption between the EU and the UK.

Deputy Christopher O’Sullivan raised the issue of fishing specifically, including in terms of the Brexit fund. A proportion of that fund will be available to fishers. In terms of burden sharing, I recently wrote to the President of the European Commission in that respect pointing out the fact that we had too high a burden resulting from the Brexit deal. There is a long road to go. I spoke to the Commissioner for Environment, Oceans and Fisheries when he came here

with the Minister for Agriculture, Food and the Marine, Deputy McConalogue. There are 27 member states and achieving agreement on these issues is very challenging and difficult, but I know that the Minister will do everything he can to get the best deal he possibly can in this annual round. The fishing review is next year. We have fed our reviews into that and will continue to do so.

Deputy Boyd Barrett raised the issue of giving people other options. I am concerned about those who cannot have a vaccine because of medical reasons, including adverse reactions. We have followed the voluntary approach here. I am not responsible for writing headlines, but when we raise issues around what is happening in ICUs, that is not done by way of threat or trying to pressurise people. It is just stating the facts as we get them in terms of the impact of the disease and whether people are vaccinated.

### **Departmental Functions**

8. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the work of the public service, justice and police reform division of his Department. [58549/21]

9. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the work of the public service, justice and police reform division of his Department [60203/21]

10. **Deputy Paul Murphy** asked the Taoiseach if he will report on the work of the public service, justice and police reform division of his Department [60206/21]

11. **Deputy Cian O’Callaghan** asked the Taoiseach if he will report on the work of the public service, justice and police reform division of his Department. [60355/21]

12. **Deputy Dara Calleary** asked the Taoiseach if he will report on the work of the public service, justice and police reform division of his Department. [60569/21]

**The Taoiseach:** I propose to take Questions Nos. 8 to 12, inclusive, together.

The public service, justice and policing reform unit is part of the social policy and public service reform division of my Department. The work of the unit supports me, in my role as Taoiseach, on criminal justice, policing, community safety and related matters; incorporates the policing reform implementation programme office, which oversees the implementation of A Policing Service for the Future, the Government’s plan to implement the report of the Commission on the Future of Policing in Ireland; and supports the Civil Service management board, including the Civil Service renewal programme, and contributes to the oversight and governance of the new public services reform plan.

The unit also assists the work of the Cabinet committee on social affairs and equality and the associated senior officials’ group established to oversee implementation of programme for Government commitments in the areas of social policy, equality and public services, including matters relating to arts and culture, children, justice, policing reform, community safety, disability, social inclusion, gender equality, direct provision, the Irish language and sport. It has departmental oversight of the National Economic and Social Council, provides me with briefing and speech material on social policy and public service reform issues, and participates in relevant interdepartmental committees and other groups.

**Deputy Louise O'Reilly:** Friday is International Human Rights Day. It will mark the end of this year's 16-day campaign against gender-based violence against women. The global theme for International Human Rights Day is reducing inequalities and advancing human rights. Drawing on Article 1 of the Universal Declaration of Human Rights, which reads, "All human beings are born free and equal in dignity and rights", we are reminded that the principles of equality and non-discrimination are at the heart of human rights. These principles are relevant in every sphere of public policy, be it the right to a healthy environment, equal access to vaccines, breaking the cycle of poverty or protection from gender-based abuse, violence or death.

The programme for Government commits to legislating for domestic homicide reviews and the Justice Plan 2021 commits to publishing the independent research on familicide and domestic homicide reviews. Work on this study began in 2019. Even allowing for the sad passing of Ms Norah Gibbons last year, we still have no indication from the Minister as to when she expects to receive the final study. It is important to note that it was expected to take months rather than years to be completed. While we acknowledge the independence of the advisory group and its work, surely the Minister should at this point be provided with a date for which the group expects to conclude its work.

**The Taoiseach:** I am sorry, but which review did the Deputy mention?

**Deputy Louise O'Reilly:** The research on familicide and domestic homicide reviews. It was expected in months but years have now passed. There are some reasons but they do not account for all of the delays.

I wish to mention briefly the Tusla review of refuge accommodation. It had been expected that the review's publication was imminent but it has been mooted that the Minister is considering delaying it. I cannot overstate the alarm that this has caused across the sector, particularly among service providers. Will the Taoiseach confirm whether publication of the review is to be delayed? If so, will he please share with us the rationale for that? I fail to see any reasonable excuse for a further delay.

**Deputy Richard Boyd Barrett:** People looking to get appointments with the Irish Naturalisation and Immigration Service, INIS, on immigration matters are unable to get any. I am inundated with complaints about this matter. I submitted parliamentary questions on it, through which I was informed that the INIS was registering 1,000 customers per week, implying that there was no problem, but I have had repeated confirmations from people that this cannot be true because when they go on, there are no appointments being released. People are going on at midnight and early in the morning but there are no appointments. There is a suspicion that companies, English language schools or others are block booking all of the appointments. I do not know whether that is true. I am simply saying that there is a concern. What is the case, however, is that people cannot get appointments.

**The Taoiseach:** With the INIS?

**Deputy Richard Boyd Barrett:** Yes. It is a serious and widespread problem. I see that other Deputies are nodding their heads. This issue needs to be addressed. We are not getting the truth of the matter when we submit questions to the INIS and the Department of Justice. Will the Taoiseach address this matter? I do not know whether he can tell us anything now but I urge him to address it.

**Deputy Paul Murphy:** I echo that point. There is a serious issue.

I wish to raise with the Taoiseach a case I have raised with him a number of times, that is, the gross and sexist abuse of power by retired Kerry judge James O'Connor. I have brought a number of testimonies to the Dáil of women in vulnerable positions before him on family law matters where he used his position to completely, inappropriately pressurise and pursue them for sexual relationships. When I raised this with the Taoiseach on 29 September he said: "I am very concerned about it and about what I have read today in the articles the Deputy mentioned. I will give further consideration to this and revert to the Deputy." It is now two and a half months on and I wonder if the Taoiseach has any information to revert with.

**Deputy Cian O'Callaghan:** I also echo the points made by Deputy Boyd Barrett. I want to ask the Taoiseach about safeguarding and vulnerable adults. I raised this with him previously. I specifically want to ask him about the need for guidelines or legislation to be introduced to require the Garda when they have credible allegations of sexual assault and rape to inform relevant organisations, including where alleged perpetrators work or volunteer, in order to protect and safeguard vulnerable adults. It is not acceptable that when gardaí have knowledge of credible allegations that they fail to pass it on, which leaves vulnerable adults at risk. It is completely unacceptable that homeless people were put at continued risk earlier this year when the Garda failed to pass on information in a timely manner. This should never be allowed happen again.

I followed up on this with the Minister for Justice and it is clear to me that the current practices and procedures are not fit for purpose. The absence of clear guidelines or legislation is unfair to the individual gardaí who do not know what they should do, when they should do it and in what circumstances. Will guidelines or legislation be introduced to ensure that the Garda pass on information when they have credible allegations of sexual assault and rape to relevant organisations in a timely manner? Will the safeguarding legislation that was introduced by former Senator, Colette Kelleher, in the previous Oireachtas be progressed by the Government?

**Deputy Alan Kelly:** It is unusual for all of us to echo one point, but what Deputy Boyd Barrett said earlier about those appointments is true. It is the case with all of us in here, so I urge the Taoiseach to take it seriously.

I wish to raise two issues. The Garda Commissioner expressed serious concerns regarding policing reforms. He told the justice committee that the powers granted to the new Garda ombudsman under the Policing, Security and Community Safety Bill 2021 was "disproportionate, unconstitutional and will not withstand an expensive and time-consuming test in the courts". That is completely at odds with the Government, so what is going to happen? It is very unusual.

Where are we at as regards implementation of the future of policing report and the Policing Authority? We support the minority report. We will not support anything that allows a situation where senior appointments in An Garda Síochána are being made by the Commissioner. That must be done independently. It is the very reason we set up the Policing Authority in the first place.

**Deputy Brendan Smith:** Since the onset of the Covid pandemic in March 2020, we have all become more conscious of the value of community policing. We saw in our own communities a greater presence of gardaí. That was particularly reassuring for people living on their own or older people. In my home town in Cavan, community gardaí were recently appointed and that has been warmly welcomed by the local community. I see they are out meeting people and getting to know them. Likewise, the local community know the local members of An Garda Síochána better than ever. There should be a greater emphasis going forward to bring back the

community policing concept and have gardaí stationed locally.

One of the many downsides of the pandemic has been the increasing incidence of domestic abuse. Sadly, there has been a significant growth in incidences, which is regrettable. Tusla, along with the Departments of Justice and Children, Equality, Disability, Integration and Youth, has carried out a review on the availability of services for victims of abuse and also the availability of refuge places. Unfortunately, there is no refuge centre in either Cavan or Monaghan. If a person needs assistance, he or she must go to a neighbouring county to get accommodation and that is not acceptable. I would like if there could be increased emphasis at Cabinet committee level on ensuring there is easy and appropriate access to a refuge centre for victims of domestic abuse. We all know that women mainly, unfortunately, are victims of domestic abuse. They are very vulnerable and if they have to travel to a neighbouring county there is no chance of their children being able to go to their local school or preschool. It is very important that we have a proper spread of domestic refuge centres throughout the country and that no areas are left without a service within reasonable access.

**The Taoiseach:** Deputy O'Reilly's question about the report on familicide and homicide was first. The justice plan for 2021 commits to publishing the independent research on familicide and domestic homicide reviews, which has been commissioned by the Department of Justice as an important first step in delivering on the programme for Government's commitment to legislate to introduce domestic homicide reviews. This independent study is looking at international best practice in the conduct of domestic homicide reviews with a view to making recommendations on their application in this jurisdiction. It is important to stress that the study is independent of the Department, which is not involved in the work of the study nor is it a member of the advisory group established to support the study.

It is understood that the focus of the study is now on the fair procedures part of the process, which involves allowing any persons or organisations that might be affected by the contents of the draft report, including the families concerned, to be given an opportunity to reply. Invariably, this part of the process can take time, as it involves engaging with multiple entities. However, it is an essential part of the process and must be completed before the report can be finalised. I have been informed that the report is expected to be finalised in the coming weeks and that it will be subsequently published with any recommendations made being considered as a priority. We will keep in touch with the Deputy in relation to it.

Deputy Boyd Barrett raised the issue of INIS, as did other Deputies. The Minister of State, Deputy James Browne, in an effort to be helpful just said to me that it is an international phenomenon and there are challenges regarding it. I will come back with a more comprehensive reply to the Deputy. It is not an issue that is being deliberately orchestrated by the Government or the officials or anything like that. There is an issue that does not just relate to this country. ICT systems are being updated. The best thing for me to do would be to articulate the concerns of Deputies and to come back with a comprehensive reply on the matter.

At some stage Deputy Boyd Barrett might reconcile for me what he said earlier about a human rights prism. He is an advocate of zero Covid and I do not know how we reconcile it with human rights considerations. I get opposite ends of the arguments at different times during the pandemic. I just make that point in passing.

Deputy Paul Murphy raised an issue, but I am not sure how far we can take this.

**Deputy Paul Murphy:** The Taoiseach said he would revert to me.

**The Taoiseach:** I said I would reflect on it. I am not clear where we can take it given the fact that the Garda and GSOC were involved. It is not for me to comment. I commend the Deputy on raising the matter. I know it is in the *Village* magazine as well, but I think the steps that can be taken are beyond my remit at this stage.

Deputy Cian O'Callaghan raised safeguarding of vulnerable adults. He makes very consistent and fair points in that regard. I know that work is being done in Garda vetting, for example, and extending it to cover workers in the homeless sector. In the light of recent issues, the Garda Commissioner, Drew Harris, has acknowledged the need to address the vetting of people working with the homeless and this might require a review of the legislative provisions.

As part of an overall approach to the reform of and extension of the Garda vetting regime, the Minister for Justice has set up an interdepartmental group to examine vetting legislation and arrangements. The group is examining a number of issues, including the inclusion of homeless outreach services. Its recommendations would then shape any amendments to the vetting legislation and processes, including those required to commence periodic re-vetting. The group is specifically examining any amendments that may be required to remove any doubt that outreach and other services for homeless people who are vulnerable are covered by the vetting regime.

In response to Deputy Brendan Smith's point, I am pleased that someone in the House is praising the Garda. I agree that the community Garda system is an outstanding one and we need to see more of it.

I do not have time to go into the full detail of the implementation of the future of policing report in response to Deputy Kelly. I dealt with it in the House two weeks ago on Question Time. The Government is going full steam ahead with the implementation of the report.

**Deputy Alan Kelly:** What about the Commissioner?

**The Taoiseach:** The Commissioner gave his views at an Oireachtas committee.

**Deputy Alan Kelly:** What are the Taoiseach's views on that?

**The Taoiseach:** Given yesterday's exchanges, I think we are in favour of people being allowed freedom of expression.

**Deputy Alan Kelly:** That is not an answer. It is ridiculous.

**The Taoiseach:** I only have seconds left.

**An Ceann Comhairle:** We must move on to the next questions.

### **Departmental Functions**

13. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [58550/21]

14. **Deputy Alan Kelly** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [60110/21]

15. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [60207/21]

16. **Deputy Paul Murphy** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [60210/21]

17. **Deputy Cian O’Callaghan** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [60356/21]

18. **Deputy Dara Calleary** asked the Taoiseach if he will report on the work of the social dialogue co-ordination unit of his Department. [60570/21]

**The Taoiseach:** I propose to take Questions Nos. 13 to 18 together.

The social dialogue unit, part of the economic division in my Department, co-ordinates and supports the Government’s overall approach to social dialogue through a variety of mechanisms. These mechanisms includes LEEF, the labour employer economic forum, which engages with representatives of employers and trade unions on economic and employment issues insofar as they affect the labour market. The LEEF has met regularly to facilitate discussions with Government on issues related to the Covid-19 pandemic and our economic recovery. The most recent plenary meeting, which I chaired, took place on 28 October.

Social dialogue through the LEEF process played a crucial role in ensuring workplaces are safe during the Covid-19 pandemic, and a subgroup of LEEF was responsible for preparing, updating and overseeing a work safely protocol which has provided guidance to employers and workers on the steps they need to take collectively to ensure workplaces are safe during the pandemic. The most recent update of the protocol, along with a LEEF guidance note, was published in November. Under the auspices of LEEF, there has also been significant progress on other issues such as the introduction of statutory sick pay, remote working and establishment of a high level review of collective bargaining. There are also LEEF sub-groups dealing with issues including aviation, childcare and the shared island initiative.

The social dialogue unit in my Department also supports my engagements with representatives from the environmental pillar, the community and voluntary pillar and the farming and agriculture pillar. This has included a series of meetings between myself and key Ministers with those groups earlier this year. This was an opportunity to discuss how social dialogue can be strengthened, as well as current issues of concern to those sectors. Social dialogue between Government, trade unions and other representative groups also takes place through structures like the national economic dialogue, the National Economic and Social Council and the National Competitiveness and Productivity Council, through many sectoral groups and with Ministers and Departments directly. The Government is keen to build on these structures, including through a national dialogue on climate action as part of the climate action plan.

As we manage the economy through these challenging times, the Government will continue to engage with representatives under the aegis of LEEF, as well as other stakeholders, and work to strengthen the structures and practice of social dialogue across all areas.

**Deputy Pádraig Mac Lochlainn:** One of the social issues that has captured the hearts and minds of our people over the last year has been the plight of families with homes crumbling down around them in the west of Ireland. The Government has taken action in the last week to address this but I have to raise with the Taoiseach again this issue of the sliding scale. I have

correspondence from the Minister for Housing, Local Government and Heritage to Donegal County Council. The Taoiseach said we have to take the politics out of the sliding scale and that it is a matter for the Society of Chartered Surveyors of Ireland, and that it is agreed by all that it sets a benchmark for what it should cost per square foot to rebuild a home. In the correspondence from the Minister to the cathaoirleach of Donegal County Council, he clearly said: “The grant calculation methodology will be based on the cost per square foot (psf) of rebuilding the existing home, with costings to be set by me in consultation with the Society of Chartered Surveyors Ireland.” The concern is that the Department of Housing, Local Government and Heritage officials will stick to this scale, which has no relevance whatsoever, according to the chartered surveyors, quantity surveyors and engineers. The Taoiseach knows that. I ask him again please to remove the sliding scale and then we will have a scheme that the families can work with in the west, which is the place we all want to get to.

**Deputy Alan Kelly:** What are the Taoiseach’s future intentions for this unit? Will it be underpinned by legislation or is it just a kind of social partnership by another name? The labour employer economic forum, or LEEF, as it is called, is one of the key groups supported by this unit and it is currently examining proposals for a bonus for front-line workers. It is 18 months since this was first brought up. The Taoiseach has been completely inconsistent on this. We do not know where he is at in this regard. Following an earlier request from a Deputy, I have no idea what the Taoiseach meant by his reply. A tax free voucher of €500 has been floated and there have been multiple proposals for bank holidays, whether it is 1 February or another day on the other side of St. Patrick’s Day. Will the Taoiseach please inform the House what is the status in regard to recognising these workers? What is the Taoiseach planning? Once and for all, will he give some commentary to the public out there on what the Government is thinking on this? At this moment in time, there is complete confusion.

**Deputy Richard Boyd Barrett:** I remain baffled as to the hesitation, reluctance and inaction that the Taoiseach is demonstrating when it comes to the issue of ventilation, air quality and air filtration. He said earlier today that he would do anything to protect life and limb, yet we know that providing minimum standards in terms of air quality and systems that can purify the air could potentially have a dramatic effect on the ability of this disease to transmit in the particular settings and particular types of buildings where it has been prevalent, such as school buildings of poor quality, nursing homes that are old and often not well ventilated, hospitals and so on.

The ICTU supports our Bill and the Irish Nurses and Midwives Organisation, INMO, has been saying this for a long time about the hospitals. I do not understand. It is a win-win for the Government. We could significantly reduce the impact of other measures and potentially get beyond this grim situation we are in if we took this issue seriously. The Taoiseach was talking about health and safety in workplaces. The amount of resources that would be required to do this would be a tiny fraction of the amount the Government is having to spend on income supports, yet the Taoiseach seems to be slow, reluctant, hesitant and dismissive. I do not understand it. Perhaps the Taoiseach could explain.

**Deputy Paul Murphy:** For a brief moment, the value and essential nature of workers, those who are on the front line doing the work, had to be recognised in the pandemic. Chief among them, or certainly up there, were supermarket workers, who universally were accepted to be keeping our shops open and providing an essential service when most things were locked down. Even their employers were forced very briefly somewhat to recognise that, for example, with a 10% pandemic bonus from Tesco for its workers. However, as soon as they could, that was

quickly forgotten. A few months later, the pandemic bonus was gone and then Tesco went on the offensive. It attempted to push through a very bad deal for workers which would scrap their Sunday premiums, convert a defined benefit pension into a defined contribution pension for new entrants and maintain a two-tier wage structure. The workers have resoundingly rejected those proposals, voting an incredible 88% “No”, and have organised on a rank-and-file basis to fight for the kind of improvements they want to see. My question to the Taoiseach is whether he believes that employers like Tesco and others should recognise the contribution of their workers by providing decent wages, terms and conditions.

**Deputy Cian O’Callaghan:** I want to follow up on the previous question I asked. To be fair, the Taoiseach may not have fully understood me. The question was not one about Garda vetting. It is welcome if Garda vetting is being extended and, in particular, that must include staff in privately run emergency accommodation for homeless people, which is essential. With regard to what happened earlier this year to homeless people, the alleged perpetrator there was fully Garda vetted, so this is not an issue of Garda vetting. The issue is that the Garda vetting did not offer any protection to homeless people. What happens in other jurisdictions is that the police force, if it has credible allegations - if it is investigating live allegations and has credible evidence - then moves quickly to inform employers or other organisations that there is a real risk to people who are vulnerable and at risk. That did not happen here. We cannot countenance a situation where that could happen again. I ask for that to be looked at and, in particular, for the safeguarding legislation advanced by former Senator Colette Kelleher in the last Oireachtas to be advanced quickly by the Government, which was the intention in the last Oireachtas, I understand.

**Deputy Brendan Smith:** I understand that, within the next number of weeks, the CAP strategic plan will have to be submitted to the European Commission and, I presume, that goes to the Government for approval before submission to Europe.

*2 o’clock*

As we know, since we joined the then EEC in 1973, the Common Agricultural Policy has been of huge importance to our farming and agrifood sector, to the rural economy and to the overall national economy. Thankfully we have record levels of drink and food exports today and they are critical to the creation and maintenance of employment throughout the country.

To the credit of the Minister, Deputy McConalogue, he has been engaged in a widespread consultation process but there is one proposal on a reduction in pillar 1 funding by 25% and a transfer to pillar 2. It is extremely important that farmers who are regarded as being in the productive sectors, be they dairy, beef, sheep or tillage farmers, continue to get the necessary supports. We all know that prices can be cyclical and income can depend on weather each season as well. Over the years the Common Agricultural Policy has been a hugely important factor in trying to keep farm incomes reasonable, although unfortunately they have not always been good due to external circumstances. It is important that in finalising the Common Agricultural Policy we take cognisance of what has worked for the Irish farming and agrifood sector over the years. I have said for many years that there has been a lazy and at times ill-informed narrative on farming and its importance, as well as its contribution to environmental standards. Our farmers work to extremely high and demanding standards, and rightly so, both from an environmental point of view and also from the point of view of farming practices, as do our processing sectors. The necessary support that has been provided over the years must continue.

**The Taoiseach:** On the last point, I will talk to the Minister for Agriculture, Food and the Marine about the strategic plan. The Deputy is right about the need to do everything we possibly can to focus on what works and on food security in particular, which will remain a big challenge globally. That must be reconciled with the climate issues. Food security is still important and Ireland is probably one of the most carbon efficient production systems in Europe, both in dairy and beef. That should not be forgotten.

On Deputy Cian O’Callaghan’s point, we will examine former Senator Colette Kelleher’s legislation. However, we have a different legal system from those in other countries. If the Garda is in possession of knowledge or material that may not add up to a prosecution or that it has not passed to the DPP then that could be problematic in terms of the rights of the individual. The issue is not that simple but it merits close examination because we have to learn from experience as the Deputy has outlined.

On Deputy Paul Murphy’s points, good terms and conditions are the most sustainable way to build and grow business and to build a loyal workforce that is productive. That goes without saying. There are labour relations and industrial relations processes that can facilitate the negotiation of good pay and conditions. Some employers are better than others, and that is particularly true in the retail sector. I have spoken to some traders and companies in the retail sector and they have been complimentary of the extraordinary efforts their workers have made over the last two years in particular.

Deputy Boyd Barrett raised the issue of ventilation. The Minister for Education has taken on board the expert advice she has received. Within the Common Agricultural Policy allocations to schools there is the facility to purchase HEPA filters if they are needed in certain settings. There is also a technical team in the Department that will work with schools in certain situations where schools may need more than just HEPA filters.

**Deputy Richard Boyd Barrett:** It is not just schools.

**The Taoiseach:** Widespread guidance has issued to employers and intensive care facilities have good air quality and so on. Ventilation is important and that has always been advised from the beginning of the pandemic. There have been arguments about the specific types of ventilation and I gave the Deputy SAGE’s perspective on HEPA filters yesterday, for example, which was interesting.

Deputy Kelly raised the social dialogue. LEEF has a lot of streams to it and it is going well. The aviation stream, construction and collective bargaining are all going well. Much good and substantive work is being done under the auspices of LEEF on substantive issues. We are building up the engagement and dialogue with the environmental NGOs and partners, with agriculture and I initiated an engagement on fishing as well. We will be bringing forward proposals on the recognition of front-line emergency workers in respect of the pandemic.

Deputy Mac Lochlainn raised the mica issue and I said that we wanted to take politics out of this issue. The Minister is adamant about the role of the Society of Chartered Surveyors. He has made that clear, most recently in his conversations with the representative bodies of homeowners. We want to do the right thing by homeowners and we want to make sure we can comprehensively assist them in getting their houses rebuilt or repaired, whichever is optimal for them.

*Sitting suspended at 2.06 p.m. and resumed at 3.06 p.m.*

3 o'clock

### **Health Insurance (Amendment) Bill 2021: Second Stage (Resumed)**

Question again proposed: "That the Bill be now read a Second Time."

**Deputy Thomas Pringle:** I will pick up a the point in the report where I left off yesterday:

The letter was submitted to a multi-disciplinary meeting of 4th March 2008. However, there are no minutes of this meeting and it is not clear how this letter was received. Two days later on 6th March 2008, psychiatrist (1) wrote to Brandon's GP referencing this meeting, emphasising again the concerns raised by staff in relation to Brandon's behaviour, "*An emergency case review was held with nursing staff and care staff from "Abbeyside" ward together with the director of nursing (1) and myself on 4th March 2008. Staff are very concerned in relation to Brandon's increased sexualised behaviour towards residents*".

There is no evidence to suggest that as a result of the staff letter to the meeting that any significant changes occurred for staff on the ground.

On 30th June 2008 a seven point plan was developed to mitigate the risks Brandon presented. This plan included an alarm on Brandon's door to be activated in the afternoon and at night. It also included 1:1 supervision of Brandon and the implementation of a new day programme. In spite of this plan, however, Brandon continued to behave in a sexualised way. His annual review on 19th August 2008 referred to four service users in particular who were described as his "*preferred target group*". The annual review record also went on to say, "*He is escorted by a staff member throughout the day but when other clients need attention/assistance or there is a serious incident, Brandon takes advantage within seconds to assault clients*". This review statement echoes the opportunistic nature of Brandon's behaviour referred to in the staff letter of 26th February 2008 and underscores just how difficult it was for staff to safeguard those in their care...

#### 6.8 Communication with families

Throughout the period under review eighteen known victims of Brandon's sexual assaults have been identified. There is no evidence that any of the families of these residents were informed at the time of these assaults. Although there was a note on resident 2's file suggesting open disclosure had been conducted with his family, the family have subsequently told the NIRP that they had never been told that their son was sexually assaulted by Brandon.

The need to tell families about Brandon's behaviour appeared to be a regular theme in many of the records reviewed by the NIRP. For example a risk assessment and management plan dated 31st August 2004 stated: "*if Brandon was sexually inappropriate the family of the person affected were to be informed*".

The importance of open disclosure to families was emphasised by the external opinions provided by psychiatrist (3) and the forensic psychologist. On 27th April 2011 psychiatrist (3) wrote "*The fact that relatives of his known victims have not been informed of the episodes of abuse could be interpreted as collusion or complicity if the situation were ever the*

*subject of an investigation. Therefore, it would be advisable to consider informing the next of kin and also advising them of the steps put in place to ensure no further abuse occurs”.*

On 16th November 2011 the forensic psychologist advised “...A clear plan would have to be devised as to how to address on-going behaviours and any harm caused by past behaviours. This should lead to the development of a policy regarding the circumstances in which to inform families in the future”. In spite of these recommendations from senior clinical experts a decision was made not to take the advice of these experts and family members were not informed until after the Look Back Review reported in 2018...

#### **Section 6.10. Reports to An Garda Síochána (AGS)**

The CHO have reported to the NIRP four occasions of contact between Stillwater services and An Garda Síochána (AGS) in relation to Brandon. The first record is dated 9th June 2011 which documented that nurse manager (1) met with a Garda sergeant in the local station and informed him of the sexual assaults carried out by Brandon on service users in Stillwater. The Garda Sergeant undertook to discuss the issue with senior Gardaí however, the NIRP found no evidence of any follow up on this report. On 9th September 2019 the NIRP wrote to An Garda Síochána seeking clarification on this point.

The second occasion occurred in March 2017. This is an undocumented recollection by service manager (2) which was described in a letter dated 13th July 2020 from the CHO to the NIRP:

*“(service manager (2)), has provided the following commentary.*

*Comment: “I do not have any documentary evidence of this meeting. I do not have the exact date of this meeting. I met with Garda 2 when she was on site at Stillwater Complex attending there as Garda Liaison. I informed her that there was a look back review being completed by an independent team into alleged historical abuse of a sexual nature within the centre. She asked whether there was anything she needed to do at that time. I informed her that a copy of the final report would be given to the Gardaí. No notes were taken by her or me as I was just informing her of the review.”*

The third report to An Garda Síochána took place on 8th December 2018 when service manager (2) met with the Garda liaison to Stillwater services and briefed her on the outcome of the Look Back Review (2018). A copy of the report was given to the Garda liaison officer who advised that she would be escalating this information to senior Gardaí.

The fourth occasion, on 24th April 2019 representatives from the CHO met with An Garda Síochána. An Garda Síochána confirmed to them that they are completing an investigation regarding Brandon.

An Garda Síochána replied to the NIRP in a letter dated 26th February 2020:

*“There is currently an on-going Garda investigation into allegations of abuse of patients at Stillwater... and also into the alleged withholding of information on the sexual abuse patients by staff employed by the HSE. It is expected that a file in these matters will be submitted in the coming weeks which will in turn be forwarded to the Director of Public Prosecutions for direction..... as this is an on-going investigation An Garda Síochána are unable to comment any further at this point”. ...*

## 6.14 HIQA

The Health Information and Quality Authority (HIQA) was established under the Health Act 2007. HIQA is an independent authority established to regulate health and social care services in Ireland. For most of the period of this review HIQA did not have a remit of legal authority to inspect disability services in Ireland. This legislative requirement began in November 2013. While the NIRP believe Brandon continued to pose a threat to residents living in Stillwater services until his move to a nursing home in 2016 all of the recorded incidents of inappropriate behaviour by Brandon towards others took place in Stillwater services prior to 2011. This timeframe preceded HIQA's legal authority to inspect residential centres for people with a disability.

Stillwater services were first inspected by HIQA in July 2014. This inspection identified both moderate and major non-compliances in 7 of the 10 standards inspected. Following this inspection service submitted an action plan in October 2014 detailing how they planned to address these deficits.

The next HIQA inspection was carried out in March 2016 which examined 7 out of 18 standards. This inspection identified major non-compliances in all 7 standards. This inspection identified “*significant risks to the safety and welfare of the residents in the centre*”. Additionally, they identified “*serious failings in the governance and management of Stillwater services*”, citing failures to report and investigate allegations of abuse “*Inspectors identified several allegations of abuse that had not been appropriately reported to management or when reported, had not been properly investigated in accordance with national safeguarding policies or procedures*”. It is not clear from the HIQA report what “allegations of abuse” HIQA are referring to, or if these are in any way related to Brandon's behaviour. However, during the NIRP's meeting with the two staff members, (see paragraph 6.6, pg. 31) one staff member alleged that they had met with a HIQA inspector and gave her details of the abuse of residents by Brandon in Stillwater including specific names of victims. HIQA corroborated this information in a letter to the NIRP dated 10th January 2020, they stated:

*“Unsolicited information of concern was received from a staff member of the service in February 2016 raising concerns about safeguarding. The initial regulatory action was to carry out an inspection shortly after receipt of the information”.*

The March inspection also found no evidence that the required “provider led six monthly audits” or “annual reviews” were being carried out and no arrangements were in place to support and develop staff. Following this inspection the CHO commissioned a team of external managers from the quality improvement and risk management team to review the service. They also changed the structure of Stillwater services from one designated centre to five smaller designated centres. One additional ‘Person in Charge’ was appointed, bringing the total amount of ‘Persons in Charge’ to two in order to oversee five designated centres. On the 9th May 2016 Brandon moved from Stillwater services to a nursing home.

On this Bill, if the privatisation of services continues, we will not get to a point where we will be able to deal with a situation like this. I know this case relates to disability services but the logical conclusion of privatisation is that it will move from hospital services to disability services. That is why we have this problem.

**Deputy Cathal Crowe:** This is a positive Bill. It is probably not the most exciting work we will do in Dáil Éireann this week but it is very important, particularly from a consumer point of view.

The Health Insurance (Amendment) Bill is somewhat akin to the Finance Bill or the Social Welfare Bill. It arrives in November or December each year. The measures in it are designed to support risk equalisation and sustain community rating in our health insurance market so that older people, whom the Minister of State, Deputy Butler, represents very well, and those with long-term illnesses can avail of the same health insurance cover as everyone else and are not discriminated against in favour of younger, healthier people in society.

The most crucial part of this Bill is its provision for the reduction in stamp duty levies on advanced health insurance contracts, which will decrease from 2021 to €406, representing a decrease of €43. Non-advanced health insurance contracts will decrease from 2021 to €122, a saving of €35. As a result of lower claims activity due to the past 18 months of Covid-19 and restricted use of hospital services, a surplus has built up in the risk equalisation fund. Consequently, the Minister of State and the Departments of Health and Finance are looking at the reduction in stamp duty to ensure health insurance contracts will benefit from that from 1 April 2022. That is good overall. It puts money back in people's pockets and ensures those who are most vulnerable continue to get the same level of public health insurance without having to dig deeper into their pockets.

The principle of risk equalisation is part of global insurance. We have had it for many years. It works quite well in health insurance. However, if I may go on a slight tangent, risk equalisation has become an absolute stinker in the area of flood cover. They are two different realms but it is all the world of insurance. The principle of risk equalisation might make a hell of a lot of sense when it applies to health when there might be an older person and a younger person or a person who is perfectly fit and healthy versus someone who has underlying illnesses. It makes sense in public health and the provision of private health cover but it does not make sense in the realm of flooding.

If we take any field or townland, the topography varies very much. There could be undulating land, hills, drumlins or parts near water drainage or even at sea level. In County Clare, 5,000 or 6,000 households struggle annually to get flood cover on their home insurance policies because of the risk equalisation principle. Every year, I have to write a letter on behalf of some of my neighbours. Using Dáil headed paper, I state that it is my belief, in all the years I have lived beside the persons in question, their houses have never flooded and, thus, I implore their insurance company to provide them with flood cover on their policy. I can rattle off the text because I write this letter maybe 50 or 60 times a year. It is insane. The insurance industry accepts a letter on Dáil headed paper that the person living in No. 95 does not experience flooding. Risk equalisation is bonkers. The home of the person who is denied flood cover year after year is about 60 ft above the maximum level of the River Shannon. That has to change too.

Risk equalisation is working very well as far as VHI and health insurance are concerned, and we are glad people will be reimbursed stamp duty, but it really does not work as far as flood cover is concerned.

**Deputy Peter Fitzpatrick:** I welcome the opportunity to speak. In Ireland our health insurance is supposed to be community rated. The Health Insurance Acts prohibit risk rating, the reason being to ensure people will, in theory, pay the same price regardless of their age or

health status. The health insurance market in Ireland is worth over €2.5 billion and 2.31 million people are covered, which represents 46% of the population.

Section 8 of the Bill provides for a reduction in the stamp duty levies on policies from 1 April 2022. The current levels of duty are €52 per child and €157 per adult for non-advanced contracts and €150 per child and €449 per adult for advanced contracts. It is proposed to reduce these amounts to €41 per child and €120 per adult for non-advanced contracts and €135 per child and €406 per adult for advanced contracts. It is noted that stamp duties are levied on insurance companies rather than consumers and, therefore, it is up to insurance companies to decide whether to pass on any reductions to customers. It is important that every Member of the House make the point that it is imperative that the insurance companies pass on this reduction to consumers. If we were discussing an increase, there would be no question that the increase would be passed on to the consumer.

During the pandemic, the cover provided by private health insurance has been drastically reduced. While I acknowledge refunds were given to members, these did not cover the true reduction in services experienced. In effect, the private hospitals were not available for many treatments. The reductions in stamp duties must be passed on to the consumer.

The insurance companies have been increasing premiums each year. Health insurance is still too expensive. Why does more than half the population not have private health insurance? In my constituency office in Dundalk I deal with a large number of queries from constituents who have had issues with their health insurance provider. One of the issues that consistently crops up is that of not having cover for a particular treatment or hospital. Much of the time, exclusions are buried among pages of small print.

Has anybody looked at the number of different policies available lately? There are literally hundreds of different policies to choose from. This is only confusing the consumer. Why do we need so many different policies? Surely there can be a more simplified system. Many policies have more hidden exclusions buried in the small print. If we want to make health cover more accessible, we need a simpler and more transparent system. I have read through a number of policies lately and to be honest this area is a minefield.

My colleague, Deputy Naughten, has previously raised an issue in relation to model 2 hospitals and the fact that a particular insurance provider decided it would not provide cover in these hospitals. He rightly pointed out that we cannot have a situation where these insurance companies can decide not to provide cover. Hospitals such as the Louth County Hospital provide an excellent service for local people. They take great pressure away from the larger hospitals and to have a scenario where particular insurance companies simply cannot provide cover is wrong. Insurance companies that decide not to provide cover for model 2 hospitals must be called to account. They are undermining the health system. We must support our local hospitals such as the Louth County Hospital rather than exclude them from private health cover. The bottom line is that health cover should be available for every model 2 hospital in the country. Will the Minister of State comment on this matter and provide the House with an update on any discussions the Department has had on it?

If we are to encourage more people to take on private health insurance, the system needs to be more transparent and easier to navigate. We have three insurance providers, yet we have literally hundreds of different policies available. Reading through the small print of many of these policies, one finds too many exclusions. This needs to change.

The cost of health cover also needs to be reduced as it is too expensive. Why is health cover in Ireland among the most expensive in Europe? I ask the Minister for Health to examine the issue of certain providers excluding model 2 hospitals from cover. This practice needs to stop and the providers need to address it.

I call on the insurance companies to pass on the reduction to stamp duties directly to their customers. As I said, if there was an increase, the insurance providers would pass it on immediately.

**Deputy Carol Nolan:** I am pleased to speak briefly on this very important issue. This Bill seeks to provide a risk equalisation mechanism for ongoing sustainability of the private health insurance market, while maintaining health insurance policies at an affordable price. It will also provide for a reduction in stamp duty levies on advanced health insurance contracts, which will decrease from 2021 to €406. That is a decrease of €43. Non-advanced contracts will decrease from 2021 to €122, which is a decrease of €35. This is a welcome but belated action. It is partial recognition that prices for health insurance are simply astronomical and out of the reach of many people, especially those with chronic or long-term health conditions or large families.

I note section 4 of the Bill amends section 7F of the principal Act to deal with the benchmark for “reasonable profit”. This section is being amended for the purposes of assessing whether an insurer has been overcompensated by the scheme. That is one of the key issues of this entire debate which we must address. What exactly is it that determines a reasonable profit and how far may a health insurance go in settling costs? Clearly, it is the case that in this area, just as with motor vehicle or business insurance, we have a sector that is not always as transparent or open to public scrutiny as it should be. We have all seen how insurers have responded to Covid and, indeed, the forced closure of small and medium enterprises, SMEs, and local traders. It took High Court action to challenge the insurance sector to make good on policies people had paid into for a long time. That should not have happened. I raised this issue in the House on behalf of businesses. Insurers should have been fairer and more reasonable.

Some years ago, the European Commission informed Insurance Ireland, the association of Irish insurers, of its preliminary view that the association breached EU antitrust rules by restricting competition in the Irish motor vehicle insurance market. Many people have the sense that there is a similar level of market restriction with health insurance.

The Government’s position is our community-rated health insurance market means the cost of health insurance is shared across all members of the market and that in general, with certain exemptions, everyone can buy the same policy at the same price and insurers cannot alter their prices based on an individual’s current or potential health status. This is a regulatory version of wishful thinking. In the consultation conducted by the Health Insurance Authority in January, found that:

It is widely recognised that in a community rated market without a robust [risk equalisation scheme] RES, insurers with lower risk profiles will tend to be more profitable, all else being equal. As a result, in the absence of a robust RES, insurers will be incentivised to do the following:

- Design products so that they are not attractive to older and less healthy customers ... [which, as we know is called risk selection]; and
- Segment their customer base by age / health status so that older and less healthy people

pay more for insurance (market segmentation).

We need to ensure insurers are not allowed engage in such practices and that all people who want it can afford a different level of comprehensive health insurance. It is a matter of ensuring fairness for everybody and that everybody who needs and wants health insurance can avail of it in a fair and just manner.

**Acting Chairman (Deputy Jennifer Murnane O'Connor):** As no other Deputies are offering, I invite the Minister of State to respond.

**Minister of State at the Department of Health (Deputy Mary Butler):** I thank the Deputies who indicated their support for the Bill. I also thank the Deputies who spoke in the debate today and yesterday for their contributions. I will only speak and comment on issues related to the Bill.

As was discussed in yesterday's debate, a large number of people hold health insurance. For some, this is a choice while others, unfortunately, may view it as a necessity. The Government is committed to improving public health services under the Sláintecare programme. As access to these services improves and the public's confidence in public health services increases, it may be that we see a change in the numbers that hold health insurance. In addition to providing support to community rating, the amendments to the risk equalisation scheme have regard to the sustainability of the market and the need for fair and open competition. Importantly, they also ensure that there will not be overcompensation of any insurer from the scheme, as required under the EU framework for state aid. The Bill allows us to maintain our support for the core principle of community rating, which is long-established and well-supported Government policy for the health insurance market. The Bill will ensure that we can continue to provide the necessary support to ensure that the costs of health insurance are shared across the insured population.

Various issues were raised over the past day or two. My officials have said that they will take a look at the issue of restricted membership undertaken, which was raised by Deputy O'Reilly. Many Deputies spoke about the number of people who have health insurance in this country, which stands at 46% of the population. It is important to put on the record that while a large number of people hold private health insurance, and this Bill provides support for them, to also draw Deputies' attention to the number of people who are able to access public healthcare without having to pay. As of 1 November 2021, 1,563,184 people in Ireland hold medical cards. This represents 31.2% of the population. Some 525,813 people hold GP visit cards, which is 10.5% of the population. In total, these cards cover just shy of 42% of the population. This represents massive funding for public healthcare in Ireland.

Many Deputies also referred to Sláintecare. The Sláintecare Implementation Strategy and Action Plan 2021-2023 was approved by the Government in May. The six-month progress report published last month indicated that of the 112 deliverables, 109 were on track or progressing with minor challenges. I expect the progress to continue at pace in 2022, supported by the allocation in budget 2022 of €21 billion, the biggest ever investment in Ireland's health and social care service, to deliver Sláintecare. I also want to touch on the roll-out of the vaccine because it epitomises what Sláintecare is all about. Some 8.2 million doses, free at the point of entry with access to all, have been rolled out. I take this opportunity to encourage anyone who is entitled to a third vaccine, or a booster shot, to take it up.

Deputy Shortall mentioned the benchmark of reasonable profit. In 2016, the benchmark of reasonable profit was set at a 4.4% return on sales following a benchmarking exercise among European insurers with a similar profile to the net beneficiary of the Irish risk equalisation scheme, which is VHI Healthcare. An overcompensation test is conducted for every three-year period to make sure that the net beneficiary of the scheme does not make more than the reasonable profit figure. A new benchmarking exercise was conducted among Irish and European health insurers and the Health Insurance Authority recommended the 6% figure, which is at the low end of the recommended range. The 6% return on sales figures will only apply to the net beneficiary of the scheme, which for the foreseeable future will be VHI Healthcare. While VHI Healthcare operates on a mutual basis and all profits are reinvested in the company's products and services for the benefit of its customers, it is conceivable that a company which operates on a for-profit basis would become a net beneficiary in the future. To provide for that circumstance, it is necessary to review the benchmark to make sure that it is appropriate and to provide that an insurer with a worse risk profile than its competitors is not being further disadvantaged by keeping its profits below a competitive figure.

I will also touch on the role of private health insurance in Sláintecare. Removing private care from public hospitals remains an incremental and progressive long-term objective of Sláintecare. This process is aligned with other reforms being progressed under Sláintecare allowing more time to put in place the necessary improvement in capacity and care models. One of the recommendations and milestones yet to be achieved is the implementation of the Sláintecare public-only consultant contract. Negotiations on this contract are currently ongoing. The programme for Government contains a commitment in respect of the finalisation of this contract and the introduction of related legislation to support public-only work in public hospitals. The impact of implementing the removal of private care will happen progressively. Anyone with health insurance can continue to receive private care in public hospitals for the foreseeable future. After that, anybody with private health insurance will still be able to receive private care in private hospitals. I was asked last night by Deputy Kenny if I believed in Sláintecare; I absolutely do. I quote from it every day when I am talking about my brief on older people and mental health. It is about providing the right care, at the right place, at the right time and as close to home as possible.

There was a lot of talk last night about waiting lists. The Department of Health, the HSE and the National Treatment Purchase Fund, NTPF, are focusing on improving access to elective care in order to reduce waiting times for patients. These plans include increased use of private hospitals, funding weekend and evening work in public hospitals, funding see and treat services where minor procedures are provided at the same time as outpatient consultations, providing virtual clinics and increasing capacity in the public hospital system. Under the NTPF, 122,000 outpatient appointments were approved by the end of October this year. Some 47,474 appointments were arranged and 26,730 patients have been seen at an outpatient clinic. The health budget for 2022 provided an additional allocation of €250 million, comprised of €200 million to the HSE and €50 million to the NTPF, in respect of work to reduce hospital and community waiting lists. The €250 million will be used to fund additional activity in the public and private sectors. The €50 million in additional funding provided to the NTPF brings the total allocation for 2022 to €150 million. As a consequence, a budget of €350 million will be available to support vital initiatives to improve access to acute hospitals and community health services.

One of the issues that has been raised with me on many occasions since I came into post is the length of the primary care psychology waiting list for young people. Unfortunately, when I

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was appointed last year, more than 5,000 over-12s were already awaiting supports. I received €4 million this year, for the period September to December, to try to put a targeted approach to waiting lists in place. All the community healthcare organisations were able to get consultants to work some overtime, hire locums and use both the public and private sectors to do so. We will meet a target of 20% of those on that waiting list, which means 1,000 children will be seen over four months. We have much more to do, but it is at least a start. I hope to secure more funding in the new year to keep that initiative going. I commend the Bill to the House.

Question put and agreed to.

*Sitting suspended at 3.39 p.m. and resumed at 4 p.m.*

### **Health Insurance (Amendment) Bill 2021: Financial Resolution**

**Minister for Health (Deputy Stephen Donnelly):** I move:

THAT Section 125A of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999) be amended to provide for the specified rate of stamp duty in respect of an insured person in respect of relevant contracts renewed or entered into on or after 1 January 2022 and on or before 31 March 2022 and on or after 1 April 2022 in the manner and to the extent specified in the Act giving effect to this Resolution.

Question put and agreed to.

### **Health Insurance (Amendment) Bill 2021: Committee and Remaining Stages**

Section 1 agreed to.

#### SECTION 2

**Deputy Denis Naughten:** I move amendment No. 1:

In page 4, to delete lines 8 to 11 and substitute the following:

“but does not include a claim—

(i) under a policy that fails to provide cover for day case and inpatient care in model 2 hospitals, or

(ii) for the cost of drugs that are not listed on the Reimbursement List established and published by the Health Service Executive under section 17 of the Health (Pricing and Supply of Medical Goods) Act 2013;”.

We touched on this on Second Stage. This amendment is quite clumsy, but it is the only mechanism I have available to raise the discriminatory action being taken by Irish Life Health, which happens to be the only insurance company to take such an approach to public hospitals. The hospitals I am talking about are Mallow, James Connolly, Peamount, St. Columcille’s in Loughlinstown, St. Joseph’s in Raheny, St. Luke’s in Rathgar, St. Michael’s in Dún Laoghaire,

Naas, Lourdes orthopaedic in Kilkenny, Our Lady's in Manorhamilton, mid-western orthopaedic in Limerick, St. John's in Limerick, Roscommon University Hospital and South Tipperary General Hospital, along with the following hospices: St. Patrick's, Marymount, Our Lady's in Blackrock and Our Lady's in Harold's Cross.

All of these are public hospitals and Irish Life Health has said, in quite a number of its policies, that it will not provide cover in them. I brought this issue up on a number of occasions, because many of these smaller local hospitals can take pressure off some of our bigger specialist hospitals. As the Minister of State knows, the policy is to try to move more elective work into these smaller hospitals, taking pressure off the bigger hospitals where more serious acute work is done.

I know the Minister of State will come back and use Sláintecare as her excuse to justify what Irish Life Health is doing. That is wrong, because, in fairness to the Minister's predecessor, the Minister, Deputy Harris, when he was the Minister in charge, he agreed with me that this discrimination was wrong. It is wrong that these public hospitals are being discriminated against. If Irish Life Health does not want to cover any public hospital, I do not have an issue with that. That is its decision, if it wants to do so.

I do not have an issue with the Minister for Health or the Aire Stáit and the officials coming in here and saying the Sláintecare policy is to take private work out of public hospitals, if that happens across the board. However, I will not accept a situation in which we have one insurer saying a select number of hospitals will be discriminated against in health insurance. I ask them to remember that the whole idea behind the legislation with which we are dealing is equity of access and yet one element of equity of access is not being provided.

People who are paying private health insurance are being told that if they want to get care in a public hospital, they have to run the gauntlet of going through accident and emergency departments, whereas the policy should and is supposed to be that we actively encourage people to go minor injury units, or their local GP to be referred and treated in their local hospital, where possible. However, if one lives in Blanchardstown, Roscommon, Kildare, north Cork, Limerick or south Tipperary, happens to have private health insurance and is unfortunate enough to have such insurance with Irish Life Health whose policies do not cover those hospitals, one's GP will not make the referral to one's local hospital. That is wrong and should not be allowed.

I was deeply disappointed with the parliamentary reply I received from the Minister, Deputy Donnelly, in September of this year, using Sláintecare as the justification for this. This action and policy taken by Irish Life Health has been taken prior to the adoption of the Sláintecare report. It is wrong that smaller hospitals are being discriminated against by one insurer. It is either whole duck or no dinner. It is either no coverage of any public hospital or every public hospital is treated the same. It is either one or the other.

The funny thing about this is that it seems some model 2 and model 3 hospitals are included, while other model 2 and model 3 hospitals are excluded. Where is the justification for this? The one thing it does is force people, who want to support their own local hospital, to go the regional hospitals. In some cases, they go to regional hospitals with some of the longest waiting times in emergency departments in the country, which is wrong. I ask that, instead of kicking this can down the road, a decisive decision is taken by the Department of Health on Irish Life Health to do either one or the other. All I ask is that everyone is treated equally.

The Minister is bringing in legislation here to treat everyone equally, regardless of age or health and yet one insurer is discriminating against people purely on their address and undermining some of our local hospitals. That should not be tolerated or accepted. I have said that until Irish Life Health does what every other insurer does, it should not benefit financially from this legislation.

**Minister of State at the Department of Health (Deputy Mary Butler):** I thank the Deputy for his contribution to yesterday's debate which highlighted the role model 2 hospitals can play in providing care to the community. However, I must reject the amendment and will outline the reasons for the rejection.

The provisions being introduced in this Bill on high-cost claims are the result of significant work carried out by the Health Insurance Authority in the past few years. The authority provided its recommendations to the Minister for Health in June of this year and as a result, we have the definition in the Bill, which excludes drugs not approved by the HSE and takes into account other credits claimed from the fund. To include the Deputy's amendment would introduce additional requirements for high-cost claims credits which have not been planned or factored into the authority's recommendations for other credits or the stamp duty. I also note the coverage of model 2 hospitals was not raised in the public consultation on the new scheme, which was conducted in January of this year.

The proposed amendment raises a number of concerns. First, the legal consequences of a change in the Act would effectively compel insurers to change their existing cover of hospitals and this would lead to an increase in premiums for consumers. This would also be an additional element for the new scheme which has not been notified to the European Commission and which could have knock-on effects on the negotiation process. The scheme was notified to the Commission in July and does not include the requirement that model 2 hospitals have to be covered for high-cost claims credits to be paid out. Amending the Act to include cover for all model 2 hospitals would introduce a favoured category of public hospital, which is not appropriate for the health insurance Acts. Model 2 hospitals are intended to have a role in providing a medical assessment unit and local injuries unit, as well as elective care. It is intended under Sláintecare that there will be no private activity in public hospitals, including model 2 hospitals. In answer to the concerns the Deputy raised yesterday, it is not intended that model 2 hospitals will be used as a testing ground for the policy. It will apply to the whole public hospital system, not just model 2.

Department of Health officials have surveyed the insurers and confirmed that the majority of plans across all insurers provide cover for model 2 hospitals. Those that do not are entry-level plans which still provide cover for some model 2 hospitals. These entry-level plans are intended for entrants to the market at an affordable rate. Forcing cover for all model 2 hospitals would have the unintended impact of driving up the price of entry-level plans. These are plans that are unlikely to lead to high-cost claims, which are to be covered by the definition the Deputy is trying to amend.

It is important that people who want to buy health insurance are clear on what they are buying. Health insurers generally issue suitability statements to make sure the customer is aware of where they are covered and is buying the right level of cover for that individual. Applying this amendment to the Act would be counterproductive and in direct contravention of Sláintecare's aim of ultimately removing private care from public hospitals. Public health policy recognises and is committed to securing and developing the role of smaller hospitals but this amendment

would not further this aim.

**Deputy Denis Naughten:** I made it clear at the start of my contribution that this was a clumsy amendment. As the Minister of State knows, if I tried to word an amendment on this, it would cause a cost on the Exchequer and be ruled out of order. Second, it is disingenuous to talk about the public consultation because officials here have known for years about this issue. This is not the first time I have raised it. I have been consistently raising it every December for a number of years. This has not come as a surprise to anyone.

I know Government has made the decision not to accept the amendment, but the situation is discriminatory and wrong. I gave the Minister of State the example last night of the oral commitments being given in relation to our smaller hospitals. Talk is cheap. If the Government is serious about supporting model 2 hospitals, why do we have this situation? It is not just me saying this. The Minister of State's colleague, an Aire Stáit, Deputy Feighan, is saying it is wrong that we do not have basic sterilisation facilities at Roscommon University Hospital to allow us to expand the number of patients we treat in that hospital through day procedures. On the other side of that coin, when we ask Government to protect the model 2 hospitals and some model 3 hospitals from being discriminated against by an insurer on a number of policies, the Government is not prepared to intervene.

I will not dwell on this because other legislation is coming in but it sends out a clear message to people around this country concerning the approach of the health system to the smaller hospitals. The health system is prepared to turn its back on them when it comes to health policies that are discriminating against people based on geography. We have had all the pontificating from Ministers through the years since this risk equalisation legislation was first proposed about ensuring there would not be discrimination based on age or illness, but we are happy to have discrimination based on geography.

We say we support smaller hospitals but when it comes to putting the lámh into the póca, the health system is not prepared to do it. We are waiting three years for additional information regarding an ongoing review to be completed and a decision made on capital investment to put into an empty room. The room is already built yet we cannot get equipment to provide sterilisation facilities to enable us to treat more people in public hospitals, rather than going through the National Treatment Purchase Fund, where, bizarrely, some of the same doctors carry out the procedures in private hospitals.

**Deputy Mary Butler:** Forcing cover for all model 2 hospitals would have unintended consequences. It would drive up the price of entry-level plans. A high-cost claim under this Bill will arise when a customer's health insurance claim or claims exceeds €50,000 in a 12-month period. The fund will then pay 40% of the portion of the claim that exceeds that amount. So, for a claim of €60,000, the fund would pay out €4,000. The types of activities conducted in model 2 hospitals are less likely to result in these high-cost claims as, typically, there are of lower complexity and do not result in long-term stays. In circumstances where a patient was being treated for such a long time on a private basis that it results in a high-cost claim, that would be a patient that was covered by their health insurance for that hospital. It is important that people who want to buy or already have health insurance - we know that is 46% of people in the country - need to be clear on what they are buying and what they are covered for. Health insurers generally issue statements to make sure the customer is aware of what they have. Unfortunately, I am not in a position to accept the amendment.

**Deputy Denis Naughten:** For the Minister of State to say the reason she is not prepared to support the principle of what I am talking about is that including smaller hospitals on health insurance plans would lead to health insurance policies costing more is, with all due respect, a load of rubbish. As I said this year, last year and in preceding years, we are talking about an insurer, rather than the insurance industry. A single insurer has selected a number of hospitals that it will not cover. What would happen if that insurer decided to only cover policies in the city of Dublin? Would the Government intervene if only Dublin hospitals were covered? Yet it is okay to discriminate against some geographic regions. It is funny how every other insurer can compete in the market without excluding smaller public hospitals but the Minister of State is saying it would lead to an increase in the cost of one insurer's policies if it was to include such hospitals. The Government has made its position clear regarding its approach to smaller hospitals so I will press the amendment.

**Deputy Mary Butler:** I will repeat what I have said already. First, to include the Deputy's amendment would introduce additional requirements for high-cost claims credits which have not been planned, a matter I have just addressed. Second, forcing cover for all model 2 hospitals would have the unintended impact of driving up the price of entry level plans. The Deputy has not addressed that. It would force up the price of entry level plans. Third, amending the legislation to include cover for all model 2 hospitals would introduce a particular favoured category of public hospital. That would not be appropriate in the context of the Health Insurance Acts. Those are the facts.

**Deputy Denis Naughten:** It may be that the Minister of State is not prepared to listen to me. I made those points to here. As I indicated, all the other insurers cover those hospitals. How can it increase the cost if a number of hospitals with one insurer are included when every other insurer is prepared to do it? We are talking about a level playing field here. That is all I am looking for. A principle of this legislation is that there should be a level playing field. We are saying that in terms of age and illness it must be a level playing field, but that one insurer that wants to discriminate geographically is allowed to do so. That is the point I am making. I am looking to have equitable treatment across the board. The issue is with Irish Life Health. This is not an issue with the other insurers. If the other insurers can do it cost-effectively, why can Irish Life Health not do it? The Minister of State says she cannot and will not intervene because it will push up the cost of policies.

**Deputy Mary Lou McDonald:** For the purposes of clarity, the Minister of State has repeatedly indicated that the effect of the Deputy's amendment would be to force up cover costs. Can she set out precisely how that could be the case? I have listened to the exchange and I am unclear as to how or why that claim is being made by the Minister of State.

**Deputy Mary Butler:** I will respond first to Deputy Denis Naughten. The Department of Health officials have surveyed the insurers and confirmed that the majority of plans across all insurers provide cover for model 2 hospitals. The plans that do not are entry level plans, which still provide cover for some model 2 hospitals. The entry level plans are intended for first-time entrants into the market and are offered at an affordable rate.

In response to Deputy McDonald, as already stated, including the amendment would introduce additional requirements for high-cost claims credits which have not been planned and have not been factored into the authority's recommendations for other credits or for the stamp duty. The proposed amendment raises a number of concerns. The legal consequences of a change in the legislation would effectively compel insurers to change their existing cover for

hospitals and this would lead to an increase in premiums for consumers. Also, there would be an additional element for the new scheme which has not been notified to the European Commission and which could have knock-on effects for the negotiation process. The scheme was notified to the Commission in July and does not include this requirement that model 2 hospitals have to be covered in order for high-cost claims credits to be paid out. In most instances, high-cost claims do not occur in model 2 hospitals because, as I said on Second Stage, they mostly relate to people with cancer who would be in hospital for a long time and whose claims would exceed €50,000.

Amendment put and declared lost.

Section 2 agreed to.

Sections 3 to 9, inclusive, agreed to.

Question proposed: “That the Title be the Title to the Bill.”

**Deputy Denis Naughten:** Before we move on, I just want to state that it would help immensely if we had a consolidated Act. The principal Act has been amended nearly 15 times. It is impossible for any human being to try to read through it. If it could be consolidated, it would, at least, make it easier for people to draft an amendment.

Question put and agreed to.

Bill reported without amendment, received for final consideration and passed.

### **Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Bill 2021: Second Stage (Resumed)**

**An Leas-Cheann Comhairle:** I must now deal with a postponed division relating to Second Stage of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Bill 2021. Last Friday, 3 December 2021, on the question, “That the Bill be now read a Second Time”, a division was claimed and in accordance with Standing Order 80(2) that division must be taken now.

Question put: : “That the Bill be now read a Second Time.”

<i>The Dáil divided: Tá, 87; Níl, 44; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Andrews, Chris.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Browne, James.</i>	<i>Browne, Martin.</i>	
<i>Bruton, Richard.</i>	<i>Buckley, Pat.</i>	
<i>Burke, Colm.</i>	<i>Canney, Seán.</i>	
<i>Burke, Peter.</i>	<i>Carthy, Matt.</i>	
<i>Butler, Mary.</i>	<i>Clarke, Sorca.</i>	
<i>Cahill, Jackie.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Cairns, Holly.</i>	<i>Cronin, Réada.</i>	

<i>Calleary, Dara.</i>	<i>Crowe, Seán.</i>	
<i>Cannon, Ciarán.</i>	<i>Cullinane, David.</i>	
<i>Carey, Joe.</i>	<i>Daly, Pa.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Doherty, Pearse.</i>	
<i>Chambers, Jack.</i>	<i>Donnelly, Paul.</i>	
<i>Collins, Niall.</i>	<i>Ellis, Dessie.</i>	
<i>Costello, Patrick.</i>	<i>Farrell, Mairéad.</i>	
<i>Coveney, Simon.</i>	<i>Funchion, Kathleen.</i>	
<i>Cowen, Barry.</i>	<i>Gould, Thomas.</i>	
<i>Creed, Michael.</i>	<i>Guirke, Johnny.</i>	
<i>Crowe, Cathal.</i>	<i>Kerrane, Claire.</i>	
<i>Devlin, Cormac.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Dillon, Alan.</i>	<i>McDonald, Mary Lou.</i>	
<i>Donnelly, Stephen.</i>	<i>McGrath, Mattie.</i>	
<i>Donohoe, Paschal.</i>	<i>Munster, Imelda.</i>	
<i>Duffy, Francis Noel.</i>	<i>Murphy, Paul.</i>	
<i>Durkan, Bernard J.</i>	<i>Murphy, Verona.</i>	
<i>English, Damien.</i>	<i>Mythen, Johnny.</i>	
<i>Farrell, Alan.</i>	<i>Naughten, Denis.</i>	
<i>Feighan, Frankie.</i>	<i>Nolan, Carol.</i>	
<i>Flaherty, Joe.</i>	<i>O'Donoghue, Richard.</i>	
<i>Flanagan, Charles.</i>	<i>O'Reilly, Louise.</i>	
<i>Fleming, Sean.</i>	<i>O'Rourke, Darren.</i>	
<i>Foley, Norma.</i>	<i>Ó Broin, Eoin.</i>	
<i>Gannon, Gary.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>Griffin, Brendan.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Haughey, Seán.</i>	<i>Pringle, Thomas.</i>	
<i>Heydon, Martin.</i>	<i>Quinlivan, Maurice.</i>	
<i>Higgins, Emer.</i>	<i>Ryan, Patricia.</i>	
<i>Hourigan, Neasa.</i>	<i>Smith, Bríd.</i>	
<i>Howlin, Brendan.</i>	<i>Stanley, Brian.</i>	
<i>Humphreys, Heather.</i>	<i>Tóibín, Peadar.</i>	
<i>Kehoe, Paul.</i>	<i>Tully, Pauline.</i>	
<i>Kelly, Alan.</i>	<i>Ward, Mark.</i>	
<i>Lahart, John.</i>	<i>Wynne, Violet-Anne.</i>	
<i>Lawless, James.</i>		
<i>Lowry, Michael.</i>		
<i>Madigan, Josepha.</i>		
<i>Martin, Catherine.</i>		
<i>Matthews, Steven.</i>		
<i>McAuliffe, Paul.</i>		
<i>McConalogue, Charlie.</i>		
<i>McGuinness, John.</i>		

<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murnane O'Connor, Jennifer.</i>		
<i>Murphy, Catherine.</i>		
<i>Nash, Ged.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Brien, Joe.</i>		
<i>O'Callaghan, Cian.</i>		
<i>O'Connor, James.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Dowd, Fergus.</i>		
<i>O'Gorman, Roderic.</i>		
<i>O'Sullivan, Christopher.</i>		
<i>O'Sullivan, Pádraig.</i>		
<i>Ó Cathasaigh, Marc.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Ríordáin, Aodhán.</i>		
<i>Phelan, John Paul.</i>		
<i>Rabbitte, Anne.</i>		
<i>Richmond, Neale.</i>		
<i>Ring, Michael.</i>		
<i>Ryan, Eamon.</i>		
<i>Shanahan, Matt.</i>		
<i>Shortall, Róisín.</i>		
<i>Smith, Brendan.</i>		
<i>Smith, Duncan.</i>		
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Varadkar, Leo.</i>		
<i>Whitmore, Jennifer.</i>		

Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies Mattie McGrath and David Cullinane.

Question declared carried.

**Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Bill 2021: Committee and Remaining Stages**

NEW SECTIONS

**Deputy David Cullinane:** I move amendment No. 1:

“In page 5, between lines 1 and 2, to insert the following:

**“Definition**

**1.** In this Act, “relevant statutory instrument” means any regulation made under:

- (a) the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020;
- b) the Emergency Measures in the Public Interest (Covid-19) Act 2020;
- (c) the Criminal Justice (Enforcement Powers) (Covid-19) Act 2020;
- (d) the Health (Amendment) Act 2020; (e) the Health (Amendment) (No. 2) Act 2021; and
- (f) the Health (Amendment) (No. 3) Act 2021.””

I expected this amendment to be grouped with others because it is relevant to a number of other amendments. I will speak to this one as quickly as I can. Essentially, it proposes to include in the Bill a definition of a relevant statutory instrument. The reason is we want any statutory instruments which may arise from the emergency powers the Minister for Health has been given, to be properly debated, scrutinised and voted on, if possible.

This a bit like Groundhog Day because we are having the same conversation over and over again, the reason being we have had so many of these Bills. As they were not consolidated in one Bill, we are routinely coming back to the House to approve motions to allow for the sunset clauses to be extended without debate or scrutiny. We have sometimes reached the maximum number of motions that can be moved in respect of primary legislation. We have therefore had many similar debates on these issues.

We had a lengthy Second Stage debate on the substance of the opposition to what is being proposed in the Bill. I may be wrong - the Minister does not tend to answer questions on amendments when he is asked in advance - but I am working on the basis that none of the amendments will be accepted. I am working on that basis because that is what happened when similar amendments were tabled to previous Bills. In many ways, unfortunately, we will go through the motions again, which illustrates and proves my point that the Government is not listening and is not willing to accept eminently sensible amendments. Many of them have been proposed by parties across the Opposition for all the right reasons.

In his Second Stage contribution, the Minister spoke about his desire to improve commu-

nication and consultation with the Opposition. To date, I have not seen any evidence of that. However, I look forward to him again articulating clearly what that improved communication, consultation and dialogue will entail. It has to be said that, over the course of recent months, the communication has been poor. The most recent regulations were introduced without consultation with the Opposition or debate in this House. No time was provided for any of them.

People often have questions about what the regulations entail. As Members of the Opposition, we are asked our opinion on the workings of those regulations. Of course, we have not been briefed and we are not acquainted with the rationale behind many of them, which leaves us at a disadvantage.

It is not unreasonable to provide that statutory instruments be laid before the House. It is certainly not unreasonable that the Opposition would be briefed on those statutory instruments when they are put in place or that we would have a vote on them. The Minister stated on Second Stage that he had made an awful lot of statutory instruments and regulations and asked whether it would be a good use of our time to debate and approve many of them. That can be done and worked out at the Business Committee. That is the purpose of the Business Committee. Some of the regulations have more profound implications than others. Some have real implications given their impact on businesses, citizens and individuals, while others may be more technical in nature. Some might be more technical in nature, although they are obviously all important. That is why in later amendments we provide for the Oireachtas health committee to be able to waive scrutiny in the Dáil by saying that the statutory instruments could be laid after the Minister has made the regulations, with the approval of that committee.

It almost does not matter what mechanism anybody in the Opposition has tried to bring forward in order to have any level of accountability, transparency or democratic oversight for these emergency powers. They have all been blocked and voted down and the Government has given a reason or excuse as to why it cannot be done. That does not wash in the real world when people can see the Dáil is sitting. We are sitting tonight until midnight. The Dáil is sitting and has been sitting over the past number of months, pretty much as normal, and is well capable of scrutinising statutory instruments or regulations. It is certainly well capable of scrutinising primary legislation, as we are doing now, and yet we are not being given that opportunity. It is important to restate the reason we are here. The reason we have submitted these amendments is that we simply have not had any reciprocation from the Government about any of the legitimate and genuine concerns that have been raised by the Opposition on the manner in which these statutory instruments are being brought in.

I said this already on Second Stage and I will say it again. There is a big difference between supporting public health measures and supporting giving the Minister emergency powers. The question is how we bring in those public health measures in a fairer and more democratic way, in which there is at least some level of oversight. At the moment there is not any. For that reason, unless amendments are accepted I do not see how I can be in a position to support the Bill. However, I will listen to the Minister's responses as we work our way through the amendments.

**Deputy Mattie McGrath:** We were here last Friday discussing this and I made my views very well known at that time. We have tabled a number of amendments. I thank Brian Ó Domhnaill in our office for doing the research on this but it is all a useless, futile effort. I said this last week and I will say it again. When the Minister was on an taobh seo den Teach he was opposed to these powers. He stood up vigorously opposing them.

Each and every one of us, including myself and my five colleagues in the Rural Independent Group, supported these measures from day one. I have said since time immemorial that I staggered out of the Cabinet room that day because of the ferocity of what we were told would happen, and the shock and fear. Thankfully, and thanks to the heroic efforts of front-line staff and everybody else, nothing like that happened in our country. Unfortunately we lost a lot of lives and one life is one too many. Some of them were lost in very dubious circumstances when people with Covid were put into nursing homes without telling the management but that is for another day.

NPHET has lost the support and confidence of the people and the Minister has lost our support. One of the main reasons is that the Opposition's duty is to scrutinise, examine and have pre-legislative scrutiny. I asked the Taoiseach today during Leaders' Questions, which is something I take very seriously, about the analysis of how beneficial the Covid certificates have been and what impact they have made, looking for information to be brought before the House. He gave no answer - ní raibh aon fhreagra - but he got out of it by saying pre-legislative scrutiny was too slow and would take too long. That was an outrageous statement for a Head of Government in a democracy and a republic to make. We are just going to steamroll ahead and not worry about the implications because it is too slow. It is not too slow.

The Minister has these powers and does not know what it is like to be Minister for Health. I wished him well when he was appointed and I still do not wish him any animosity. He has had emergency powers since day one so he does not know what it is like to be Minister without this strong arm signing these statutory instruments. I keep asking him about this but he will not answer. Is it the heavy hand of pharma that is pushing him to sign these draconian pieces of legislation, or whose hand is it? The Irish Council for Civil Liberties and human rights organisations are totally against this too, although they were with the Minister for a long time. Many people's rights were trodden on and removed but that was due to the fear and the lack of time and space. The Minister could have consulted us on this after last July, or brought the Bill in for pre-legislative scrutiny in September. He knew these measures would expire in February but it was last Thursday evening before we got the explanatory memorandum - not even the Bill itself.

The Minister and his officials in the Department of Health, and whoever else, are running riot and running amok. They treat this House with total disdain. The Minister just comes in here and sits through the debate writing away. He keeps his head down and says nothing and does not listen to us. Our sovereign duty is to scrutinise. We were elected for that reason. The Taoiseach said today that we do not have time, that it would take six months, as if to say people were being awkward or belligerent. I do not know anybody who goes to any committee to be awkward or belligerent by asking questions and scrutinising.

I said last week that the Minister was afraid to answer the questions to which I want answers about the powers of detention. Some of the later amendments are pretty draconian. I had legal people go through the Bill. Oireachtas Members, colleagues of mine, were contacted about this and they started laughing and said there was nothing like that in the Bill. That is the way. They keep their heads down, put a bag over their heads and vote blindly. Of course that is in the Bill. I again thank the people from the Alliance for Justice who helped me go through the Bill and examine it in detail so I know what I am talking about, because it is not easy to follow this legislation. The Minister has a whole Department and advisers and officials to do this but he would not come to pre-legislative scrutiny. It is getting worse. The Taoiseach said today that pre-legislative scrutiny was taking too long and could take up to six months. Those were his

words. I do not know anybody who would have delayed it for that length of time. There was a special Covid committee of which my Independent colleague Deputy McNamara was chair and its recommendations are gathering dust somewhere as well.

The sad part is that we in the Opposition were briefed weekly, or fortnightly at worst, from the start of the pandemic right up to last October. We have never had a briefing with the Minister, the Taoiseach and Tánaiste and NPHE. We had a briefing with NPHE two weeks ago, after 12 months. Why lock us out of the situation? The Government needs us and the more support it has for legislation the better. Why lock us out completely and disrespect the Opposition like this, telling us *carte blanche* that our views do not count and do not matter? We are all in this together but clearly we are not. The Minister forgot about the Opposition when he needed it. When he was in opposition he was at some of those briefings with me, Deputy Cullinane and others from all groups. When he took over he should have known the value of them and the value of having a united approach. We are not going to be obstreperous but we are certainly not going to defend this. It is my duty to defend the human rights and liberties of people when I see them threatened. I have been called the tin hat brigade and all kinds of names but when I have legal advice telling me exactly what is in the legislation, my antenna goes up immediately. Why does the Minister need these powers? He did not lay before us any segment of a report about how many times those powers were used since they were introduced in 2020, whether that was once, twice or 100 times. We should know that when renewing legislation.

This Bill rolls four pieces of legislation into one. They were all emergency Bills and they were all rushed. None of them had pre-legislative scrutiny and we have had no pre-legislative scrutiny on this either. I am honestly very concerned. That is why I called a vote on Second Stage and I will be calling any vote I can tonight as well. I will be answerable to the people. I have made my best efforts to understand what is in this Bill despite the limited time we had before last week. It is just not good enough. The Taoiseach said this morning that pre-legislative scrutiny would take too long.

*5 o'clock*

It is alarming that the head of Government would tell Parliament that it could not discuss legislation and should just take the legislation from the drafters and nod away. I will not be nodding anyway. That is one thing that is certain. I will be ós comhair an Bille seo. It is draconian and rushed and rushed legislation is bad. The Government has abandoned the Opposition because it does not brief us. When replying, the Minister might explain why we have not been given a briefing in 13 months. It was late October 2020 when we last had a briefing. Health spokespersons received a briefing from some of NPHE a fortnight ago last Monday, but that was all. I support Deputy Cullinane's amendment.

**Deputy Paul Kehoe:** I spoke on this Bill last Friday. I support the Government's efforts. The science does not lie. Consider the number of hospitalisations. The Government and NPHE asked people to reduce their social contacts, which people have since done over the past number of weeks. It is working and there are fewer people in hospital with Covid.

It is easy for the people opposite. I feel strongly on this. Some of the stuff is bizarre. Yesterday, Sinn Féin said that it supported public health. I have seen a Sinn Féin councillor in Wexford calling on people to come out onto the street to support parents who were protesting against children having to wear masks in primary schools, yet Sinn Féin Members say in the Dáil that they support public health. I was nearly attacked last week when I was making my

statement. They will say one thing in here but their public representatives across the country, or in my county at least, will ask for something else. God help the country if Sinn Féin was in government right now and having to deal with this situation. Sinn Féin went to ground when the pandemic hit the country in March 2020. No public representative from Sinn Féin was to be seen. Sinn Féin put a hand up to see which way the wind was blowing, which is how it has worked for the past year and a half.

Deputy Mattie McGrath spoke about pre-legislative scrutiny. What the Taoiseach said today in the Chamber was that debating this would take up to six months if we were to have pre-legislative scrutiny in committee. The pandemic would be far out of reach of any attempt to catch up to it if we were to take such a blasé approach. It is something that we have to act on immediately. The Government has to make decisions quickly. We might not get all of them right and, at times, the communications can be a little out of kilter. I actually agree with the Government's approach, in that we should have one voice. In recent months, there have been too many voices speaking about Covid - NPHET, the Government and so on. It is NPHET's job to advise the Government and it is the Government's job to make decisions. I was privileged to sit at the Cabinet table for nine and a half years. Things have not changed. There are many organisations, including NPHET, that advise the Government on health-related matters. It is then up to the Government to communicate the message. Difficult decisions have needed to be made over the past while.

Last week, I spoke about the roll-out of the vaccine to five- to 11-year-olds. I thank the National Immunisation Advisory Committee, NIAC, and the Minister for the swift response. This is a good day. I ask that there be no delay in the roll-out. I have three kids all under the age of 11. They will be the first in the queue. They want to be, so it will be of their own free will that they will. The roll-out is only right and proper. I encourage as many parents and guardians as possible to ask their children to get vaccinated because the vaccine saves lives. According to the science, Covid has been rampant in primary schools whereas there have been fewer outbreaks in secondary schools and third level institutions despite their students having many more social contacts.

Answering questions earlier, the Taoiseach referred to how, for health or other reasons, there were people who could not take the vaccine. I would like something to be done for them. Being honest, I wrongly did not have enough sympathy for them. They were being tarred with the same brush as anti-vaxxers and so on. I understand from what the Taoiseach said that the Department is looking to see whether anything can be done. I do not know what can be done. It would be very difficult. How do we tell who is an anti-vaxxer and who is not? There are some very genuine people, though. Most of those who, due to health reasons, are unable to have the vaccine do not mix or go out. They have been minding themselves and are very careful. Will the Minister consider this issue?

I feel strongly about another matter. Weddings are being attended by 100, 200 or 250 people, who are mixing and gathering. As I have mentioned on local radio, Covid loves alcohol and alcohol loves Covid. A wedding is an alcohol-fuelled affair, with 50% or 60% of people still drinking at the end of the night. For the life of me, I cannot understand why it is that people who are attending weddings are not asked to produce Covid certificates. Some hotels have been asking people to produce certificates, but it should be mandatory that people attending large settings, including for weddings, be asked to produce Covid certificates. That is only right and proper, and many wedding couples would welcome it because they do not want to put their guests' health at risk. Many hotels have taken it upon themselves to ask people for certificates.

Will the Minister consider this matter? It is not too late to do the right thing. Weddings are special occasions and I know that the Minister does not want to put additional stress on couples, but many of them would welcome this move.

**Deputy Duncan Smith:** I plan on this being my only contribution this evening because I have no amendments tabled. There are some good pro-scrutiny and pro-transparency amendments that we will be supporting and there are other amendments that we will not.

I hope that the Minister can answer my question during the course of this evening. Regardless of how one feels about this legislation or its sister legislation, we can all agree that, legislatively speaking, this is not the best way to tackle Covid in the months and, dare I say it, years ahead. According to the WHO, Covid will be with us in some fashion until 2023, so we will have to come up with a better legislative approach than this where we come back every couple of months to consider extending these legislative provisions. It is becoming repetitive and the debate is getting more base and poorer, which is not a good reflection of our politics and is not how we should be tackling Covid. We are treating each wave as if it is our last and we are not planning for Covid being here into the future.

We are all worried that Covid will throw us another curveball and send us down another unwanted turn. We have to be prepared for that. The majority of us in opposition accept that this will happen and that there will be pain and difficult decisions. However, we have learned from Covid over the past 20 months. We have learned about different testing measures, contact tracing, mask-wearing, sanitising hands, social distancing, air filtration, CO2 monitors and all the rest. We have practical tools in our armoury, which is where the Opposition broadly wants to focus its energy in terms of implementing what we believe will help. We all know that there is no silver bullet, but I do not think it is helping anybody to have legislation coming on a frequent basis in respect of short-term measures that do not take into account where we are with Covid, where we are going to go with it and how long it is going to be with us.

We will support the Bill. I will not give an ultimatum and say this is the last time we will support such a Bill, but as 2022 dawns I hope that as well as the practical measures we all want to see improved, rolled out and invested in, we will also see a more long-term legislative approach that means we can focus our time in here on other pieces of legislation on other aspects of healthcare and challenges in society. This is not a long-term way to deal with the situation. It is short-term legislation that is being rolled over in an emergency fashion. At some stage, Covid will still be with us and it cannot be an emergency any more. It is just going to be part of how we live our lives and the health service will have to adapt to it. I hope that something will come from the Minister either this evening or in the next couple of days to indicate that this will be the last time we will be debating these sister pieces of legislation, not because we believe Covid is going to go away, but because there is a better, more sophisticated long-term approach that takes into account the reality of Covid and not the hope that this wave is going to be our last.

**Deputy Denis Naughten:** I wish to make a few brief points on this amendment and on the Bill before us. I accept that the Minister is in a difficult position. I also accept that we need legislation, and I fully support the provisions set out in section 4. The Health (Amendment) (No. 2) Act expires on 9 January and there will not be ample opportunity between now and then to debate it and I believe an extension of it is warranted. However, to be honest with the Minister, as someone who has reluctantly supported the provisions in this series of legislative measures, as the one that proposed the sunset clauses for the original legislation, I cannot see the justifica-

tion for extending it beyond 9 February up to 31 March. There is an onus on the Government to come in here in January – if that means coming back a week earlier, so be it – carry out an evaluation of the situation when we have a better idea of the current variants and the progression of the virus over the Christmas period and provide justification at that point.

When the Minister came into the House on Friday and made the justification for the extensions that he is proposing, he stated that the virus is at quite a high level, not just here in Ireland but right across Europe, and that this is due to a combination of increased socialising. The decision was taken by the Government to increase the socialising, especially in nightclubs, without the use of antigen testing, which many of us in the Opposition had been pleading with him to introduce for ages. I accept that there is a debate between the academics as to whether we should have antigen testing. I also accept that the Minister sought separate specialist advice from the chief scientific officer in respect of that matter. He is to be commended on that, but ultimately, the call must be made by the Government and not by the public health advisers. The Government makes decisions. Public health advisers provide advice, but it is the Government that makes the final decision. We should have been rolling out antigen testing far more liberally at an earlier stage. It is only when the PCR testing has come under undue pressure and been unable to manage the scale of pressure that the public health officials decided to advise on antigen testing in limited cases. We need to have a proper and thorough debate on how we are going to live with Covid-19 because it is going to be with us in one form or another for a considerable period. We also need to have a far broader debate than the one we are having. That is not a debate for today, but it should happen early in the new year.

I want to pick up on the issue of the unvaccinated. There are myriad reasons why people are unvaccinated. There has been much commentary on unvaccinated people. The impression is given that people across the board are doing this out of choice, which is not the case. There are people who, for valid medical reasons, cannot or should not have the vaccine. The National Health Service website states that the possible reasons one would have a medical exemption from the vaccine include:

- people receiving end of life care where vaccination is not in the person's best interests
- people with learning disabilities or autistic individuals, or people with a combination of impairments where vaccination cannot be provided through reasonable adjustments
- a person with severe allergies to all currently available vaccines
- those who have had an adverse reaction to the first dose (for example, myocarditis).

There are people who, for very legitimate reasons, cannot get vaccinated and they are not being accommodated in the provisions in this legislation or the other legislation. Antigen testing does facilitate those people engaging with society rather than having to cocoon, which they have been doing up to now.

**An Leas-Cheann Comhairle:** I hate to interrupt the Deputy, but I call on him to speak to the amendment. This is not Second Stage.

**Deputy Denis Naughten:** This is the final point I will make, and I will not intervene again. The Minister will say, as the Taoiseach said to me yesterday, that the Government will listen to the advice, but it is only certain advice that it is prepared to listen to. Last week, the Ombudsman for Children said there should be a fortnightly review of the use of face masks in schools.

That is being ignored by the Government. The Office of the Ombudsman for Children is an expert in dealing with issues regarding children. I accept the office is not an expert in public health advice, but it has recommended that there would be a fortnightly review of the decision. The Government has decided that it will extend the provision until 9 February and perhaps beyond that point. We must take a balanced approach on these issues. We must look at the evidence as it changes and progresses - it will change and progress – and have the support of all of us to progress these measures that are appropriate and based on the evidence available to us at that particular point in time.

**An Leas-Cheann Comhairle:** I am not addressing anyone in particular, but I ask Deputies to stick to the amendments. We are on amendment No. 1, which is very specific.

**Deputy Carol Nolan:** I will be very brief. I am deeply concerned. Today, my colleague, Deputy Mattie McGrath, raised the absence of pre-legislative scrutiny. The justification was made on the basis that we did not have the time for it. Did the Minister consider carrying out an impact analysis or any assessment on the possible impact the restrictions and draconian measures would have on people's lives and access to other health services such as cancer screening? I have said all along that I am very concerned about these measures. I feel that the cure is worse than the disease in most cases. I am aware of cancer patients who were delayed in being transferred to hospital. I am aware of issues with screening which have impacted on people and caused them extra distress. I am also aware of issues regarding people who cannot take the vaccine because they have a number of allergies to medication. I have made personal representations to medical professionals about these issues. I am aware of one constituent who cannot get any sort of answer and who was left in limbo. She cannot receive anything from a medical professional to advise her what she should do due to her allergies to many medications. Something needs to be issued quickly to those people.

I am concerned. The fact is we have 900,000 people on our hospital waiting lists, and we have had an increase of 124,000 since August 2019. We cannot just forget about those people because of the current crisis.

**An Leas-Cheann Comhairle:** I hate to interrupt. We are past Second Stage. The Deputy makes valid points but we are on amendment No. 1.

**Deputy Carol Nolan:** I understand but I may not get an opportunity and I am being very brief. These are noteworthy points which my constituents have asked me to raise. I will be as brief as I possibly can be.

The overarching point I will make is that life can and should go on. We cannot stop everything, we cannot down tools and we cannot do this to people. There is heightened anxiety among children. Deputy Naughten referred to the point about the Ombudsman for Children asking for a review of mask wearing every two weeks, which I support. There are deaf children who are in a great deal of distress because they are being forced to wear a mask.

That comes back again to my original point about an impact analysis. If we could not do the pre-legislative scrutiny, why not have an assessment or an impact analysis to consider the ramifications, in particular the legal ramifications, of what has been imposed on people? I believe this will give rise to many legal challenges. People are already distressed. Children are suffering from very high levels of anxiety. Mental health services are in disarray. In my constituency, I am aware that mental health services in Birr, County Offaly, have not resumed

since Covid-19 began. Unfortunately, mental health issues, along with other issues, do not go away because we have a pandemic.

We need to be sensible. We need to make sure that we are aware of and dealing with all of the other medical issues out there. Why was the number of ICU beds not increased? Why were hospital staff numbers not increased dramatically? It seems unfair and unjustified the way the Government has gone about this. It is very rushed. It would make more sense and serve the Government better to take the time to consider the serious impact it is having on people. My fear is that more lives will be lost, not because of the pandemic, but because of the Government's inaction on hospital waiting lists and the time that is being lost. I am aware of babies being presented and of phone calls being made to GPs. The parents of these babies are being told to get the Covid test first. If that was meningitis, the time lost could be very serious and could lead to a loss of life. I am concerned and I believe these points need to be raised. That is why I make no apology for raising them. I believe common sense needs to prevail and we need to be fair to people.

**An Leas-Cheann Comhairle:** As Deputy Shortall does not wish to speak on this amendment, I call the Minister on amendment No. 1.

**Deputy Stephen Donnelly:** With the permission of the Chair, I might address the points that were off the amendment.

**An Leas-Cheann Comhairle:** The Minister should address amendment No. 1.

**Deputy Stephen Donnelly:** It is difficult to address some of them as it is a very-----

**An Leas-Cheann Comhairle:** It is but it is amendment No. 1 that we are trying to deal with here. We want to get through the amendments.

**Deputy Stephen Donnelly:** I am happy to do whatever the committee wants and I will be guided by the Chair entirely.

**An Leas-Cheann Comhairle:** The Minister should address the amendment for the moment.

**Deputy Stephen Donnelly:** Okay. A variety of issues have been raised by colleagues. When the Chair deems it the appropriate time, I will address all of those. I have been instructed just to address the amendment and I will come back to the other issues whenever it is appropriate.

Specifically on the amendment, it seeks to insert a definition of "relevant statutory instrument". All statutory instruments regarding the Acts referred to in the amendment are made under the Health Act 1947 and, therefore, the amendment as it stands does not make sense within the legislation. For that technical reason, I will not be accepting the amendment.

Whenever the Chair deems it appropriate, I am happy to address all of the other concerns that have been raised.

Amendment put and declared lost.

**An Leas-Cheann Comhairle:** Amendments Nos. 2, 20 and 24 are related and may be discussed together.

**Deputy David Cullinane:** I move amendment No. 2:

In page 5, between lines 1 and 2, to insert the following:

**“Parliamentary oversight of Covid-19 regulations**

1. (1) Every relevant statutory instrument made by the Minister shall be laid before each House of the Oireachtas not less than 48 hours before they come into effect and-

(a) where, before the date on which *paragraph (b)* would have effect, a resolution annulling the instrument is passed by either such House, the instrument shall be annulled accordingly but without prejudice to the validity of anything previously done under it, or

(b) if, in respect of each House, a resolution confirming the instruments is not passed by it-

(i) on the day it is laid before that House or within the next subsequent 14 days on which that House has sat after the instrument was so laid, or

(ii) in any other case, within 21 days after the instrument was made, whichever first occurs, then the instrument shall be deemed to be annulled accordingly but without prejudice to the validity of anything previously done under it,

(c) where, following the agreement of the Joint Oireachtas Committee on Health, the need of such a regulation is deemed urgent, every relevant statutory instrument may be laid before each House of the Oireachtas as soon as may be after it is made for the purpose of this section.

(2) The period of time to which *subsection (1)(b)* relates in respect of a relevant statutory instrument that has been subsequently amended is the period of time concerned for that instrument and not to any other period of time by reference to the amending instrument.

(3) Notwithstanding *subsection (2)*, *subsection (1)(b)* does not apply to a relevant statutory instrument where, before the date on which *subsection (1)(b)* would have had effect-

(a) the instrument ceases to have effect in accordance with its provisions,

(b) the instrument ceases to have effect in accordance with any subsequent amendment duly made to it or has been duly revoked, or

(c) the instrument has been annulled by either House in accordance with *subsection(1)(a)*.”.

On this group of amendments, the Minister may be able to respond to some of the broader points which were made.

Amendment No. 2 seeks to do a number of things. It states: “Every relevant statutory instrument made by the Minister shall be laid before each House of the Oireachtas not less than 48 hours before they come into effect”. It talks about the statutory instruments being annulled if they do not have approval of both Houses. However, it also refers to exceptional circumstances where it may be deemed appropriate, because of urgency, that “following the agreement of the Joint Oireachtas Committee on Health, the need of such a regulation is deemed urgent, every relevant statutory instrument may be laid before each House of the Oireachtas as soon as may

be after it is made for the purpose of this section.” We discussed a very similar amendment on another Bill not long ago.

I want to make a number of brief points. I know Members who have not spoken will want to come in, and we want to get through as many of the groups of amendments as possible. Therefore, we will certainly co-operate with the Chair to make sure that happens.

I accept this is a very difficult situation for everybody. It is certainly difficult for citizens and there is a lot of fatigue out there at the moment, which we can all accept. It is difficult for workers, for businesses and for families. We are two years into a pandemic that nobody saw coming and nobody wants. Nobody wants to see public health measures in place which impact on people’s lives but they need to be put in place at times, and public health measures are very important and have been important to keep us safe.

It is equally important to acknowledge that mistakes were made. Mistakes were made by this Government. I would imagine that mistakes were made by Governments around the world but, certainly, a lot of mistakes were made by this Government. The problem is that if we support emergency legislation and we support the provisions of this Bill, I can then be held to the same standard as the Minister.

I want to give the Minister one example because communication is coming up all of the time. The Government is now talking about communication, not just the Opposition, who have been saying for a long time that there have been communications failures. Even the Government has been acknowledging in more recent times that there have been real communications failures at the heart of Government in regard to the Covid response. I did a radio interview at the weekend and I was asked some reasonable questions about my interpretation of regulations and additional public health measures that were brought into effect. The last meeting we had with the CMO was one of the rare occasions where the Opposition had a chance to actually put questions to the CMO. It was a very good, constructive meeting. He set out, as did Professor Nolan, the trajectory of the disease, the possibility of increased hospitalisations, the worst-case scenario and the best-case scenario, although none of it was good. He said that, at that particular point in time, they were not looking at additional public health measures, and I believe he was right at that point, and maybe they were not. Not even a week later, recommendations were made in regard to children wearing masks in schools and recommendations were then made, which seemed to come out of the blue, that children should reduce their social contacts. We then got into the whole issue of whether children should go to pantos or go to social events, or pick one over the other, and, all of a sudden, we had more confusion and mixed messages. We had the public health experts saying one thing - that this should happen now and they were telling parents they should not go to any of these - and the Government maybe saying something a little bit different, which is what happens. That happened very quickly afterwards.

That was then followed by the additional public health measures that had an impact on the hospitality sector and the nightclub sector, and other measures. I was asked my opinion on the regulations that provided for all of that. As I was giving the response, I was reminded that the Tánaiste was only speaking to the media on the same morning, thinking out loud as he does, asking and questioning the wisdom of the public health measures he signed off on. He is a member of the Cabinet sub-committee and I am sure he had all of the information on the potential risk of hospitalisations over the coming weeks. The point he was making was that hospitalisations seemed to be coming down and he expressed a presumption that we might have moved too quick with some of the public health measures. I did not say that; it was the

Tánaiste. He sat at the Cabinet sub-committee and signed off on the measures and then signed off on the regulations as a member of Government but he was thinking out loud about whether any of this was necessary.

How in God's name is that fair to the Opposition? We have had no briefing since the meeting we had with the CMO. We have received no information or data on where we are with the trajectory of hospitalisations. We all celebrate and welcome the number of hospitalisations coming down. It is fantastic that they have come down in recent days - we all hope they will continue to come down - but I am assuming that the Minister has all that information and that the Tánaiste has it as well. I offer all of that as a good example of the position the Opposition finds itself in, which is not fair or reasonable. We are asked all of these questions and we are trying to figure out, without the detail the Government has, if it makes sense. At times, some of it does not make sense to people. There may be a public health rationale for it, but I am not in a position to answer those questions because I have not been given the relevant information. That is the problem. Then we are asked to give the Minister a blank cheque in this Bill to make regulations that we do not have any hand, act or part in drawing up. That is the fundamental point. Look what happened again in recent days. We have been saying for some time, as have others in opposition, that there have been mixed messages, that mistakes have been made, that there has been a lack of decision-making or poor decision-making and that there have been communication failures. The Government has been ham-fisted and gone about it in the wrong way again. It has given an impression that it is trying to gag public health officials.

There is an acknowledgement that at the very least there have been communication failures. One of the biggest communication failures that has been at the heart of Government is its failure to communicate with the Opposition. The Government has failed miserably in that regard in recent months. The Government's communication strategy involves different Ministers saying different things and interpreting public health advice in different ways. The public health experts say one thing and the Government says something else. That leaves people confused and then we are all held to account.

I agree with Deputy Duncan Smith that we are having circular arguments. The reason for that is we are not seeing any changes or improvements. I wish it was different. I will not even respond to the political charges Deputy Kehoe made. I have been asked a million times if I support public health measures. I can be walked through every single one of them and I support them, as do the vast majority of Members of this House. That is because we know what is needed to keep people safe. However, I am not prepared to accept the clumsy way in which the Government have gone about it time and again. There is wisdom in what Deputy Duncan Smith said when he said that when we come back next year we have to look at how we do all of this. The quarrel is not about the public health measures as such. Rather, it is about: how they are all being put in place; how they are being communicated; the input from the Opposition or lack thereof; the lack of democratic oversight; and the lack of accountability and transparency, which are unacceptable.

If the Minister does not accept any of the amendments that try to give a semblance of democratic oversight, I cannot support this Bill, which gives the Government a blank cheque and which I am held to the same standard as the Minister on in respect of mistakes he has made in the past. I am assuming, given what I have seen already, that there is potential for mistakes to be made again in the future. That is not what I should do as a member of the Opposition. For that reason, I will be pressing amendment No. 2 and possibly some of the other amendments as well.

**Deputy Róisín Shortall:** I want to speak on amendment No. 20, which is in this group. The Minister is not making it easy for us to support the legislation. We have already stated that we will support it, as we supported the previous legislation last month, but the Minister does not make it easy because he does not meet people halfway at all. This legislation grants wide-ranging powers to Government to introduce emergency measures and to do that by regulation. Each time we have debated emergency legislation, I have tabled amendments asking the Minister to provide notice to the Opposition when he passes regulations. I have not asked for a vote of the Dáil on that but I have asked the Minister, in order to improve communication and in order that everybody is aware of what is happening, to provide 48 hours of notice to Members of this House and to the public, and to lay the regulations before the Houses before they are implemented. That is a reasonable proposal and it is regrettable that the Minister did not meet us halfway in that regard. I also asked on a number of occasions that we would review the impact of the legislation prior to any rollover of it. Again, that is good practice and we have seen what happened in recent times when that legislation applied. We could see what the pros and cons of it were, if there were issues or difficulties, how many times enforcement actions were taken, what needs to change and if lessons are to be learned. That is good practice and it was a reasonable request but the Minister did not accede to that. That makes it difficult to work with the Minister.

Overall, in the past year the Minister has been remiss in providing provide adequate information by way of briefings to the Opposition. He should have done that and we should have all been working on this together and trying to achieve the best possible outcome. This legislation and the Government approach are all the weaker as a result of the failure to work with other people and listen to what other people are suggesting. The Minister has refused to listen to anyone else, certainly not to people on this side of the House. Even outside the House, he has refused to listen to anybody beyond NPHEt. The latter is a good public health body and it has done a lot of good work in the past but it has not gotten everything right and there needs to be an acknowledgement of that. There are two standout areas; the first is ventilation and the second is antigen tests. The reason a subgroup of NPHEt was set up at the end of last year is that the expertise on ventilation did not exist within NPHEt. That expert group provided advice on ventilation in January and it provided a second report in March. The Minister chose to ignore those two reports. That is infuriating for people who are asking why the Minister is not listening to the science.

**An Leas-Cheann Comhairle:** I interrupted other Deputies to remind them to speak to the amendment.

**Deputy Róisín Shortall:** They did not get time to-----

**An Leas-Cheann Comhairle:** The Deputy can speak for as long as she wants but the amendment is on regulations.

**Deputy Róisín Shortall:** It would work much better if the Minister listened to the science, but he did not do that with ventilation and antigen tests, even though expert groups were set up for those matters. Members of the Opposition and the public are asking why the Government is mishandling this to the extent that it is and they are asking why it is not doing the logical and obvious things it has been advised to do. The fact that the Government has not done that means it needs an extension of special powers now. That has happened because serious mistakes have been made. In November, the Government suddenly started talking about antigen tests and now, in December, it is suddenly accepting that there is a need for air purification systems in

schools. We paid an enormous price for the Government's failure to listen to the science on that. That is why it is so difficult to support legislation which is about doing other things that are necessary. The Minister's response on those obvious, practical things that would have made such a difference to the trajectory of the virus is really hard to understand. Not only does it cause annoyance and frustration among people, particularly those on this side of the House, the mistakes being made are costing the country dearly.

There is a need for regulations, undoubtedly, particularly with regard to Covid certificates and mask-wearing. They are the two stand out areas for which we need regulation and enforcement and we are supportive of those but we take exception to the fact that the Minister has not addressed the other issues and as I said, they have been very serious mistakes. In the context of this legislation, given how draconian it is, I strongly appeal to the Minister to at least agree the kind of safeguards that would be entailed with providing notice of the regulations. That is good practice but it also important from the point of view of making people aware of them.

We know that the public health messaging has been very poor, especially of late, when announcements are made or things are leaked by NPHE or whoever. NPHE says one thing, a kite is flown for a few days and then Government decides, depending on what way the public reacts. That has resulted in a very high level of confusion about the rules and the regulations. Even at this stage, trying to get basic information on the regulations - how they operate, how long one has to do this or that, what is allowed, how many individuals can be seated at tables and all those practical things that people are trying to find out - is really difficult because of the confusing messaging. Things must improve on that front because people are not only frustrated, they are confused as well. The vast majority of people want to do the right thing. In that context, it is really important that the Minister listens to the science on the key issues of antigen testing and ventilation. Of course, he should have listened to that science a long time ago, earlier in the year. I appeal to him, at least in relation to providing notice and clarity about regulations that are introduced, to give the kind of notice provided for in amendment No. 20.

**Deputy Michael McNamara:** In effect, these amendments would give the Oireachtas - the Dáil and the Seanad - the power to scrutinise the regulations that the Minister makes. That is very important. I have spoken previously, as have many Deputies, on the importance of parliamentary scrutiny. I spoke about it on Second Stage and cited an expert who appeared before the Oireachtas Special Committee on Covid-19 Response, of which the Minister was once a member. I also referred to legal academics in Ireland who cited the importance of that in a democracy and the fact that it was being diminished, at the very least, by the approach taken to the making of regulations to date. I have proposed similar amendments in the past, as has Sinn Féin, and I am happy to support Deputy Cullinane's amendment.

Philosophically, it is very important that any regulations the Minister makes are scrutinised adequately by this House. It is also very important on a practical level. I want to go into the practical reasons to reinforce the importance of this amendment and to urge people to support it. As the Minister knows, this Bill proposes to roll over the Health (Amendment) (No.2) Act which was passed in July of this year. Effectively, that was the Act which facilitated Covid passes. In that Act, the Minister was given the power to introduce regulations. These are regulations that the Dáil cannot scrutinise; it can annul or leave them in place but it cannot debate, scrutinise or propose any amendments to them. As I said, in that Act, the Minister was given the power to introduce regulations requiring proof of immunity. Proof of immunity was actually defined in the parent Act, the Act passed democratically by this House. I opposed that Act because I feared it would be abused and unfortunately, I believe it has been. Proof of immunity

is set out as “(a) an EU Digital Covid Certificate”, “(b) a document as may be prescribed, in written or electronic form, issued by a body implementing a vaccination programme (howsoever described)” or “(c) any form of written information or proof verifying, in such manner as may be prescribed, in relation to the person to whom the document is issued, that the person has recovered from Covid-19”. Therefore the Act envisages three types of proof of immunity, namely, an EU Covid pass, a vaccine certificate or proof of recovery. This is important because the Minister has never made mention of proof of recovery in the regulations he has introduced. He has merely confined the proof of immunity to an EU Covid pass, which was introduced a lot earlier in the year when a great deal less was known about immunity. It was introduced for a specific purpose only, namely, to facilitate travel between member states. Those who do not have proof of vaccination or who cannot prove recovery within a tight period of six months can get an antigen test to enter most EU member states or, in the very special case of Ireland, a PCR test and that enables them to travel freely. However, that will not enable them to access facilities in Ireland because the Minister, by regulation, notwithstanding that it was clearly envisaged in the Bill that proof of recovery would be included, has limited it to proof of vaccination or a Covid pass.

The Covid pass only provides for recovery within the last six months. That is quite important because at a meeting of NPHET on 11 November, the chair of the Irish epidemiological modelling advisory group confirmed that natural immunity is built into and explicit in his modelling. He said that as is standard for these models, “infection-induced immunity is assumed to be permanent”. NPHET modelling, which all of the measures introduced by the Minister are a response to, is assuming that immunity is permanent. This is a step forward, the idea that immunity is permanent or any assumption that it is permanent. I am not plucking this out of the sky. I am plucking it from the published minutes of the NPHET meeting of 11 November. NPHET is modelling on the basis that immunity is permanent.

When the Minister introduced the previous legislation, which he is now seeking to roll over, to the House in July, the advice was that immunity lasted for at least nine months. Of course, Covid was more recent in July than it is now so less was known about the duration of immunity. Notwithstanding knowing that immunity was in place for nine months, the Minister limited Covid passes to persons who had recovered within six months. Why was that done? It was done to keep people and premises safe. I have asked the Minister to provide evidence that Covid passes make premises safe. When the Tánaiste, who is a medical doctor - I do not know how relevant that is but a lot of people seem to think it is relevant - was asked the same question in the Seanad he said the following:

With regard to the Covid pass and vaccine passes, there is good evidence that they have worked. At the very least they have encouraged more and more people to get vaccinated. I am not sure we would have reached so high a level of vaccination as 93% or 94% were it not for the Covid pass system. There is good evidence that countries that have it have higher levels of vaccination. At the very least, it has worked on this level if it has not, perhaps, been as effective as we hoped in terms of transmission. It has certainly been effective in encouraging people to get vaccinated. We see people who are not yet vaccinated still coming to get vaccinated for the first time and this is encouraging.

Therefore, as I asked at the time, was the Covid pass about encouraging or coercing people to get vaccinated or was it about keeping premises safe? The purpose of the legislation is to make a premises more safe, not to coerce or encourage people, depending on one’s view, or to treat the livelihoods of people who work in the hospitality sector, who work in bars up and

down the length and breadth of this country as collateral damage in an attempt to encourage people to get vaccinated, but rather to make the particular premises safer. I have not seen any evidence yet that these Covid passes are making premises safer.

The Tánaiste has only said that they have worked to encourage people to get vaccinated. However, the self-same Minister, who is also a medical doctor, said today that we might need a fourth booster to make us safe from the latest variant, Omicron.

I am asking this now because I will not have the power to ask these questions later, and nor will the Dáil, because there is no power to scrutinise the regulations the Minister brings in. Deputy Cullinane is proposing that we have that power. I am supporting that because it is important. That is because we will not be able to ask the Minister in a couple of days, weeks or months. Therefore, I am asking now as we consider whether to vote on the amendment. Will it be possible that you will require a booster in order to have a Covid pass, or even two?

It is very important that the Minister answers that question now if he will not agree to an amendment that will enable us to scrutinise that if and when he introduces regulations requiring that. Is it about the Minister giving himself the power to change Covid passes to require further booster shots? Is it one? Is it two? I am not plucking this out of the sky but from what the Tánaiste, a serving member of the Cabinet and a medical doctor, has said and also what he has said on the record of the Upper House.

I am also asking when the Minister will acknowledge immunity from recovery. It is provided for in the law which the Minister introduced and which he is now proposing to roll over. It seems to be provided for in the science or at least the science proposed by those who advise the Minister and to whom he introduces regulations in response. They have said, as is standard for these models, that infection-induced immunity is assumed to be permanent.

I tried to keep abreast of some of the reports in *The Lancet*, the *British Medical Journal* and so on. I have not read anything saying it was permanent but I have read reports that said that it is enduring. If it is enduring at the very least, or permanent as NPHET modelling is predicated on, then why when people have recovered and enjoy some degree of immunity, which is as great if not greater than vaccinated persons because we know that they wane over time – notwithstanding the Minister’s criticism of Deputy Verona Murphy when she spoke of a report in *The Lancet* that suggested that vaccine-based immunity waned over time and it seems some vaccines wane faster than others - are vaccinated people being given a pass to enter a premises in order to keep it safe when we know that their immunity is waning but someone whose immunity is more enduring cannot enter a premises? That is not about public safety, it is about encouraging and coercing people to get a vaccine. That is about holding up the livelihoods of everyone who works in that sector as collateral for the Minister’s crusade. I use the word “crusade” advisedly. The crusaders believed that they were fighting for a glorious cause, a better future bringing enlightenment to the savages that they met along the way and converting them by force or coercion if necessary. That was a good thing. We might view it a little bit differently with the benefit of hindsight but that might be equally so with this. Therefore I ask, simply, that the Minister say whether or not he will contemplate requiring a third or fourth booster for a Covid pass. Will he say why immunity acquired from recovery from Covid more than six months ago is included?

It is important to raise the question of those who cannot take a vaccine now because unless this amendment is accepted, we will not be able to raise it again. I received an email from a

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concerned constituent. It is someone I know and I also know her daughter who is the subject of an email. This is not someone who made this up to score a point but it is a real person in a real difficulty. Her daughter has been diagnosed with autism. She wrote:

At the outset, I wish to stress, I am not anti-vaccination, and I support the vaccination programme. As a family, we have strictly adhered to all public health guidelines throughout the pandemic. Unfortunately, because of a previous adverse reaction to a vaccine, we were advised not to get our daughter vaccinated. Based on the completion of a benefit risk analysis, we feel this is the correct decision.

However, the recent extension of Covid-19 passes beyond the hospitality sector has posed significant difficulties for our daughter. She now feels very excluded and marginalised in society.

There are many challenges. She can't go to the cinema, she can't have lunch in a cafe or a restaurant, she can't attend a concert, she can't attend teenage discos with her friends or go to the theatre.

She has reluctantly accepted these exclusions but swimming is something she uses as a form of exercise and sensory therapy. This has now been taken away from her.

I would be interested to know how many Covid-19 outbreaks can be attributed to gyms or swimming pools.

For a lot of people, the benefit of regular exercise goes beyond the physical benefits. It is frequently used to help reduce anxiety. There is some medical evidence to show that regular exercise can be as effective in treating anxiety and milder cases of depression as anti depressants. Given the steep rise in mental health issues and the difficulties accessing help due to lengthy waiting lists, restricting peoples access to gyms and swimming pools should surely only be done as a last resort?

Another concern is hairdressers, if Covid-19 passes are extended to hairdressers, the girl will be unable to get her hair cut. This might seem like a very trivial issue to many but she has sensory issues so she needs to have her hair cut regularly.

We are also concerned that Covid-19 passes could be extended to after school extra curricular activities such as speech and drama, and dance classes. Dr Tony Holohan during a recent press conference encouraged businesses to introduce the use of Covid-19 passes if they wished.

The whole Covid-19 pass system is having a negative impact on the girl's mental health. This is in addition to the whole vilification of unvaccinated people. It would appear that we are no longer all in this together.

As a family we have exercised our way through the tough days of this pandemic - walking, hiking and swimming. [Our daughter's] access the swimming pool has removed a vital component of our mental health and wellness toolkit.

I would respectfully request that you consider raising these issues with the Minister for Health.

*6 o'clock*

I refer to those who have recovered and the whole issue of expanding the Covid pass. I am asking the Minister to rule it out because I reiterate I will not be able to ask these questions if this amendment is not accepted. Nobody in this House will be, if it is not accepted. I have no doubt the Minister will not accept it. Maybe he will surprise me. However, it really would come as a surprise if he said he was going to accept any scintilla of parliamentary scrutiny of his performance and of the regulations he passes like - as are approaching Christmas - a Caesar in the time of our Lord who is beyond question and reproach. He says this is what will happen. Pass it down to the provinces and let them do it. Will the Minister consider not making persons who have medical advice not to be vaccinated, as this girl has, subject to the Covid pass system? Will he do likewise with the recovered? Will he rule out it being extended into the future to require boosters and more boosters and more boosters?

**Deputy Mattie McGrath:** I will be as brief as I can. I wish to speak to amendment No. 24. Like the previous speakers, I feel the Minister seems to have set his face against accepting any idea, suggestion, engagement or interaction with the Opposition. I do not want to be repetitive. That is what is happening now. We have been locked out of everything for more than 13 months. That includes the other Opposition groups and the one I lead. The Minister knows best; he knows it all.

This amendment simply asks for things we should know, such as the number of times the section was invoked, what impact it had, whether there was any analysis as to whether there could have been a better outcome and whether we can improve it. Surely, what we are about in this House, in politics and in public and community life, is to make things better for everyone. Deputy McNamara is much more learned than me in legal matters. As he said, this the last chance we are going to get. If the Minister does not accept any of these amendments then he is away again on his merry way to sign stacks of statutory instruments on a whim. He probably will not even read them all. The powers the Minister is granting himself and that we are granting him in this House are extraordinary. It seems like the House is happy to do it. The first vote on Second Stage was in double figures. As I said, some Teachtaí Dála are telling the public these powers are not all in the Bill but they clearly are.

I do not want to delay the process but I have huge issues with the Covid certificates. I raised it with the Taoiseach and got no answers. I also want to know about the position of people who have recovered from Covid. Why was the period nine months and why was it reduced to six months? Is the Covid certificate just a tool to get to 93% or 94% or whatever percentage the Government wants to tell people it has rolled out vaccines to, so it can pat itself on the back? We know there is a third jab. The Tánaiste said at some stage it was not a booster but a third jab. Will there be four, five and six doses? When is it going to stop? I understand 22.5 million doses have been purchased ahead of time.

The Government has a plot here, and it thickens. It does not take a very bright person to see where it is going. That is why the Government is losing the public. That is why NPHE has lost the support of the public as well. We must weigh up the greater good. There has been no impact analysis on how the Covid certificate diminished in any shape or form the spread of Covid-19 infections. None. I asked for it today and all the Taoiseach could tell me was he had no answers. I asked him if he would lay before the House the science, information and everything else. The answer was "No". It is like the day of the last briefing we had in Government Buildings. I questioned Dr. Holohan three times about the churches being closed despite being fine big airy buildings.

**An Ceann Comhairle:** We are wandering away from the amendments.

**Deputy Mattie McGrath:** I will finish because there others and many more amendments to get to, including from ourselves. He told me that he would deal with the pandemic and we will do the science later. People are fed up with the science being done later. As I said today, they are war-weary. We cannot afford this. Consider the business people, or mental health, or the backlog of cancer and other issues that are killing our people. All our eggs are in the one basket. It is a very dodgy basket and the bottom is going to fall out of it one of these days and we will have nothing but gliogar.

**Deputy Catherine Connolly:** I am going to speak to amendment Nos. 2, 20 and 24. I will be as brief as I can. It will probably be my last contribution on this this evening. That we would see the regulations is the most basic requirement. If we take the three amendments together, there are different requests in them. Some want the regulations to come before us so there is a period of time where we can annul them but that does not prevent the Minister bringing them into force. Amendment No. 20 or amendment No. 24 says he must bring it in afterwards so we can scrutinise the regulations. I have no idea why he is not doing that. I try to understand. I desperately try to be rational and reasonable and I have no idea. It is the most basic request from the ICCL. This draconian legislation is being rolled over. It will be even easier now as we are consolidating it into one piece of legislation and we will not get an opportunity to speak on it again. Deputy McNamara has set out what the Minister might or might not be able to do or not do under those regulations with absolutely no scrutiny.

I want to say something on the Taoiseach's comment that we do not have time for pre-legislative scrutiny. That was the most extraordinary comment I have ever heard in relation to a piece of legislation in my life.

**Deputy David Cullinane:** Hear, hear.

**Deputy Mattie McGrath:** Hear, hear.

**Deputy Catherine Connolly:** It belies the fact we unanimously gave the Minister and the Government the power back in March. We stood here and gave it that power on the basis of a contract the Government would be honest and come back to us. It has never happened. This morning the Taoiseach told us we have discussed legislation. We never have. Last week was the first opportunity I had. I had two 20-minute slots and I am on record as thanking the system for that. I would say that will be the last time I or anybody else gets that type of time.

You would nearly give up at this point. I am going to stick to the amendments and why they are important. It is about scrutiny and oversight of the regulation so we can monitor what is happening. Why is that important? It is because of all the inconsistencies we have itemised. Practically everybody on the Opposition side has done so. I will stick to the ones I know personally. There is the six months' immunity Deputy McNamara referred to. I raised that last week. I am still waiting on a response from the Department and the Minister's office on why there is a distinction between six months' immunity and HIQA and NPHEA saying nine months. It seems Deputy McNamara has seen something else in relation to endurance. It is simply unacceptable a member of my family has a pass saying six months when NPHEA and HIQA said nine months and other authorities said longer. It is a positive thing that the Government would look at those who have had Covid and how they have managed to survive and not get it again. It is something we should be looking at. We should be looking at those who have not taken vac-

cinations for various reasons and how they have managed to survive Covid. Vaccination is only one part of tackling this public health crisis and it must always and everywhere be voluntary.

I will finish on something else Deputy McNamara raised, and which I raised last week. At what point will this stop? I do not mean the ever-changing virus. I do not mean the need for us to make our people safe and have a public health structure on the ground that is fit for purpose and hospitals that are fit for purpose. When will the never-ending regulations without scrutiny stop? I mean the ones that give the Minister unlimited power to decide I need three boosters to have a cup of coffee or I need five boosters to have a pint or six boosters to stay a couple of hours to have dinner. At what stage will that stop or has the Minister ever even thought about that? They are very serious topics that should be discussed. We should discuss where we are going with the pharma solution to this, which should be only one part of it. Of course, all the while the rich countries, including this one, seem to have endless pockets and the poorer countries have no access, and there is no equity of access for them. I indicated on Second Stage that I was against this Bill. I was keeping an open mind about amendments, but it seems that the Minister has indicated by his silence that he will not accept any of them. That is entirely unacceptable and undemocratic. The approach of the Government poses the most serious threat to our democratic system and to the sense of solidarity we all should have with one another in dealing with the public health crisis.

**Deputy Stephen Donnelly:** We have probably covered many of the issues between this contribution and the last. I will, with the Ceann Comhairle's permission, address the various points that have been raised.

I thank the Deputies for their contributions. I will address Deputy McNamara's points. He stated that the amendments we are discussing right now give the Oireachtas the power to scrutinise the regulations. I fundamentally disagree with that statement. The Oireachtas already has that power. These amendments to the Bill do not give the Oireachtas power to scrutinise what the Government does. The Oireachtas has the power to scrutinise anything the Government does. Not only that, the Oireachtas has the power to annul every single regulation that I sign and that is put before this House. I signed one about half an hour before we started this debate and the Oireachtas can annul that regulation if it likes. It is very important-----

**Deputy Michael McNamara:** What was it about?

**Deputy Stephen Donnelly:** It is very important that we understand that-----

**Deputy Mattie McGrath:** We have not got the numbers.

**Deputy Stephen Donnelly:** It is very important that we understand that the Oireachtas absolutely has the power to annul any regulation laid before it.

**Deputy Michael McNamara:** What did the Minister sign today? He makes the most ridiculous-----

**An Ceann Comhairle:** Please, Deputy McNamara.

**Deputy Stephen Donnelly:** Deputy McNamara has taken to shouting regularly during people's contributions. I have sat in the Chamber for hours listening very carefully. I am trying to address all the points the Deputy raised. Will he afford me the respect of allowing me to answer his questions?

**Deputy Michael McNamara:** Please do not say we can scrutinise regulations when we cannot.

**Deputy Stephen Donnelly:** The Deputy has stood in the Chamber month after month and demanded-----

**Deputy Michael McNamara:** It is a fact that we cannot scrutinise the regulations.

**An Ceann Comhairle:** The system is that Members get an opportunity to speak and the Minister gets an opportunity to respond. The Minister did not interrupt anybody else so please do not interrupt him.

**Deputy Mattie McGrath:** I have a point of order. I would ask the Minister how we can scrutinise the regulations.

**An Ceann Comhairle:** No.

**Deputy Mattie McGrath:** The Minister introduced the topic. He said that we could do so at any time when we cannot.

**An Ceann Comhairle:** Let us hear the Minister out and it may become clearer for the Deputy.

**Deputy Stephen Donnelly:** Deputy McNamara has repeatedly demanded that I, on behalf of the Government, be accountable to this House. He is right to demand that, but in order to hold me to account he has to let me finish and answer him. I am trying to answer him.

The point I am making is that either House of the Oireachtas already has the power to annul any regulation it wants at any time it wants, but these amendments go much further. They do not just make these Houses the legislative body, which they are, they also make them the regulator. It is in the amendments that every single regulation proposed would have to be voted on and passed by both Houses of the Oireachtas. A very important democratic safeguard is in place, which is that either House can annul any regulation. If we move to a position whereby any regulation the Government wants to pass has to be voted on and passed actively by these Houses, we have moved into a completely different place where the legislative body becomes the regulator. I will speak to why that simply will not work in my contribution later on.

The Deputy asked directly whether the Covid pass was about vaccine uptake or keeping people safe. The rationale is based on keeping people safe. The rationale, which any of us are free to disagree with, is that the Covid pass is being applied to higher risk environments. There is a very real concern that there are two risks to unvaccinated people who go into those higher risk environments. The first and most important is that they are at a much higher risk of serious illness if they are unvaccinated and, second, there is also a higher transmission risk. These are the two public health rationales for the Covid pass.

Various Deputies asked a very important question on the group of people who do not necessarily choose not to get vaccinated, but who cannot be vaccinated. We know there are situations where people cannot be vaccinated. I am very happy to keep this under constant review and I have spoken to public health officials about it previously. The last time we discussed it, the point was made to me that many of the people who cannot be vaccinated for medical reasons are more vulnerable much of the time, by virtue of having an underlying condition. By giving an exemption, we would be saying to a higher risk individual that there is an exemption allowing

that person to go into a higher risk environment. There is a real and genuine concern about that. We can debate whether it is right or wrong but the concern is motivated only by keeping those people safe. That is the rationale at present. It is something we need to keep under review for obvious reasons, some of which have been debated here.

No one is suggesting permanent immunity. I heard the Deputy and I understand the modelling. The point about the modelling was that it did not model the different curves. As the Deputy is aware, the data we now have is that different vaccines wane to different levels and at different speeds. I have not seen exactly what the Deputy referenced, but my guess is that a piece of modelling was probably done by the modelling team that simply did not factor in any waning. That is not a judgment as to whether there is waning or not. It might simply have occurred before the modelling team had the ability to model for it. To be clear, nobody is suggesting these vaccines do not wane. I suggest we have incontrovertible evidence that they do, hence the importance of the boosters.

Specifically on the Deputy's constituent, I can clarify that the Covid pass is not required for swimming pools. They are exempt so that is some good news, hopefully. Nor is the pass required for personal services. I know the Deputy was not suggesting that it is, but he referenced haircuts. My heart breaks for that person and that is the case for all of us. This is an awful situation to be in, but in that individual case that is the situation.

Deputy Nolan raised a major concern, which is the impact of all of this on non-Covid care, and whether it is having an effect and already leading to more severe illness. I think it is. Have there been delays in diagnosis? Undoubtedly, there have been. There is a huge issue with the impact this has had on non-Covid care in Ireland and everywhere else. It is very serious. However, where I disagree with Deputy Nolan, and Deputy McGrath might have made the same point, is that somehow having these measures in place is the cause of some of the impacts on non-Covid care. The opposite is the case. One of the benefits of these measures in suppressing the virus is to free up as much of the healthcare system for cancer care, paediatrics and everything else that is required.

I acknowledge Deputy Shortall's support for the Bill. She said that I may not be that easy to work with. My response is that the Deputy may not have been the easiest to work with at all times either. However, I have genuinely tried to make meaningful moves that do not seem to be acknowledged. There was a request that members of the Joint Committee on Health be notified of regulations. I have signed three regulations since then and my understanding is that committee members should have been notified of all of them. I have written to the Department and corresponded with the Chair of the committee to that effect. That is something that was requested.

**Deputy David Cullinane:** The committee got those notifications.

**Deputy Stephen Donnelly:** The Deputy asked for an impact report before we come back on mandatory hotel quarantine and I committed to doing that and discussing it at whatever length the Dáil and Seanad wanted. There was a serious and substantive request for a change to a Bill in July, which was to add one sunset clause. It was a request from Deputies Shortall and Cullinane and others in this House. It was a matter of substance such that I had to go back to Government and get an updated Government decision on it and then we came back. That is one of the reasons we are here. There was a major request for a change to a Bill. I listened carefully. I went back to Government. I got a different Government decision and I came back and we amended it.

In my ten years in opposition, I do not remember any of us in opposition succeeding in having major changes such as those made. I know it can be frustrating, but genuine efforts and substantive changes are being made to Bills through the process. This Bill has been crafted cognisant of that ask from the Opposition the last time. Only one roll over is allowed in this Bill, because of what the Opposition asked for the last time we were here on it.

The Deputy has quite rightly asked for more briefings. There was a briefing the week before last and I am organising one for this week as well, especially in the context of Omicron and everything we are learning about it. I refute the claim. It is not fair to say I am not listening or genuinely trying to engage with the Oireachtas and Opposition. I really am and they are examples of changes.

**Deputy Róisín Shortall:** Ventilation and antigen testing were the two issues I raised.

**Deputy Stephen Donnelly:** That is my next point. When the Deputy suggests that I or others are not listening to the science, she knows that it is simply not true. It is a good sound bite, but the Deputy, I and everyone in here knows the Government's response has been public health led. The Deputy suggests I will not listen to anyone other than NPHET and then gives the example of antigen testing. I set up an expert group, led by the chief scientific officer, to give me advice other than that of NPHET. I took that advice and then I set up an implementation group, led by Professor Horgan, and that is the reason much of the work on antigen testing happened. It is simply not true and I know the Deputy knows it is not true, to suggest-----

*(Interruptions).*

**Deputy Stephen Donnelly:** I will just finish this sentence and then I will come back to the Deputy.

**Deputy Róisín Shortall:** It was six months after the Minister got advice from Professor Mark Ferguson.

**Deputy Stephen Donnelly:** The Deputy knows it is not true to suggest I will not listen to anyone other than NPHET on antigen testing.

I recognise the Deputy has been advocating for ventilation consistently for a long period of time. It has been looked at several times. There was the group that reported into NPHET, as the Deputy knows. NPHET did not endorse its view, but noted it. We have this group in the HSE called antimicrobial resistance and infection control, AMRIC, which was originally set up for antimicrobial resistance, but is providing expert advice on this. I will point out another group that does excellent work, the scientific advisory group for emergencies, SAGE, that advised the UK Government. It recently published a paper on ventilation and HEPA filters, on which much of the conversation has been around. It did not conclude this should be used in every school. It said it could have a role to play, but that more data and evidence were required.

Having looked at the evidence, the experts are concluding that it is not as clear cut. However, I welcome, and have no doubt the Deputy welcomes, the recent announcements of additional funding in education. The Deputy's amendment is more modest and is not about the Oireachtas having to vote through all regulations. On the face of it, it seems like a reasonable one I would like to be able to accept. The reason I cannot accept it is the timing issue. I am trying to meet the Deputy halfway. We have put in place, based on the debate we had last week, timely updates for all of the Deputies on the regulations.

I asked again today for the Department not just to send the regulation, but a briefing note on it. Of course, the Dáil can schedule its time to debate any of those. The reason I cannot accept the amendment is the 48 hours. There is a need, sometimes, to be able to move very quickly. Last week, when we found out about Omicron, there was a Cabinet meeting on Friday, while we were all here debating Second Stage of this Bill. Cabinet made decisions. I was here and did not attend the meeting. We, in the Department of Health, needed to regulate and have those regulations signed by midnight on Monday, which we did.

However, if we just think it through, it would be reasonable if we are laying things before the Dáil for 48 hours. There would be 48 hours where the Dáil and the Oireachtas were sitting, rather than over a weekend. If we were to do this, we would have had to lay them before the Dáil yesterday, allow for yesterday and today, and then potentially have them come into effect tomorrow. Sometimes, there is a need to move. I am genuinely trying to find a way of going as far as I can, without removing the Government's ability, on occasion, to move very quickly. We are monitoring Omicron on a daily basis in terms of responses. That is the rationale, but I am trying to go as far as I can, other than that.

Of course, Deputy McGrath opposes this. He has opposed everything on Covid. Of course, he wants pre-legislative scrutiny, but what he did not point out was that the officials briefed the Joint Committee on Health. I acknowledge and thank the committee for agreeing to waive pre-legislative scrutiny, as it has done before. Let us be honest. The Deputy has been against public health measures from day 1.

**Deputy Mattie McGrath:** That is not true.

**Deputy Stephen Donnelly:** It is true. He has accused me and here he goes. He cannot listen to it.

**Deputy Mattie McGrath:** On a point of order-----

**Deputy Stephen Donnelly:** No, it is not a point of order.

**Deputy Mattie McGrath:** I am on record as saying it. That is not true. It is simply an untruth. The Minister knows that. When he was in opposition with me, we attended meetings in Government Buildings. We supported all the measures from the start, until the genie got out of the bottle and we knew the kind of a fraud the Minister was.

**Deputy Stephen Donnelly:** The Deputy is a great man for giving insults-----

**Deputy Mattie McGrath:** There is nothing factual. The Minister should stick to the facts.

**Deputy Stephen Donnelly:** He has accused me and Government of being Nazis. He said in this House last week that we should be brought to the Hague for war crimes. He is a great man for throwing out horrendous insults, but he cannot take it. He cannot listen to the response.

**Deputy Mattie McGrath:** I listen to the truth.

**Deputy Stephen Donnelly:** There he goes again. He is not able to listen to the response.

**Deputy Mattie McGrath:** I am. It is the truth I want.

**Deputy Stephen Donnelly:** He just gives it, but he is not able to take it. He is not able to listen to any criticism.

**Deputy Mattie McGrath:** I supported the measures at the outset. We all did.

**Deputy Stephen Donnelly:** He does not support the measures and he has voted and advocated consistently in a way that would put peoples lives and those of our nurses and doctors at risk. His record on this issue on opposing all of the measures required to keep people safe in this country speaks for itself. What does he do? He accuses people of being Nazis and says they should be tried for war crimes.

**Deputy Mattie McGrath:** The Minister continues to mislead the House.

**Deputy Stephen Donnelly:** The Deputy is a disgrace-----

**Deputy Mattie McGrath:** He continues to mislead the House.

**Deputy Stephen Donnelly:** -----and he continues to be such.

**Deputy Mattie McGrath:** What the Minister is saying is factually incorrect.

**Deputy Stephen Donnelly:** He is not able to take the criticism.

**Deputy Mattie McGrath:** I am able to take it.

**Deputy Stephen Donnelly:** He is able to lash it out. He says horrible things.

**Deputy Mattie McGrath:** I ask the Minister to have the record straight.

**Deputy Stephen Donnelly:** He says horrible things to people in this House all the time, to people elected to represent the people, but he is not able to take it.

**Deputy Mattie McGrath:** I am well able to take it, but I want the truth. The Minister does not know what the truth is.

**Deputy Stephen Donnelly:** I acknowledge the point made by Deputies Smith and Naughten. We need a medium- to long-term approach. It does not work for anybody to keep going through cycle after cycle and I am open to meeting with Deputies to discuss it. We are thinking through more medium-term responses, operationally, but I would be open to any ideas from the Oireachtas. Obviously, the reason we are in here again and again is we have put in the sunset clauses. It is one of the important safeguards. We are here going through the full legislative process now, because we have the sunset clauses in place. In one way, we are here for the very best of reasons, which is these powers fall automatically, as they should. However, I would be open to thoughts from any colleagues on how else that could be done. The Deputy had mentioned people who were unvaccinated as well. We might have addressed that.

Deputy Naughten made reference to face masks being worn by children and asked whether this could be constantly reviewed. It is reviewed a lot. Specific to these amendments and this Bill, face masks for children are advisory. They are not regulated for so would not fall into scope. I appreciate it is something we need to keep under review all the time.

I acknowledge Deputy Cullinane has been constructive in many ways over the last year and a half. For example, he supported the mandatory hotel quarantining Bill. However, he has been firm in his criticism of this so I will be equally firm in my response. What I have heard sounds like sloganeering. The Deputy's concerns are legitimate in respect of making sure there is democratic accountability in place but the things he has said are demonstrably false. He said we

have never made any serious change to the legislation. We have made changes he looked for. I covered that earlier. One of the reasons we are here is that the Deputy and his party looked for substantial changes to these powers. I listened carefully, went back to the Government, secured a different decision and amended the legislation. That was the Bill in June this year. I noted the Deputy still voted against that Bill. He asked for a substantial change, got it and his party still voted against the Bill. This is from memory and I am happy to be corrected if I am wrong. Similarly, I understand his party will vote against the Bill this evening. We made changes and amended the legislation, as the Deputy's party wanted, but it still voted against it.

The Deputy says there is no reciprocity, but there is. Maybe he wants more and maybe we can do more but to suggest there is no reciprocity is not true. He is simply ignoring it.

A core part of the criticism from Sinn Féin is that there is not sufficient Oireachtas engagement and the Oireachtas is being ignored. I will go through what happened last week and this week. We are not even finished this week, so it is the past week and a half. On Wednesday last week, I had Seanad statements on Covid and Covid measures. On Thursday, we had the Health (Amendment) (No. 3) Bill in the Dáil. On Friday, we had Second Stage of this Bill, as well as a Private Members' Bill, and the Deputy and I along with many other Deputies took part in Oral Questions. All three of those sessions happened on Friday. Today, we had the Health Insurance (Amendment) Bill, which is not relevant to Covid, and now we are here again for many hours. That is the level of Oireachtas engagement there has been in recent days.

In terms of Oireachtas briefings, the week before last there was one such briefing and we are organising another one for this week. Officials briefed the health committee on this and other Bills. Comprehensive information is being provided daily on vaccinations, hospitalisations, critical care and so forth. NPHET advice and minutes are published. All regulations are laid before this House and either House can annul them. All regulations are published online. As per this session, the legislation falls because it includes sunset clauses and the full legislative process comes into play. Between this week and last, there have been seven Topical Issue matters on health in the Dáil, two Commencement matters in the Seanad, and the Deputy, I and others spent this morning in the health committee discussing the termination of pregnancy review. Last week, I answered 499 parliamentary questions. This week, up to the time I got the note, I had answered 212 parliamentary questions to Members of this House. I respectfully suggest that the allegation or criticism that I am not engaging with this House is unjustified. That is just what has happened this and last week. It is a pretty comprehensive level of engagement.

The core proposal in these amendments is that any regulation the Government wanted to bring through would be laid before the House for a minimum of 48 hours. It is reasonable to assume that would be done on sitting days, we would not do it on a Friday to have the regulation come through on a Monday and the House would have to vote on each regulation for it to come into effect. That is the core of what is being proposed in the amendments. If the Dáil is to vote on each regulation, I take it as given that there would have to be debate before any such vote. That is a reasonable assumption to make. I conservatively suggest the standard debates here, to go through all the groups, involve sessions of three and a half hours. If we were to implement this approach, the Government would lay these regulations a minimum of 48 hours before they could come into effect and, for them to come into effect, there would be a Dáil debate lasting three and a half hours during which every Deputy would have the opportunity to speak. There would also be a vote on each regulation. That is how this proposal would be given meaningful effect.

I asked for a note on how that would play out in terms of Dáil time taken. Since July, I have signed 171 Covid regulations, including three in the seven days since we debated Second Stage of this Bill. To have three and a half hours of debate on each of 171 Covid regulations would amount to about 600 hours of debate. If we took six hours on every Tuesday, Wednesday and Thursday the Dáil sits, which is most of the time that is given to all legislation, it would take 33 weeks of Dáil sittings to get through 600 hours. Since last July, the Dáil has sat for 52 weeks. This measure would take out 33 of the last 52 weeks the Dáil has sat.

**Deputy Peadar Tóibín:** There are only 52 weeks in a year.

**Deputy Stephen Donnelly:** It is over the year and a half since July last year. Making the modest assumptions that each of these regulations has to be voted on, which is what the regulations say, and would involve three and a half hours of debate - this does not include the Seanad - it would essentially take up all the capacity the Dáil has to legislate. After Oral Questions, the Order of Business, Leaders' Questions and all of that, let us assume there are about six hours left in any given sitting day. Overnight, these regulations would more or less end the Dáil's ability to legislate. They would require six hours a day, three days per week for 33 weeks. That is not practical or something the Dáil could do because we would be able to do very little else. Given that it is not practicable, are there things we can do to address the legitimate concerns raised by colleagues today, last week and before that? I hope colleagues will accept that the briefings, notification on regulations, explanatory notes on regulations and various other matters we have discussed constitute a genuine attempt to meet the spirit of what they ask for because we simply cannot implement these regulations.

To make a political point to Deputy Cullinane, I have tried and am trying to meet the spirit of what is being asked for. He and I know the regulations he has tabled cannot be implemented. If he votes against the Bill because the Government will not amend it in a way that would essentially end the Dáil's ability to legislate, then he is consciously and deliberately voting against a public health-led approach. I do not believe he believes that. I believe he supports the public health approach and that he and his party accept there has to be a statutory basis for some of these regulations and public health measures. Therefore, I would put it to the Deputy that it simply is not a reasonable position to say "we support public health, we accept there has to be a statutory basis, but we are going to vote against that statutory basis unless you do something that cannot be done." That is not fair on the people we are trying to protect from Covid and I do not think it would be fair on the health care workers, doctors, nurses and everyone else working in our hospital system. I do not believe that would be reasonable. I would ask the Deputy to meet me half way. I am genuinely trying to do things differently. I am asking not that the Deputy withdraw his amendments, but that he not vote against the Bill. He should by all means vote for his amendments, but I ask him to think again about voting against the Bill because the message that sends to all of our health care workers and to everyone who is going to get Covid and be very sick - unfortunately, many people still will get it and be very sick - is entirely the wrong message.

**Deputy David Cullinane:** I had not intended to come back in but in light of the Minister's response I have no choice. I want to put a number of points on the record. The Minister's argument that I and Sinn Féin would consciously and deliberately vote against a public health-led response to this pandemic would hold some water if when I was asked privately and publicly if I support public health measures my answer had not always been "Yes". There are many different opinions on Covid. There are people who believe that, at times, we should have gone further and others who believe, as was articulated by some Members of the House this evening,

that we have gone too far. I do not recall that I have ever said during my time as health spokesperson for Sinn Féin that I did not support a public health measure that was brought in. There are things I would have done differently. There are certainly things I would have handled better. For example, when the regulation and the change with regard to the requirement for children to wear a face mask was brought in, I said that I would have come at that differently. I would have looked at it as an advisory measure. I certainly would not have sent out instructions through the Department that children should, for example, be excluded from schools. I would have done things a bit differently. At no time during this pandemic have I or Sinn Féin said publicly or privately, inside this Chamber or outside of it, that we were against public health measures. We all get criticism from different sections of society for different positions that we adopt. None of this is done for any political gain because there is no winning in this, in my view. There is no political win for anybody. This is an absolute disaster that has been landed in our laps and everybody is trying to do their absolute best. That is the first point I want to make.

I have never in any of my contributions said that there was a limit on statements on Covid. We have had copious amounts of statements on Covid, which I called for and welcomed. We have also had numerous sessions of statements in regard to the public health response. Even though we were limited and constrained for a long time by the cyberattack in regard to parliamentary questions, I understood that and I never complained about it. There was a great deal of information we were looking for that we could not get, but I never once said that the Minister was not responding to parliamentary questions. I cannot recall the Minister mentioned, but I presume it is accurate. I regularly table parliamentary questions and I get an appropriate response on most occasions. I also never said that the Minister does not take Topical Issues or that Topical Issues on health are not heard. Very often one of the criticisms across the board is that a Minister of State as opposed to the Minister takes Topical Issues, but that is not the issue. The point the Minister was making is that there is a lot of oversight in regard to health generally and Covid. I never said that that was not the case. What I did say was that in regard to crucial decisions that are made in respect of public health advice, which the Government then has to heed and implement, there is no input from the Opposition at almost any level. That is the point that the Minister entirely misses.

I will get to the specifics of the amendments and respond to some of the points that the Minister made and, as he requested, try to meet him half way. To be honest, we have tried to do that throughout this pandemic. Some of what I will say we already said months ago, but for whatever reason the Minister did not heed it. It is important to be frank and to put that back on the Minister. Essentially, this Bill gives the Minister the power to make regulations. The public health advice is given, it is made public and that causes some difficulties for Government because it can be days before it makes a decision. I have heard many in government talk about that. That is why the Government is now getting some push back from within in regard to the role of NPHET and communications. Essentially, the public health advice comes, the Cabinet sub-committee meets, the Cabinet makes a decision on what elements of that public health advice will be heeded and implemented. Following agreement at Cabinet, the Minister for Health then brings forward regulations. Nobody on the Opposition benches has any input into that process. I ask the Minister to understand this from where I stand. I am then asked to give him and the Government the power to make those regulations and to interpret the public health advice not as I or anybody from the Opposition sees fit but as the Government sees fit. The Minister puts the regulations in place and, as I have pointed out on numerous occasions, very often the Government has not got it right. All sorts of miscommunications, mismanagement and bad decision making arises, as it has on many occasions. If I support the Minister

being given a blank cheque, I am as culpable as anybody else. I am not prepared to put myself in that position because I do not believe it is right.

I will return to the point I was making in regard to the public health advice. The Minister receives the public health advice. Taking one element of the most recent advice he was given as an example, if I am correct the letter sent to the Minister by NPHEAT advised that bars should close at 11.30 p.m. but the Government chose not to implement that part of the advice. That was a decision the Minister made. I am not saying it was the right or wrong decision, but that the Government does not always literally follow every piece of advice given by NPHEAT and that is what ends up in the regulations. The Government sits, as it is entitled to do; the Cabinet sub-committee meets, as it is entitled to do; and the Cabinet meets, as it is entitled to do. The Cabinet has to look at all of the different implications of all of the measures that are brought in, exercise what it sees as its best judgment and make decisions. The regulations flow from that. We do not have any hand, act or part in any of that, as I have said in the past. I welcome that the Minister has said that more briefings will be provided and that the Joint Committee on Health has in more recent times been given more notice in regard to regulations. That is going in the right direction.

The Minister said that if we were to do what is proposed in these amendments we would never get anything else done, which is nonsense and a bit of theatre to back up his argument. The Business Committee structures the business of the House. The Business Committee can act in a responsible way, which, on most occasions, it does. On some occasions, there can be a bit of play acting from both sides. By and large, the Business Committee works and the business of the House is done in an orderly way. If in a particular week there are a number of regulations, they can be grouped and debated in one slot if necessary. The problem is there is zero accountability or debate in regard to regulations, not even in terms of approval. The Minister can agree or disagree as to whether or not there would be a degree of approval needed from the Oireachtas, but there is also no debate afterwards. On the vast majority of occasions, there has been no debate before the regulations have been made, no debate after they have been made, no scrutiny and no briefings. That is the bottom line. If the Minister believes there is a different way to do it and, if he can find a way to ensure that there is some level of democratic oversight, then I would be willing to meet him half way and to support that.

I want to put it back to the Minister. I have heard a great deal of politics being played by people on both sides of this House in regard to Covid. Covid has been one of the biggest challenges that has faced humanity and people on this island and in this State. I have never sought to play politics with it. I have always sought to do the right thing by public health advice, to keep people safe and to encourage them, as I do now, to follow the public health advice, get vaccinated and to get the booster jab. I am not afraid to say any of this because it is right and appropriate. We have always said that and I have always advocated for appropriate public health responses. However, I also have a responsibility to hold the Minister and the Government to account. I make no apologies whatsoever for saying that the communication skills of the Government have been quite poor. The criticism of the Minister does not always come from me; I have heard a lot of criticism of him from people in the media. Many people have questioned his ability to communicate the public health messages. He needs to look to himself when he talks about people's views around the Covid response. There is much criticism of the Government and some criticism of the Minister in regard to his communication skills.

The greatest failure of the Government, however, is its lack of planning in many areas. This was dealt with by a number of previous speakers, including Deputy Shortall, who talked about

antigen testing. Yes, an expert group was set up, but it took an awful long time for the Minister, apparently, to convince others in the Cabinet to accept many of its recommendations. It took far too long for there to be any movement on antigen testing. I will not even go into the whole area of ventilation. Again, an expert group was set up and it seems that many of its recommendations were binned. We have to interpret all of that information in the same way the Minister does. We are looking at all the advice that is given to the Government but we do not get it in the same way the Minister does.

I am making these points because I think democratic oversight is really important. We are talking about emergency powers that are very draconian. We are discussing public health measures that have a real and profound impact on people's lives. I have never said public health measures are not necessary. However, if the Government is free to interpret public health advice in a nuanced way and have a view on how it should be implemented, as it has done, then surely the same right should be afforded to the Opposition. We have never been given that opportunity. The Minister and the Government can be flexible when it comes to public health advice, as they have been, but that flexibility does not seem to be afforded to the Opposition.

I finish on the point on which I started. There have been far too many mistakes by the Government in making regulations and the interpretation of guidelines and regulations. As I said, that has landed the Tánaiste and other members of the Cabinet in trouble in the past. Mistakes were made on other issues as well, which were dealt with by previous speakers. We have had our hands burned far too many times. I am not going to give the Minister a blank cheque to make regulations to do what I have seen done in the past, without any level of democratic oversight. It is not beyond the wit of the Oireachtas to find appropriate ways to ensure that oversight is there, if it is not to be done by way of these amendments. To have no oversight, accountability or transparency is absolutely unacceptable. If the Minister were standing in the position I am in and if Fine Gael Deputies were sitting on these benches and having exactly the same experience I have had, there is not a chance they would give a Sinn Féin Government a blank cheque in the way the Minister expects our party to give one to him and the Government. That is not going to happen.

**Deputy Michael McNamara:** The Minister said the Dáil has the power to scrutinise and annul regulations. For the avoidance of any doubt, I completely accept that the Dáil has the power to annul regulations, but it does not have the power to scrutinise them and therein lies the problem. The choice is either to annul or not to annul. I am sure that if a motion were put down to annul a regulation, the response from the Government would be to say that chaos would reign because there would be no fallback. We would be told, "If you annul this, there will be no provision in place immediately after you annul it." In fact, the reason I am sure of this is that it is exactly what the Government did on the one occasion a motion was brought forward to annul a regulation, which was done by the Rural Independent Group in Private Members' time. There is no possibility to scrutinise a regulation and ask what the basis is for it, whether there is a different way we could approach it and whether we could change and improve it. That power is not there. There is the power to annul or not to annul, and that is insufficient. It was insufficient at the very beginning of the Covid pandemic and now, two years on, the Minister is looking for powers that will extend for a further length of time. We need a little nuance. We need to be able to tease out and scrutinise measures and propose better solutions. In fairness to the Minister, he is not suggesting that he, NPHEA or anybody else has a monopoly on wisdom. Surely we can all bring a perspective to these matters. Such views may not always be right but we can always benefit from listening to other people and perspectives. That is why I am sup-

porting this amendment.

The Minister said the Oireachtas would become the regulator if these amendments were accepted. He will correct me if I am wrong but I think he meant the Oireachtas would become the legislator rather than the regulator. In any event, the Oireachtas becoming the legislator or having the power to make laws is not a bad thing. It is democracy and it is what we were elected to do. He pointed out that 171 regulations have been made. With respect, I suggest that is part of the problem. There is a new regulation every couple of days and people do not know what is lawful and not lawful because things are changing so quickly. I remind the Minister of the time during the summer when nobody knew what was lawful for an outdoor gathering. It took the Attorney General coming out with a clarification reminiscent of Rudy Giuliani during the Trump years to explain that, in fact, the Tánaiste did not break the law. The law was not what we thought it was or what people were told it was. The line was, “Hey guys, this is the law and we did not break it.”

I am not saying regulations are not necessary but if we had fewer of them and if more thought was put into the ones we do have and there was more scrutiny of them, perhaps the public would have more buy-in to them or at least be more aware of what they are. If the public is not aware of them, at least the Tánaiste would be. We also need to bear in mind that these regulations are not just academic matters. They affect the lives and livelihoods of people across the country. At this point, the power to bring them in unchecked and without any scrutiny of them is undemocratic because it is not necessary. There should be an ability to scrutinise.

The Minister mentioned that he answered 490-plus parliamentary questions this week alone. I think I got the number right. The response I get to the majority of questions I put in to him is that it is a service level matter for the HSE, which will get back to me in due course. I am waiting two years for the HSE to clarify certain issues. Last May, we were given a figure for the number of people who died from Covid-19 in the mid-west. I asked whether it was the primary or a secondary cause, differentiation between the two being noted on death certificates. It is important to differentiate in this way. People can die primarily from Covid or they can die with Covid. We need to know what the increase in mortality is from the virus. I also had a parliamentary question about the incidence of pericarditis and myocarditis, to which I got no response whatsoever. We need to know whether there has been an increase in those conditions. If not, that is great, but if there is such an increase, we need to know about it. Just because the Minister is replying to parliamentary questions does not mean he is giving answers to them.

The Minister explained that the rationale for the Covid pass was public safety, notwithstanding what the Tánaiste said in the Seanad. I asked a specific question regarding what the Tánaiste had additionally said about further boosters possibly being necessary. Will the Covid pass be limited to people who have had boosters, if that is what is recommended? Will that happen or will it not? I would like an answer to that because if this amendment is not passed, it is something I will not be able to ask the Minister, or request an answer on, in the future.

*7 o'clock*

Will people with natural immunity be allowed access to those premises as is envisaged in the Bill before us, contains provisions the Minister is seeking to roll over from previous legislation? That was a specific question I asked which was not addressed. I did not suggest that it is permanent; I stated that NPHEM modelling was predicated upon infection-induced immunity. It was predicated upon being permanent. I said clearly that I had not read any medical journal

to that effect, but I read medical journals which suggested that it is enduring and that immunity provided by vaccines wanes. However, the system we have in place is the opposite of that, whereby persons who have vaccine-induced immunity have permanent Covid-19 passes - I have asked the Minister if he will be changing that or not - whereas persons who have an immunity which is based on recovery have time-limited passes, even though the science suggests the opposite to be the case. I asked specifically about immunity.

I thank the Minister for the clarity around swimming pools, particularly because that is not what my constituents had understood. There is confusion because of the sheer volume of the regulations and how quickly they change. People often do not know what is the law and what is not. However, I thank the Minister for that clarification because I can tell him that it will come as welcome news to a family in Clare tonight.

**Deputy Mattie McGrath:** To correct the record, when this pandemic commenced, we were all, as Opposition leaders, summoned to Government Buildings. The record will prove that was there was unanimity on all sides of this House - among independents and everybody else. We in the Rural Independent Group put our shoulders firmly to the wheel and accepted the public health advice. We did everything we were asked to do. Of course we did. That was until we found out that there was an unaccountable body, NPHEA, many other agencies and the previous Minister involved. Then the current Minister took over. The ironic thing is that he seems to have memory loss. He was with us at those meetings because he was an Opposition Deputy at the time. The record will show this. If the Minister does not want to correct the record, I cannot make him correct it and neither can the Ceann Comhairle. It is disingenuous of the Minister to suggest what he did. We went, we found out and we saw what was happening. Thankfully, it did not end up the way we thought. The fear of God was put into us - maybe with good reason at the time - but we saw how matters panned out as time passed. It is our duty as Opposition Deputies to hold Government account. That is our definite duty under the Constitution.

The Minister said that he signed 171 regulations. He did not sign 71, 21, 11 or 17, but 171. That is a frightful number of statutory instruments and regulations to which we have no access and no recourse to question, to deal with, to amend, to support or to do anything with. They are just signed by the Minister. He said he signed one this evening before he came in here. He may have indicated that he signed two - I am not sure. I asked the Taoiseach about pre-legislative scrutiny earlier and he made the most alarming statement. The head of the Government, the Minister's leader, said that pre-legislative scrutiny would take too long and is too slow. That says it all.

We are here and we have tabled amendments. The Rural Independent Group tabled an amendment the purpose of which is to bring these measures to an end in February, but it will not be reached. The Minister is making a great play about all the time that he has given to the Bill. There is a three-hour debate on Committee and Remaining Stages. There were three hours of debate last week. The Minister never replied to any of the questions that I had put to him. Those questions were drafted, voluntarily, by legal people. They related to the draconian powers in respect of detention and everything else, and why the Minister wanted them. Some of the amendments before us this evening ask the Minister to lay before the House reports on the number of times those powers have been invoked. All that he told us was that he had those powers all the time.

Fair play is fine play with me. My voting record here will always show that because it is on the record of the House and no one can lie about it. Tens of thousands of people signed up for

Ireland's call. I do not know what to think. I put down several parliamentary questions to the Department and I could never get the figure as to how many people were taken on and how many were willing to come back here from all over the world in the spirit of meitheal. Ní neart go cur le chéile. They came to help out in a time of need. Everybody put their shoulder to the wheel. From those in the front-line services, to the people who were just able to walk, to people who were 100 years of age and more. Everybody did it.

On messaging, we have no members of the media - or very few - to question the Minister. We have a few journalists who stand out there. There is no media scrutiny. The Department and the HSE have paid vast amounts of money to media outlets. Through parliamentary questions I am trying to elicit information on the exact amounts that were paid and to which exact outlets. That is buying the media, as far as I am concerned, and buying silence. Some €3.884 billion extra was spent by the HSE and Department of Health in the period from March to December 2020. I have no idea yet what has been spent in 2021, but I am sure it surpasses the €3.884 billion that was spent in the nine months of the pandemic in 2020. Much of it was recklessly spent on buildings and procurement. There was no proper tender process, no accountability, no nothing. The Minister expects us to be silent, to support him and to give him a blank cheque, as Deputy Cullinane said.

There was a whole mess in respect of antigen testing and an abject refusal to entertain its use. Many of us are using antigen tests on a daily basis in order to monitor whether we might be infected. The Minister has draconian powers and he can detain people if his officials think that people are being reckless. He was going to pay for the antigen tests. When he was finally dragged, kicking and screaming, into the world of antigen tests 18 months after they became available, the Minister stated that he was going to pay for them, subsidise them and everything else. Then, hey presto, he decided that the market would dictate the position. The market is not much good to people who cannot afford antigen tests. There are many who cannot afford them. Those in big families cannot afford them. Whether they cost €4 each or €8 each, it does not make much difference. We cannot find out how much it costs for PCR tests. I am told that 1 million PCR tests were carried out in the past number of weeks. Who is paying that bill? What is the cost to the taxpayer?

**An Leas-Cheann Comhairle:** The Deputy should come back to the amendment.

**Deputy Mattie McGrath:** I am, but I have to reply because the Minister explicitly replied to all the amendments and all of our statements. He accused me, wrongly, of not supporting any of the public health measures. The Leas-Cheann Comhairle knows this. She is on record here countless times saying that we all supported the measures. However, when the runaway train forgot to stop and when the doors of the carriages were locked, nobody could get on. There was demonisation of people who, for whatever reason, medical or otherwise, could not take vaccines. There has been demonisation and the stigmatisation of people regarding masks and everything else. Then there are the narratives in the media. It is not a good place for a modern democracy to be in; it is a bad place. Untold damage is being done. Families are being divided. Communities are being divided. It is shameful. The power of the media and the money behind it are quite shocking also.

The Minister made an alarming statement that we should roll over any statutory instruments or any pieces of legislation. We cannot. We saw the vote tonight. I was one of the tellers for it. I was proud that the vote was called last Friday evening. The vote was defeated by double figures, because the Government has the cobbled together majority of Fine Gael, Fianna Fáil and

the Green Party, as well as Government Independents who are more Fine Gael than Fine Gael themselves. They are supporting all of the legislation, no matter what it is. They tell people when they ring up “That is not in the legislation at all. Mattie McGrath is only imagining it.” I got this information from eminent lawyers from Lawyers for Justice Ireland who researched the Bill when we did not get proper details about it and the Minister failed to provide information on it to us.

I will take no lectures from the Minister. I will be as robust in debate as anybody else. I am waiting with bated breath to find out what was spent in 2020. Where is the endgame? Where is the endgame? The concept of flattening the curve was for two weeks in the first instance. The Minister has put many different acronyms on the restrictions, but we are going on and on and on. The demonising of people and the stigmatising of people that is going on is shocking. Fear is being driven into people.

I am glad that the Minister clarified for Deputy McNamara the matter relating to the autistic child. We have all received those heart-rending emails and phone calls to our offices about deaf people, those with hearing impairments and those with different speech and language defects and problems. There are people with learning disabilities, or learning difficulties - I do not want to be accused of using the wrong language - and ordinary people who have a plethora of problems, and teachers are trying to teach them in the classroom. There is the whole area of ventilation and what the Minister was going to do for the schools but none of that has materialised. We are now turning to the children. We were told so many times that schools were the safest place someone could be but that has suddenly changed. There are mixed messages coming from the Government and the media.

My group and I will not be withdrawing our amendment and we will not be giving the Minister a blank check. He got one to the tune of €3.884 billion, on top of the €19 billion of current annual spending. God knows, I am sure it will be €6 billion for the full year, or at least €4.5 billion or €5 billion. That spending went on unchecked and unfettered and was not accountable to this House.

The Minister spoke about all the parliamentary questions he answered and all the Topical Issue debates that were had. I have very seldom seen him here for a Topical Issue debate. It is always Ministers of State. I thank the Ceann Comhairle for allowing those debates but we cannot elicit the answers. My duty is to get answers from Ministers and to represent the people. Does the Minister want the whole House to go? Does he want to steamroll everybody and crush them into the ground like we did at first? That was because we were in fear and we had to accept the science. We could not question it because it was too serious a situation.

We are paid to scrutinise legislation and understand the impact it will have. There has been no regulatory impact analysis of any of the measures the Minister brought in but it has had an impact on mental health, cancer services, scoliosis surgeries and a plethora of people. The Minister said that was being done to fight Covid and free up spaces but they have not been freed up. We did not take over any of the capacity in the private hospitals. We did not do many of the things we should have done for the people who have cancers growing inside them and all kinds of problems and worries. I spoke to someone today whose daughter is waiting nearly two years for a mammogram. It is shocking. That causes worry, stress and fear. The Minister can spare me the lecture. If he had not been with us in opposition at the start and did not know anything else it would be different. The weight of big pharma on his hand signing those 171 regulations must be enormous.

**Deputy Peadar Tóibín:** The Minister talks about public health advice as if it is a uniform issue. He acts as if it is singular and there are no differences of opinion in public health advice, or that it is given down from on high. The truth of the matter is there are many different public health advices. Every single country in the EU has a chief medical officer who delivers public health advice and much of that advice differs vastly. It is even contradictory in some cases. This idea that there is infallibility among public health advice and therefore as elected representatives we have no other option but to kneel down in front of it and not challenge it is wrong.

The truth of the matter is that there are many different competing public health advices right around the European Union and they are having different results in those countries. In some European countries the public health advice was to increase hospital capacity at this time of need. Despite the Minister's utterances the dial on hospital capacity here has not moved significantly enough to deal with the crisis. Other public health advice in places like Denmark, for example, was to implement venue access antigen testing. There are no silver bullets in this fight but that is one of the most important tools we have and it has been opposed by the public health advice in this State for a long time. There is now some movement on it. The Government has introduced testing access for coming into Ireland but it has still not done it for venue access. Proper air ventilation is public health advice but that is not being followed. Contact tracing is public health advice in many countries and yet it is not happening here.

Let us get rid of the fallacy that there is a singular public health advice and that therefore nobody should question it. One thing we have learned in this country for generations, to our cost, is not to question people in authority. That has done enormous damage in many ways in this country in the past. The Minister himself, when he was an Opposition Deputy, questioned public health decisions. When the HSE intercepted - and I am using the Minister's word here - PPE, oxygen and staff that were destined for nursing homes, Deputy Donnelly disagreed with that public health decision. He was right to do so because that decision led to a weakness in the nursing home sector's ability to deal with the crisis that was happening there. Public health advice opposed closing nursing homes to visitors for a full month between 3 March 2020 and April 2020 and allowed people to circulate in those nursing homes seeding the illness. Public health advice moved 10,000 people from hospitals into nursing homes in the first six months of 2020 and did not PCR test all of them. The Minister should not use public health to try to dampen down dissent or challenge in this Chamber because it is the wrong thing to do.

NPHET has gotten decisions wrong. No organisation would get every decision right and I am not saying that is possible. In the teeth of a fast-moving Covid crisis it is natural for organisations to get things wrong but its latest predictions with regard to the level of hospital cases and ICU cases and so on have been widely off the mark. Even its most optimistic predictions have been widely off the mark.

To be honest, I think the Minister is being too hard on Sinn Féin. In fairness to Sinn Féin it has been on the same page as the Government for most of the last 18 months. It may have flip-flopped a little around Covid passes and so on by supporting them, being against them and supporting them again. I might buy Deputy Cullinane a cushion for Christmas because his rear end must be sore from the fences he has been sitting on over the last while.

**Deputy David Cullinane:** That was a backhanded compliment.

**Deputy Peadar Tóibín:** It is important that this Dáil and our elected representatives have the opportunity to push hard at the people who are behind the decisions and who are making

them. There is no doubt in my mind that many decisions have emanated from NPHET which we have not been able to challenge. I have asked journalists to attend press conferences and ask questions of NPHET so we could get a better understanding of what is happening in this country. I ask the Minister to think about that. An elected representative asking a journalist to ask questions of the people who are creating the decisions, if not necessarily implementing them, is an incredibly dangerous situation in a political system. I have seen members of the Cabinet make decisions in Government Buildings and get a taxi straight to RTÉ to announce them while the elected representatives watch it here on TV. These are incredible situations. The Bills that have gone through here have been waved through without pre-legislative scrutiny. There is no excuse for that.

**An Leas-Cheann Comhairle:** I remind the Deputy to speak to the amendment.

**Deputy Peadar Tóibín:** It is the scrutiny element of the amendment that I am speaking to now. I will come to a close now but I have a question similar to the one that was asked earlier. The Covid pass currently allows people with Covid to circulate in hospitality and stops people who may not have Covid from doing so. If the Government's logic is to be followed, it will have to change it to cover only people who have had boosters. That is the same logic we are using now. The Tánaiste said people may have to have four vaccinations. Does that mean four vaccinations will be necessary to apply for the Covid pass?

**Deputy Catherine Murphy:** I will try to be brief. The point I want to make is about this debate and about scrutiny. There was a vote on waiving pre-legislative scrutiny. The Taoiseach told us this morning that it would take too long and the Minister went through what would be required to scrutinise every regulation. Where is the oversight? Where is Report Stage? We have 20 amendments. At best we will get to four of them. This debate is being guillotined. To be fair to the previous Government, because the House was in control of its agenda no legislation was guillotined between 2016 and 2020 and we managed. There was a degree of give and take to make sure that was the case. This is draconian legislation. Some of us spent a great deal of time drafting amendments before Second Stage. None of this is the way we want to see any legislation being debated, never mind draconian legislation.

If there are Government amendments remaining when a debate is concluded by guillotine, they are accepted but there is no obligation on a Minister to accept any other amendments. The Minister may surprise me and be disposed towards accepting one or two Opposition amendments. It would be useful if he indicated whether that is the case. Otherwise, the House might not have enough time to accept them. The Dáil reform committee will have to examine how we deal with Committee Stage where there is a guillotine. I do not favour the use of guillotines, but where they are imposed, there must be some way of apportioning time across the various amendments. This is a question for the Dáil reform committee as opposed to the Government, though.

Like most people, I want things that work. It is very frustrating when we believe that there are things that will work or their sequencing should be different but they do not happen. That was obviously the case with air filtration. I spoke about this matter on Second Stage last week. We were watching children being cold in school in the winter months and then we got an announcement. We were expecting the Health Information and Quality Authority, HIQA, to carry out an analysis of mask wearing by children but that did not happen. Instead, there was an announcement and mask wearing was to be implemented just hours later. That kind of approach costs public support and was a lightning rod, as there was a lack of any kind of public

information or rationale that could be used to explain it to children. The message all of this sent to children was “I am safe. I am not safe. Why am I wearing a mask?”

Some of my amendments relate to human rights and issues such as maternity hospitals, curtailments and the increased amount of domestic abuse. I would like to get to speak about some of these issues, which is why I tabled my amendments. My final amendment relates to who can seek detentions under the Mental Health Act. This part of the Bill goes against some fairly significant constitutional provisions. We will not get a chance to deal with any of these issues, though. Will the Minister indicate whether he feels he can accept any of the amendments? If they are not being taken, then that is fine. If it is possible to accept any of them but they fall because of the guillotine, though, then it is a poor way of doing business. The Dáil reform committee must re-examine this matter. I have attended several Committee Stage debates where only a handful of amendments were discussed. Deputies were not really talking about them, though. They knew that they would not get to make the points they wanted to make under their own amendments, so they contributed on the first few amendments because their time was limited. This is not the way to do business, but that is a matter for the Dáil reform committee.

**Deputy Richard O’Donoghue:** To say I am disappointed that the Taoiseach would say today that there was no time for pre-legislative scrutiny would be an understatement. Every Deputy who has spoken has expressed the same view.

I will only go through one or two points because other Deputies wish to speak. At no time have I ever not taken public health advice, but I have given advice to people who had concerns about being vaccinated. I have always told them that, if they have concerns, they should seek medical advice from their doctors. At no time have I discriminated against anyone who has, or has not, been vaccinated. As the Minister mentioned, the best advice we can give is that people should get medical advice.

I have a concern about the booster jabs. As the Taoiseach stated, 50% of people have not turned up for their booster appointments. Does the Minister know that, when NPHEt went on its run, people were being told that the over-70s cohort was receiving boosters even before the Government was told? They were then told that boosters were being given to the 60- to 70-year-old cohort. Now they are being told that, because so many people did not turn up, the 50- to 60-year-old cohort is being given boosters. A number of people in the 60- to 70-year-old cohort have called my office to say that, worried they had been missed, they had contacted their GPs and got the booster weeks ago, yet they still have not got a message from the HSE to say that they are due a booster. Doctors are contacting the people on their books who are in those age groups and asking them to come in for their boosters because they have not been called by the HSE but there is no portal for doctors to tell the HSE who has got the booster. The HSE does not know who has been given the booster because the system is wrong. When people received texts calling them for their boosters, there was no way for them to say whether they had already received theirs. The data that the HSE has are not accurate because it does not have the information from the GPs.

NPHEt damaged the hospitality sector by leaking health advice before discussing it with the Government. NPHEt came out a week before the Government to say on national television what would happen. This caused cancellations across the country and reduced the hospitality sector’s business by 50% before the Government even announced the restrictions. NPHEt has run wild and the Government allowed it to do so from the very start. As such, the Government is the cause of the hospitality sector and other sectors being penalised by NPHEt coming out

with statements without Government approval. NPHEP has cost this country millions of euro but the Government has not sanctioned it for that. The Government has let NPHEP run this country.

**An Leas-Cheann Comhairle:** Deputy, I might-----

**Deputy Richard O'Donoghue:** I will return to the amendment.

**An Leas-Cheann Comhairle:** There are three amendments being discussed.

**Deputy Richard O'Donoghue:** I will finish and allow other in Deputies.

**An Leas-Cheann Comhairle:** The Deputy can speak, but only to the amendments.

**Deputy Richard O'Donoghue:** I turn to the issue of the medical advice we have been given about ventilation in schools. I was the first person to ask for ventilation systems to be installed. That is on the record of the Dáil. I handed the Government the programmes but I was laughed at and told that the Government would look into it. The Government is looking at it now nine months later after we have had children in classrooms with the windows open and the temperature down to 8° Celsius. They are being told that, because their schools are not big enough to provide enough separation distance, they must leave their classrooms and go outside to stand on wet ground under NPHEP and Government guidance.

We have asked children to wear masks in school. It has been shown that, if a child wears a mask for that long a time, the carbon monoxide he or she could endure would be damaging to the child's health. We have got to look at this. We have created safe environments and we have put guidelines in place. The Minister has spoken about medical advice. It has been medically proven that wearing masks long term is damaging to the health of young children. I will allow other speakers to contribute.

**Deputy Richard Boyd Barrett:** I am sorry, as I am slightly late to the debate. I support Deputy Cullinane's amendment. We are not, as Deputy Bríd Smith indicated in the Second Stage debate, supportive of this legislation. That is not in any because we are reluctant or reticent about protecting public health. We think it is critical to protect public health. From the beginning, we have been 150% in favour of promoting vaccination and it is clear that vaccination has reduced the likelihood of illness, hospitalisation and death. At this stage, we would strongly encourage people to take up the vaccine. What is frustrating is the incoherence and often arbitrary and sometimes directionless approach of the Government when it comes to dealing with the pandemic at the stage we are at now.

At this point, I seriously ask the question of where the strategy is heading. Where exactly are we going with this? What is the objective of what we are doing at the moment? I seriously wonder about it and I do not think it has been properly explained. People are right to call out the fact that at the outset of the pandemic we used to have reasonably regular briefings, which we had to ask for, with the key Ministers and the public health experts to thrash out what was being proposed and the basis on which decisions were being made and we had opportunities to question those measures. That is all gone now, and we just have the Government seeking to have quite draconian powers without much accountability in terms of the decisions that are being made. I have a significant problem with that, in particular because I do not know quite where it is going.

Today, the Taoiseach was quick to have little gibes at some of us about the fact that we were for zero Covid but now we are not for this. If for no other reason, I want to explain our rationale on that. Our rationale is very simple. At that stage we did not have more than 90% of the population vaccinated. We were very keenly aware-----

**An Ceann Comhairle:** That is all very interesting but the Deputy is supposed to talk about the amendment.

**Deputy Richard Boyd Barrett:** Yes, and the amendment is about the need to scrutinise decisions and powers that the Minister wants to give himself in this Bill. Is that okay?

**An Ceann Comhairle:** Has that got anything to do with this amendment?

**Deputy Richard Boyd Barrett:** It does, because I am concerned about the lack of a clear rationale for some of the powers that the Minister wishes to have. I want to explain that we need a rationale for a policy and a strategy. It is not clear at this point what the rationale is because at a particular point in the evolution of this pandemic, everybody believed that there was a possibility that if we got to a certain level of vaccination – the figure that was being floated at that time was about 70% - or immunity through natural infection, that we would reach a point where the R number of Covid-19 would start to decline. Essentially, it would go below one and we could seriously consider the possibility that the disease would fizzle out. That was the belief at the time. We have now discovered that that is not the case; that even with 95% vaccination, a figure nobody ever dreamed possible, that we are not looking at the possibility of the virus disappearing.

**An Ceann Comhairle:** How does the Deputy relate all that to the amendments?

**Deputy Richard Boyd Barrett:** Because we do not give draconian powers to the Minister with a lack of accountability to this House unless we know where the strategy is heading.

**An Ceann Comhairle:** I admire Deputy Boyd Barrett's ingenuity.

**Deputy Richard Boyd Barrett:** In particular when the Government is not giving clear answers. What is consistent in our approach to this is that when we were campaigning for elimination as a strategy, prior to there being mass vaccination, the whole point was to reduce the likelihood of long protracted periods of very harsh restrictions and rolling lockdowns that went on for long periods precisely because we saw it as a mechanism to reopen society. That is what everybody wants to know, how we reopen society but do it safely in a way that we can cope with Covid-19 and protect lives and health. What I do not understand in that regard, for example, is the reluctance and unwillingness to have a serious discussion about air quality, ventilation and so on, but the Government is very quick to give itself certain quite draconian powers without a clear rationale of where it is heading. I would like to hear from the Minister where he thinks it is all heading in terms of how we are going to get back to some level of normality and how these powers are designed to achieve that.

**An Ceann Comhairle:** I would like to know how the Deputy will get back to the amendments that we are debating, and the normality of them.

**Deputy Richard Boyd Barrett:** I will do so clearly. I do not believe in giving wide-ranging powers to the Minister without accountability to this House unless he can give us and the wider public an evidence-based argument that is convincing about what exactly the purpose

of all of this is and how it is part of an integrated strategy to cope with Covid-19. That is distinctly lacking. What we end up with then is a Government essentially looking around to point the finger at other people and particular groups and incoherent messages about where the real problem is rather than take responsibility itself for the things it could and should do in order to cope with Covid-19. That is a political exercise rather than an exercise in trying to find the best way to cope with this extremely difficult situation.

That is the reason we will be opposing the Bill and why at the very least the amendment that Deputy Cullinane has put forward is a way of insisting there is some level of accountability and that the Minister does not get a blank cheque when he is not convincing people about where all this is going. In our view, he is failing spectacularly to take measures that it seems to us are a no-brainer in terms of developing our capacity to cope with this situation, whether it is air ventilation, having targets to get ICU up to the level it should be at, staffing resources for public health teams or maintaining on a permanent basis the health capacity, resources and infrastructure that we need to cope with Covid-19. On all of those fronts, we think the Government is failing, but it is quite quick to give itself power to take draconian measures that essentially point the finger at others rather than itself in terms of responsibility to do the things necessary to cope with the pandemic.

**Deputy Michael Fitzmaurice:** The amendment is a good one for the simple reason that regulation is a dangerous thing. In the dark of night, a Minister can sign whatever he or she wants if there is a regulation in place and he or she does not have to come into the Dáil. What would have to happen then is that we would have to go to the courts within six months to challenge a regulation. People might bring up something in a month's time that we might not have a bull's notion about that was in a regulation and bar going to the court there will be no way of resolving it. Where Ministers are given powers through regulation, we have to be ferociously careful.

There is one other point connected to the amendment. When we put measures into a Bill or into a regulation, we have to watch the knock-on effects. I know of a person who has not been outside the door in 20 months because she can get anaphylactic shock. She has a young family and she is so fed up mentally. She was advised by her doctor not to get a vaccine. That person has got to the stage where she has not had a weekend away because she can go nowhere and bring her kids with her. That woman said to me, "My own relations look at me as if I am different." Last Sunday, that person went to Roscommon through desperation, after not sleeping for a week, not knowing whether she would have a reaction, but she was going to take it, against advice, just to be able to bring her family somewhere for Christmas. Then, when she went there, she was told, "We do not know, we do not have an emergency department and we do not have the gear here." The people there were doing their best. It was out in a community centre and they said they were not near a hospital and that they did not have the right gear. They told the woman to wait. They said they would ring Galway and that she might have to go to Galway, but they would wait to see what happened. We try to legislate but there are an awful lot of people we do not think of when we are doing things. Basically, we make them scapegoats in society. That is a genuine, ordinary person, living in an ordinary part of Ireland, doing ordinary things.

There are regulations attached to a Bill and a Minister can sign all of the different regulations without reference to anyone in the House. Once the regulations are put into force, a Minister can sign anytime he or she wants. We have to be very careful with the type of powers we are allowing. I am not saying the Minister will go crazy or anything like that, but this applies to any Minister. The habitats directive was signed in at 1.20 a.m. years ago, and it was and is the

bane of our lives right around rural Ireland. These are the consequences of not having enough scrutiny in the House.

**An Ceann Comhairle:** As no one else is offering, I call the Minister. I will have to interrupt him at 7.45 p.m.

**Deputy Stephen Donnelly:** I thank Deputies for all of the contributions. I will try to move through them as quickly as I can. I will start with the substance of the amendments. I believe we are all agreed that there needs to be as much engagement as possible in the Oireachtas. I have, in good faith, already commenced a process to increase that.

I made a point earlier, before Deputy Boyd Barrett was present, when I went through all of the Dáil engagement there has been just this week and last week. While I enjoy the Deputy's company, I have spent more time in the company of the people in this Chamber than I have with my own family. We are spending an awful lot of time, right time, proper time, on this debate, on Topical Issues, in committee, in the Seanad and on statements on the legislative process. We are spending an awful lot of time, rightly, on all of this. I have a pretty good idea of where many people in this Chamber right now stand in terms of ventilation, antigen testing, PCR capacity, hospital capacity, communications and exactly the kind of things that get regulated for and that the public advice comes in on. We should acknowledge there is a lot of engagement. I do not believe it is the case that we are off somewhere else doing this and that there is no engagement. We spend an awful lot of time here, rightly.

I want to move to the substance of the amendments. I put a lot of meat on the Deputy's views generally but also on the amendments in terms of human rights aspects and so forth - I genuinely do. In terms of the amendments we are looking at right now, what would be required if we assumed a very modest debate before each vote by the Dáil and by the Seanad, which would be the minimum the Deputy looks for? It would be 33 weeks of Dáil time. Every Tuesday, every Wednesday and every Thursday in the last year and a half would have been spent just on these regulations. I submit to the House that, in terms of some of the regulations and the time that would be required, that is not viable. I also do not believe that, as a Legislature, we in this House could say that of the 52 sitting weeks we have had in the last year and a half since the Government was formed, it would be reasonable to have spent 33 of those weeks on a modest debate on each regulation.

**An Ceann Comhairle:** I will have to interrupt the Minister. The time permitted for this debate having expired, I am required to put the following question in accordance with an order of the Dáil of yesterday, 7 December 2021: "That each of the sections undisposed of is hereby agreed to in committee, the Preamble and the Title are hereby agreed to in committee, the Bill is reported to the House without amendment, Report Stage is hereby completed and the Bill is hereby passed."

Question put:

<i>The Dáil divided: Tá, 87; Níl, 48; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Andrews, Chris.</i>	
<i>Brophy, Colm.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Browne, James.</i>	<i>Brady, John.</i>	

*Dáil Éireann*

<i>Bruton, Richard.</i>	<i>Browne, Martin.</i>	
<i>Burke, Colm.</i>	<i>Buckley, Pat.</i>	
<i>Burke, Peter.</i>	<i>Canney, Seán.</i>	
<i>Butler, Mary.</i>	<i>Carthy, Matt.</i>	
<i>Cahill, Jackie.</i>	<i>Clarke, Sorca.</i>	
<i>Cairns, Holly.</i>	<i>Connolly, Catherine.</i>	
<i>Calleary, Dara.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Cannon, Ciarán.</i>	<i>Cronin, Réada.</i>	
<i>Carey, Joe.</i>	<i>Crowe, Seán.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Cullinane, David.</i>	
<i>Chambers, Jack.</i>	<i>Daly, Pa.</i>	
<i>Collins, Niall.</i>	<i>Doherty, Pearse.</i>	
<i>Costello, Patrick.</i>	<i>Donnelly, Paul.</i>	
<i>Cowen, Barry.</i>	<i>Ellis, Dessie.</i>	
<i>Creed, Michael.</i>	<i>Farrell, Mairéad.</i>	
<i>Crowe, Cathal.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Devlin, Cormac.</i>	<i>Funchion, Kathleen.</i>	
<i>Dillon, Alan.</i>	<i>Gould, Thomas.</i>	
<i>Donnelly, Stephen.</i>	<i>Guirke, Johnny.</i>	
<i>Donohoe, Paschal.</i>	<i>Kenny, Gino.</i>	
<i>Duffy, Francis Noel.</i>	<i>Kerrane, Claire.</i>	
<i>Durkan, Bernard J.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>English, Damien.</i>	<i>McGrath, Mattie.</i>	
<i>Farrell, Alan.</i>	<i>McNamara, Michael.</i>	
<i>Feighan, Frankie.</i>	<i>Munster, Imelda.</i>	
<i>Flaherty, Joe.</i>	<i>Murphy, Paul.</i>	
<i>Fleming, Sean.</i>	<i>Murphy, Verona.</i>	
<i>Foley, Norma.</i>	<i>Mythen, Johnny.</i>	
<i>Gannon, Gary.</i>	<i>Naughten, Denis.</i>	
<i>Grealish, Noel.</i>	<i>Nolan, Carol.</i>	
<i>Griffin, Brendan.</i>	<i>O'Donoghue, Richard.</i>	
<i>Harris, Simon.</i>	<i>O'Reilly, Louise.</i>	
<i>Haughey, Seán.</i>	<i>O'Rourke, Darren.</i>	
<i>Heydon, Martin.</i>	<i>Ó Broin, Eoin.</i>	
<i>Higgins, Emer.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>Hourigan, Neasa.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Howlin, Brendan.</i>	<i>Pringle, Thomas.</i>	
<i>Humphreys, Heather.</i>	<i>Quinlivan, Maurice.</i>	
<i>Kehoe, Paul.</i>	<i>Ryan, Patricia.</i>	
<i>Kelly, Alan.</i>	<i>Smith, Bríd.</i>	
<i>Lahart, John.</i>	<i>Stanley, Brian.</i>	
<i>Lawless, James.</i>	<i>Tóibín, Peadar.</i>	
<i>Madigan, Josepha.</i>	<i>Tully, Pauline.</i>	

<i>Martin, Catherine.</i>	<i>Ward, Mark.</i>	
<i>Matthews, Steven.</i>	<i>Wynne, Violet-Anne.</i>	
<i>McAuliffe, Paul.</i>		
<i>McConalogue, Charlie.</i>		
<i>McGrath, Michael.</i>		
<i>McGuinness, John.</i>		
<i>McHugh, Joe.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murnane O'Connor, Jennifer.</i>		
<i>Murphy, Catherine.</i>		
<i>Nash, Ged.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Brien, Joe.</i>		
<i>O'Callaghan, Cian.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connor, James.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Dowd, Fergus.</i>		
<i>O'Gorman, Roderic.</i>		
<i>O'Sullivan, Christopher.</i>		
<i>O'Sullivan, Pádraig.</i>		
<i>Ó Cathasaigh, Marc.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Ríordáin, Aodhán.</i>		
<i>Rabbitte, Anne.</i>		
<i>Richmond, Neale.</i>		
<i>Ring, Michael.</i>		
<i>Ryan, Eamon.</i>		
<i>Shanahan, Matt.</i>		
<i>Shortall, Róisín.</i>		
<i>Smith, Brendan.</i>		
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Varadkar, Leo.</i>		
<i>Whitmore, Jennifer.</i>		

Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies David Cullinane and Michael McNamara.

Question declared carried.

*8 o'clock*

### **Residential Tenancies (Amendment) (No. 2) Bill 2021 [Seanad]: Committee and Remaining Stages**

Sections 1 and 2 agreed to.

#### SECTION 3

**An Ceann Comhairle:** Amendments Nos. 1 to 7, inclusive, are related and will be discussed together. Amendment No. 3 is a physical alternative.

**Deputy Ged Nash:** I move amendment No. 1:

In page 3, line 26, after “2021” to insert “may not occur in the period of 36 months from the commencement of that section and”.

The Minister of State will have heard my remarks and the remarks of many other Deputies on Second Stage regarding the necessity to provide for a three-year rent freeze and that is what this amendment, among others, seeks to do. The Minister of State and his officials know that this can be done because it was done in 2015. At that time, a rent freeze was instituted to respond to a particular problem. Never was a rent freeze of this nature required more than it is now and it can be done if the political will is there. To date, the political will has not been in evidence from this Government to deal with the biggest and most dominant social issue of our time. I suggest that the Minister of State accept this amendment. Any excuses or rationale that he might provide that it is unconstitutional, for example, or not possible, simply will not stand up to scrutiny. The Minister of State knows that, as do his officials. I suggest that the best thing to do for our society at this moment in time would be to provide for a three-year rent freeze to allow the market to settle and to allow for the building of the homes that we all want to see built. A rent freeze will allow the housing system more generally to recover and respond to the needs of today.

**Deputy Eoin Ó Broin:** I want to speak specifically to my amendments Nos. 3, 4 and 7 but I am also supporting the amendments of colleagues. The bottom line is that rents are too high and tenants simply cannot absorb any level of rent increase at this stage. We know, for example, that because new rental properties are not subject to the rent pressure zone caps, they are coming in at excessively high levels in some parts of Dublin, at over €2,000 per month for a standard two-bed unit, including in my constituency. Even where property is captured by the rent pressure zone rules, because it is virtually impossible to police the cap between tenants, that is, when one tenant moves out and another moves in, there is a widespread practice of landlords charging more than a cap, irrespective of whether it is inflation, 4% or 2% in that period. Of course, as the Minister of State knows, many parts of the State and approximately one third of tenants are not covered by rent pressure zones. Many of those counties, particularly more rural

or western counties, are experiencing exceptionally high levels of rent as a result of some of the displacement of urban renters due to working from home arrangements and Covid-19 job losses.

Given where rents are, the idea that any level of rent increase is acceptable is sheer madness. The idea that the rent pressure zones would even work at 2% flies in the face of all of the evidence we have since the rent pressure zones and the caps were originally introduced in 2017. On that basis, the only thing to do here is to stop rent increases for an emergency period only. I do not believe we can ban rent increases indefinitely; there are medium to long-term negatives from doing so but in the short term, they need to stop.

One of the very retrograde elements of this Bill is the reintroduction of what we call the accumulating rent increase for a landlord who may not have increased the rent in previous years. That was a feature of the original rent pressure zone legislation introduced by the then Minister, Deputy Simon Coveney. It was not really a feature in 2017, 2018 or 2019 but when Covid hit, many landlords chose, rightly, not to increase rents in 2020 because of the financial difficulties of their tenants. However, their tenants were then hit with 8% rent increases in 2021 and it became quite a big matter of debate here. The Minister removed that provision in the last Residential Tenancies (Amendment) Bill but it is now being introduced. What that means is that tenants, on foot of the passage of this Bill if it is not amended, could face rent increases of more than 2%, or inflation, whichever is the lower, if their landlord did not increase their rent last year or the year before. In fact, they could face rent increases of as high as 5%, 6% or 7%, depending on when the last rent review was set. We absolutely need a ban on rent increases and we absolutely need to remove the accumulating rent increase.

I am sure the Minister of State will make some reference to the Constitution and in that context, I fully endorse Deputy Nash's comments. We have had circumstances previously where rents could not be increased for a period of time. We might have constitutional difficulties if such a ban was open-ended or indefinite, although some legal scholars have a different opinion on that, but Deputy Nash is absolutely right that Deputy Alan Kelly, when Minister, introduced a two-year ban on rent increases.

I have other difficulties with that legislation, which I blame on the former Deputy and Minister for Finance, Michael Noonan, rather than Deputy Kelly, because the former fought tooth and nail against any relief for renters, as is often the Fine Gael way. Anybody that stands up in this Chamber and argues that it would be unconstitutional to have a very temporary ban on rent increases, at a time when rents are higher than they were at the height of the Celtic tiger era, is misleading the House. I challenge him to publish any legal advice the Government has on the matter. If he did so, I would be willing to reconsider but I believe that it is a canard used to hide inaction. This entire group of amendments is eminently sensible. If the Government was serious about protecting renters, it would accept them.

**An Ceann Comhairle:** While Members can speak for as long as they like on any amendment, we have 26 amendments and if we are to get through as many of them as possible, it would be helpful if Deputies were concise. As I say, they can speak for as long as they like.

**Deputy Cian O'Callaghan:** I am speaking to my amendments Nos. 5 to 7, inclusive. We have very high rents as it is. They are unaffordable for many people and causing a huge amount of stress and anxiety. Dublin has the highest rents of any capital city in the European Union. Where does Dublin feature in the rankings for wages in European cities? It is 26th for wage

levels, yet we have the highest rents in the EU. Across Ireland, rents are unaffordable, yet this Bill allows for rent increases of 2% through the rent pressure zone mechanism, which has been breached since it was introduced. The latest figures show it has not been observed in any county and that rent increases have been about 7% when they should not have exceeded 4%.

It is important that the Government listen to what people are saying and accept these amendments. It must put in place an immediate freeze on rent increases and remove the provision for cumulative rent increases, as proposed in amendment No. 6. There is no absence of legal opinion that the Oireachtas is constitutionally within its rights to act in the common good to bring in a ban on rent increases and that it would be proportionate. It is the function of the courts to interpret how we set the law but not to make law. There is plenty of eminent legal opinion to back up that view. I urge the Government to accept all these amendments.

**Deputy Richard Boyd Barrett:** I have a simple question for the Minister of State. Does he think that average rents in Dublin of €2,000 a month are acceptable? Does the Government think it is tenable to have average monthly rents of €2,000 or that areas such as mine have average monthly rents of €2,200? Does the Minister of State think that when the average industrial wage is about €35,000 it is tenable for the average rent in Dublin to require €24,000 or more in after-tax income to pay it? You only have to ask the question for it to be obvious that it is not tenable. However, the Government does not have a proposal to deal with it. It proposes to allow further increases to those rents. However you cut it - the Government says it is minimal or it is this or that - it is still allowing for further rent increases when rents are untenable.

We need to remember every single time we discuss this matter what its human consequences are. If you are without a roof over your head and you are on average or even above average earnings, and certainly if you are on below average earnings, you are in deep trouble if you go out looking for rental accommodation. It does not matter if you are working or have a family. Every week in my constituency, I see families, where the parents are working and the kids are at school, who cannot find or pay for accommodation at current rents because the housing assistance payment, HAP, limits do not go anywhere near that level. They may not have a roof over their head for many reasons. Maybe the landlord decided they had to leave because of grounds of sale or he is bringing a member of the family in or the situation is intolerable at home because of overcrowding. For how long can people live with their mother, father, grandmother and so on? There could be separation or domestic violence. If you need somewhere to live and you simply cannot pay that money, you are, by definition, in serious trouble. These people come into my clinic, as happened this week when a man just sat down and broke down in tears because he had been given a date to leave. He was looking for places and he cannot find anywhere because it is just not affordable.

What is the Government proposing to do about this? Please do not tell me that a couple of thousand cost-rental units next year will solve the problem or tell me about the amount of affordable housing. Between 60% and 70% of people, if not more, have earnings of the sort I am describing, where rents are just not payable. I do not want the Minister of State to tell me that what he proposes will see reductions in rent at any point in the near future. They will not. The market is not going to right this, so we need a radical intervention. The very least the Government can do in this situation is to say there will not be further rent increases. I will be honest and say to the rest of the Opposition, and I am not trying to score political points, that in my opinion that is not enough either because it does not do anything about the new accommodation that is going to be built. We are relying greatly on the hope that there will be a significant increase in supply - there will probably be some increase - but there is nothing at the moment

to stop the new supply that comes on stream being charged at whatever rent people like. They can charge anything and nobody is making a proposal to do anything about it.

The Government should at a minimum support what Deputies Nash, Ó Broin, Cian O’Callaghan and the rest of us have been calling for, that there be no further rent increases in an untenable situation. However, we will have to go further or this will go on and on. We need to set rents at affordable levels. It is done in other countries. It can be done and it should be done. It has to be done otherwise we are not going to solve this problem. If somebody else can give me a solution that will achieve what needs to be achieved, I am all ears. However, there is no proposal on the table from the Government that offers any solution that will bring rents to levels that are affordable to ordinary working people in the short to medium term, or indeed the long term. There is just no proposal. As we grasp that fact, this miserable situation which is imposing horrendous suffering and anxiety on people and their children week in, week out will simply continue.

I am all ears but I want to know if the Minister of State thinks those rent levels are acceptable? If not, what is he going to do about it? What is his proposal? At the moment, there is none. As I said, I do not want him to tell me a couple of thousand cost-rental or affordable units will solve that. It simply will not do so.

**Deputy Thomas Gould:** Deputies are trying to be constructive. We are talking about real people and families. We are coming up to Christmas and there are people renting homes who live in fear that their landlord will put up the rent. Last week, I was contacted by a constituent who is paying €1,200 a month for a one-bedroom apartment. She got a notice that the rent was increasing to €1,243. I raised this with the Minister or Minister of State last week. This lady, a student nurse, is going to college and has to make a decision now. She is barely able to survive and is on the breadline because she is trying to pay her rent. The question now is whether she must give up her studies to keep a roof over her head.

We are asking for a three-year rent freeze. This is an emergency. People cannot afford to pay the rent. Does the Minister of State believe current rents are affordable for ordinary people? I am not talking about the big earners but ordinary people and families who are trying to live their lives. I am telling him now they are not affordable. If the Minister of State believes rents are affordable, it shows how out of touch he and his Government are.

There are thousands of derelict houses and sites right across this State. There are 21 local authorities that do not enforce a derelict sites register and 13 that do not collect a penny. In the middle of the worst housing crisis in the history of the State, we have thousands of properties that could be turned into social, affordable housing and cost-rental homes. The Government will not fund local authorities to put teams in place to tackle dereliction and compulsorily purchase properties. I had a meeting today with Cork City Council. I wanted to know what it is doing about dereliction. We have hundreds of properties across Cork city and county lying idle because the Government will not support the local authorities to tackle dereliction. At the same time, it is allowing landlords to increase rents.

The rent pressure zones did not work, as we told the previous Government they would not work. Fianna Fáil supported that Government at the time and it did not do anything to stop it. Here we are now with rents having gone through the roof. The reason for that is Fianna Fáil and Fine Gael are pro-landlord and support rent increases.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Peter Burke):** I cannot accept amendment No. 1, which proposes that the setting of a rent under a tenancy of a dwelling may not occur in a period of three years from the commencement of section 3 of the Residential Tenancies (Amendment) Act 2021. Besides the difficulties with a blanket ban on rent increases, which I will address presently, the amendment as drafted would have significant unintended consequences. As provided for in this amendment, the setting of rent under the tenancy of a dwelling in a rent pressure zone at any time after the commencement of section 3 of this Bill may not occur in the period of three years from the commencement of that section. On the face of it, this means that rent settings cannot legally take place for three years even where a new tenancy commences in respect of a rental property. While freezing rents for existing tenancies, this amendment would also stop new tenancies being agreed for existing rented properties. Now more than ever, we need investment in the sector. We need people to be free to move within the rental sector as their needs change over time.

The proposed imposition of a three-year rent freeze has been debated numerous times in both Houses of the Oireachtas. As has been said before, a blanket ban on rent increases in all likelihood would face significant legal challenge. It would also severely impact on investment in the supply of rental accommodation in the medium to longer term. I am sure Deputies would not want this to happen as it would be an unwelcome unintended consequences of the measure.

While affordability remains an issue, the introduction of rent pressure zones in 2016 and their subsequent enhancement in 2019, in July of this year, and proposed in this Bill have played and will play a key part in moderating rent increases.

Rent pressure zones were a considered measure that balanced the needs of tenants with the legal rights of landlords and the imperative to ensure rental housing supply was not adversely affected. The current rent pressure arrangements, under which annual rent increases are prohibited from exceeding general inflation as recorded by the harmonised index of consumer prices, HICP, were introduced as a balanced set of arrangements that recognised the need to intervene in situations of high and significantly increasing rents, while at the same time taking account of constitutional property rights and the need to avoid disincentivising the provision of rented properties. When introducing these measures the Minister, Deputy Darragh O'Brien, was very clear on the need to carefully monitor inflation. At that time, HICP inflation averaged 0.73% per annum over the previous three years but had risen to 1.6% per annum in the year ending June 2021. The Minister needed to revise the rent pressure zone rent control relatively quickly in July on that basis, which could be independently verified. Given the continuing rise in HICP inflation, up to 5.1% per annum in October, this Bill proposes to introduce a cap of 2% per annum *pro rata* on any rent inflation in rent pressure zones to ensure that effective rent controls are legally in force when the general inflation rate is too high and over 2% per annum.

I cannot accept amendment No. 2, which proposes to remove a reference to “relevant percentage”, as defined in section 3 of the Bill, and replace it with a flat 2%. This would, in effect, cap any rent increase at 2% regardless of the time elapsed since the previous rent setting under the tenancy. The definition of relevant percentage in the Bill permits a 2% per annum increase since the previous rent setting, whether that setting occurred under the current tenancy or under the previous tenancy. The aim of the definition is to avoid incentivising a landlord to routinely increase rents in a rent pressure zone on an annual basis. The Residential Tenancies Act generally provides the rent review in a rent pressure zone cannot occur any more frequently than once per year. The definition would allow for existing tenants to enjoy occupation of their home under tenancy without annual rent increases should that be their landlord's wish. The landlord

could forgo any annual rent increases for existing tenants in the knowledge that he or she could legally increase the rent by no more than the HICP inflation rate or the new cap of 2% per annum *pro rata*, whichever is lower, when any replacement tenancy is agreed. For example, if a landlord set a rent at €1,000 for the existing tenant and did not review the rent during a three-year tenancy, he or she could legally set a new rent for the subsequent tenant of €1,060 in line with the new cap of 2% per annum *pro rata* if HICP inflation is higher.

We do not want to incentivise annual rent reviews in rent pressure zones for existing tenants. We do not want to impede a landlord from charging a reasonable rent for the dwelling based on the time elapsed during the previous rent setting and taking into account the time, value of money and the cost of maintaining and providing rented accommodation. Landlords who own only one or two properties make up 86% of the total and 70% own just one property. We need to encourage landlords to provide much-needed accommodation in the private rental sector. The proposed amendment would unfairly penalise good landlords and drive away investment from the sector. In all cases, section 19(1) of the Residential Tenancies Act 2004, as amended, prohibits any rent being set that exceeds the market rent.

I cannot accept Opposition amendments Nos. 3 to 7, inclusive, which, similar to amendment No. 1, propose to freeze rents at their current levels. As Deputies know, any proposed measure that impacts on private property rights merits detailed consideration and scrutiny having regard to the provisions of Article 43 of the Constitution and associated legal complexities. On Second Stage, I explained that this Bill will cap any rent increase in a rent pressure zone at 2% per annum *pro rata*, where HICP inflation is higher. This measure has the approval of the Attorney General and the Government is confident it is fair to both tenants and landlords and will have the desired effect and impact on the rental sector.

The Planning and Development (Housing) and Residential Tenancies Act 2016 introduced the rent predictability measure to moderate rent increases in those parts of the country where rents are highest and rising fast. The proposal in section 3 of this Bill for the rent increase cap of 2% per annum *pro rata* in a rent pressure zone if HICP inflation is higher has regard to the constitutionally protected rights of landlords and takes into account local rental market factors, providing certainty to tenants and landlords with the medium-term rent levels.

Throughout this pandemic, we have asked landlords to show forbearance towards tenants where they may be struggling financially and requiring State support. In order to better enforce rent pressure zone legislation the Residential Tenancies (Amendment) Act 2019 provided the Residential Tenancies Board, RTB, with enhanced powers and resources to carry out investigations to sanction landlords, if required, for any contravention of the rent increases restriction in rent pressure zones. The maximum sanction is €30,000. Alternatively, a tenant may wish to refer a dispute for resolution to the RTB and a lawful rent can be enforced and damages of up to €20,000 can be awarded to the tenant. The Department, the Housing Agency and the RTB keep the operation of the rental market under constant review. It is important to have transparency in the rental system, with fair rents and certainty for tenants and landlords.

On Second Stage, I was very clear in stating that the rental market is dysfunctional and that rents are too high. I was also very clear about the solution to increasing supply. In any marketplace where demand significantly outstrips supply, prices go up. If you look at the facts and evidence in the supply data that is currently coming in, commencement notices are up more than 48%, or 30,947, up to October 2021, which gives major confidence about supply coming into the marketplace considering the year we had in 2020 with the Covid pandemic and the as-

sociated repercussions of the lockdown earlier in the year. When quarter 3 of 2021 is compared with quarter 3 of 2020, it can be seen that the commencement notices are up 60%. That means bulldozers are on sites and houses are being delivered for workers to try to ensure we meet the demands of the economy in line with the ESRI report.

I will be very clear that there is a solution that is backed up by multi-annual funding of €4 billion, which is targeted at delivering more sustainable and high-quality units for our citizens in this State. That is the key response and what the arm of the State is trying to do. We are bound by the law officer of the Government under the Constitution, who is the Attorney General, and we are obliged to act upon his advice. Many Deputies can quote different legal opinions in respect of various proposals, but the Government has to be very clear about the advice it has to take to ensure that any proposals it brings to the House will stand up. That is very important.

A previous rent freeze that was imposed in this State in 2015 was mentioned. That was actually a deferral of a rent review. When the point came at which rent was reviewed two years after that freeze, it was only a deferral. People could charge what they wanted, in essence, with the increase. We have to be honest about statements we make in the House about there being a rent freeze for a period. The truth and the fact of it was that it was a deferral of increases. We have to be honest about that.

Covid-19 has been a major imposition on the people of the State, but it gave us the opportunity to bring in a number of Bills to protect tenants in their homes and to ensure that they were not evicted in what were very difficult circumstances for every citizen that found himself or herself in them. On rent supplement, we really got into gear through the network of community welfare officers in this State, who responded to very vulnerable citizens within three days on average.

I absolutely understand this issue. I hear Deputies speaking about constituents coming to their clinics. I have clinics every week in my constituency and I meet people daily who are in very vulnerable positions, trying to retain a tenancy or to get a new one, which is very frustrating considering the current dysfunctional state of the market. One thing I can give citizens is hope. When I look at my home town, I see a number of sites that are currently being developed, some of which include more than 100 houses, and will be delivered over the next number of months. There is hope there. I know it is very frustrating, but the actions of the Government, the investment we have right behind that and the protections we are trying to bring in are the best balance at this point in time. I acknowledge - I am not tone deaf - what people are going through in this society with rent levels. I used the term “dysfunctional” to describe the market. The Government has intervened in the marketplace.

Amendment put:

<i>The Dáil divided: Tá, 53; Níl, 75; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Brophy, Colm.</i>	
<i>Bacik, Ivana.</i>	<i>Browne, James.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>	
<i>Brady, John.</i>	<i>Burke, Colm.</i>	
<i>Browne, Martin.</i>	<i>Burke, Peter.</i>	
<i>Buckley, Pat.</i>	<i>Butler, Mary.</i>	

<i>Cairns, Holly.</i>	<i>Cahill, Jackie.</i>	
<i>Carthy, Matt.</i>	<i>Calleary, Dara.</i>	
<i>Clarke, Sorca.</i>	<i>Cannon, Ciarán.</i>	
<i>Connolly, Catherine.</i>	<i>Carey, Joe.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Cronin, Réada.</i>	<i>Chambers, Jack.</i>	
<i>Crowe, Seán.</i>	<i>Collins, Niall.</i>	
<i>Cullinane, David.</i>	<i>Costello, Patrick.</i>	
<i>Daly, Pa.</i>	<i>Coveney, Simon.</i>	
<i>Doherty, Pearse.</i>	<i>Cowen, Barry.</i>	
<i>Donnelly, Paul.</i>	<i>Creed, Michael.</i>	
<i>Ellis, Dessie.</i>	<i>Crowe, Cathal.</i>	
<i>Farrell, Mairéad.</i>	<i>Devlin, Cormac.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Dillon, Alan.</i>	
<i>Funchion, Kathleen.</i>	<i>Donnelly, Stephen.</i>	
<i>Gannon, Gary.</i>	<i>Donohoe, Paschal.</i>	
<i>Gould, Thomas.</i>	<i>Duffy, Francis Noel.</i>	
<i>Guirke, Johnny.</i>	<i>Durkan, Bernard J.</i>	
<i>Healy-Rae, Michael.</i>	<i>English, Damien.</i>	
<i>Howlin, Brendan.</i>	<i>Farrell, Alan.</i>	
<i>Kelly, Alan.</i>	<i>Feighan, Frankie.</i>	
<i>Kenny, Gino.</i>	<i>Flaherty, Joe.</i>	
<i>Kerrane, Claire.</i>	<i>Fleming, Sean.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Foley, Norma.</i>	
<i>Munster, Imelda.</i>	<i>Griffin, Brendan.</i>	
<i>Murphy, Catherine.</i>	<i>Harris, Simon.</i>	
<i>Murphy, Paul.</i>	<i>Haughey, Seán.</i>	
<i>Mythen, Johnny.</i>	<i>Heydon, Martin.</i>	
<i>Nash, Ged.</i>	<i>Higgins, Emer.</i>	
<i>Nolan, Carol.</i>	<i>Hourigan, Neasa.</i>	
<i>O'Callaghan, Cian.</i>	<i>Humphreys, Heather.</i>	
<i>O'Rourke, Darren.</i>	<i>Kehoe, Paul.</i>	
<i>Ó Broin, Eoin.</i>	<i>Lahart, John.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>Lawless, James.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>Madigan, Josepha.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Martin, Catherine.</i>	
<i>Pringle, Thomas.</i>	<i>Matthews, Steven.</i>	
<i>Quinlivan, Maurice.</i>	<i>McAuliffe, Paul.</i>	
<i>Ryan, Patricia.</i>	<i>McConalogue, Charlie.</i>	
<i>Shortall, Róisín.</i>	<i>McGrath, Michael.</i>	
<i>Smith, Bríd.</i>	<i>McGuinness, John.</i>	
<i>Stanley, Brian.</i>	<i>McHugh, Joe.</i>	
<i>Tóibín, Peadar.</i>	<i>Moynihan, Aindrias.</i>	

*Dáil Éireann*

<i>Tully, Pauline.</i>	<i>Moynihan, Michael.</i>	
<i>Ward, Mark.</i>	<i>Murnane O'Connor, Jennifer.</i>	
<i>Whitmore, Jennifer.</i>	<i>Noonan, Malcolm.</i>	
<i>Wynne, Violet-Anne.</i>	<i>O'Brien, Darragh.</i>	
	<i>O'Brien, Joe.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connor, James.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donnell, Kieran.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Gorman, Roderic.</i>	
	<i>O'Sullivan, Christopher.</i>	
	<i>O'Sullivan, Pádraig.</i>	
	<i>Ó Cathasaigh, Marc.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Richmond, Neale.</i>	
	<i>Ring, Michael.</i>	
	<i>Ryan, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Smyth, Ossian.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Varadkar, Leo.</i>	

Tellers: Tá, Deputies Ged Nash and Richard Boyd Barrett; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

**Deputy Ged Nash:** I move amendment No. 2:

In page 3, lines 28 and 29, to delete “the relevant percentage” and substitute “2 percent”.

Amendment put and declared lost.

**Deputy Eoin Ó Broin:** I move amendment No. 3:

In page 3, lines 28 and 29, to delete “the relevant percentage” and substitute “0 per cent”.

Amendment put and declared lost.

**Deputy Eoin Ó Broin:** I move amendment No. 4:

In page 4, to delete lines 1 to 3.

Amendment put and declared lost.

**Deputy Cian O’Callaghan:** I move amendment No. 5:

In page 5, line 3, to delete “2 per cent” and substitute “0 per cent”.

Amendment put and declared lost.

**Deputy Cian O’Callaghan:** I move amendment No. 6:

In page 5, lines 3 and 4, to delete “in respect of each year that has elapsed since the previous setting”.

Amendment put and declared lost.

**Deputy Cian O’Callaghan:** I move amendment No. 7:

In page 5, line 7, to delete “2 per cent” and substitute “0 per cent”.

Amendment put and declared lost.

**Deputy Ged Nash:** I move amendment No. 8:

In page 5, between lines 31 and 32, to insert the following:

“(f) by the insertion of the following after subsection (5B):

“(5C) A dispute between a landlord who seeks to rely on subsection (5) and a tenant as to the appropriate increase in rent following upon a substantial change in the nature of the accommodation provided under the tenancy may be referred to the Board for resolution under section 76.”,

I am conscious that we have not dispatched many amendments so I expect and intend to be brief. This amendment is, in our view, a reasonable one. I hope the Minister of State will accept it. Essentially, it is drawn from what is known as the renters’ rights Bill, which was moved on Second Stage and debated here a number of weeks ago in the name of Deputy Bacik. It provides that if a landlord justifies rent increases due to what he or she terms substantial renovations and so on and there is a dispute about that, the dispute can be referred to the RTB. The RTB should have the function to be able to adjudicate on disputes of that nature. Inevitably, disputes will arise regarding the value and quality of renovation and whether or not consequent rent increases proposed by a landlord are justified. There is a requirement for transparency around this, for a rationale to be provided by a landlord and for the function of adjudication to be applied to the RTB on matters of this nature.

**Deputy Michael Healy-Rae:** I have no doubt that every amendment was tabled with the best of intentions. Every one of us here is striving to make sure there is proper availability at an affordable cost in the private rental market. I believe every proposal is being made in good faith, but I am terribly conscious that over the past number of weeks we have seen evidence

emerge of the number of people fleeing the private rental market. I do not want it to be seen that actions taken here are contributing to that. When those people leave the market, if I thought the properties were being sold and made available again on the rental market, that would be okay. If I thought local authorities were buying them, that would be brilliant. The local authority would then have them to give at an affordable rate, which would be sound and sensible. Unfortunately, every rental property being sold is reducing the number of available properties we have and further increasing the cost of rent. That is why I have a dread that, despite the best intentions of Members putting forward amendments, we are in many cases shooting ourselves in the foot and inadvertently hurting the people we want to help.

I believe this amendment was put forward with the best of intentions, but I want to add what I would call a voice of reason. We do not want people who provide accommodation to think this is some sort of witch-hunt. I know that it is not and am not saying it is, but I do not want such a perception to be there.

With regard to what the amendment is trying to achieve, we want properties to be of the highest standard. If a person says they have to end a tenancy because they need to upgrade or retrofit a house, we do not want such a person to think every time they want to do something and it is a genuine case, it finishes up in a queue for an adjudication procedure. I am worried about that. I do not doubt the good intentions of the proposer of the amendment but we have to be careful about what we are doing.

**Deputy Peter Burke:** I thank the Deputies. Unfortunately, I cannot accept amendment No. 8 as it is unnecessary. Section 19(5), referred to in the proposed amendment, provides for limited exemptions from the rent pressure zone rent control, including where a substantial change in nature of the accommodation provided under the tenancy occurs. Section 76 of the Residential Tenancies Act provides, *inter alia*, that either or both parties to an existing or terminated tenancy of a dwelling may individually or jointly, as appropriate, refer to the RTB for resolution any matter relating to the tenancy in respect of which there is a dispute between them.

Section 78 provides for a non-exhaustive list of particular matters that may be referred to the board for dispute resolution. This section specifically provides that, without prejudice to the generality of section 76, the matters in respect of which disputes and, where appropriate, complaints may be referred to the RTB for resolution include the time at which a review of rent should take place and the amount of rent that should be determined on foot of that review.

*9 o'clock*

The requirements for the rent control exemption to apply in that respect are fair and reasonable. Given that we want to encourage new investment in the private rental sector, satisfying the requirements for a substantial change in the nature of the accommodation provided under the tenancy would constitute a significant investment on the part of a landlord and the exemption from rental control in respect of the first rent setting after such works is warranted. Accordingly, I cannot accept the amendment.

Deputy Michael Healy-Rae raised a valid point. The evidence backs up that more than 14,000 landlords have, unfortunately, left the market. When you look at the fragmentation of the rental sector, 86% of landlords have only one or two properties. We have been clear that we need sustainable landlords in the marketplace to provide long-term sustainable tenancies for tenants. We are trying to encourage that through Housing for All and to also stand on the side

of those who are in vulnerable settings and trying to rent accommodation through increasing supply in every way we can.

Amendment put and declared lost.

**Deputy Cian O’Callaghan:** I move amendment No. 9:

In page 6, line 5, to delete “his or her” and substitute “their”.

I propose to withdraw this amendment on the basis of the response given by the Minister, Deputy Darragh O’Brien, to a similar amendment I tabled to other recent legislation.

Amendment, by leave, withdrawn.

**Deputy Cian O’Callaghan:** I move amendment No. 10:

In page 6, between lines 6 and 7, to insert the following:

“(3) The Minister shall, within 12 months of the passing of this Act, lay a report before both Houses of the Oireachtas that— (a) Sets out proposals to strengthen the security of tenure including a review of the current grounds for termination, (b) Reviews effectiveness of the current rent pressure zone rules and provides recommendations for reform, and (c) Outlines proposals for a new accessible, readable and consolidated Residential Tenancies Act.”.

This amendment provides that within 12 months of the passing of this Act a report be laid before the Houses of the Oireachtas and that such report look at security of tenure, the effectiveness of the current rent pressure zone rules, which I do not believe are effective, and on providing a consolidated Residential Tenancies Act. There is a need for a consolidated Act. The current legislation is complex and difficult for tenants, landlords and everybody involved in supporting the people in the sector, to follow. Legislation should be clear and simple. We could benefit from a consolidated Act.

I want to note that a few years ago a similar amendment to a Finance Act resulted in a report on vacant homes, namely, the Indecon report, which contains very useful information and is being used by the Government to try to formulate its policy on a vacant homes tax. I ask that this amendment be considered.

**Deputy Eoin Ó Broin:** I support the amendment. It is important to note that since the previous Government introduced its strategy for the private rental sector in 2016 to the end of 2020, we have lost more than 20,000 properties from the private rental sector. We do not yet have the data for 2021. At the same time, rents during that period have increased by 30% to 40%. What we got under the previous Government’s private rental strategy is rising rents and falling supply. It is quite a bizarre situation.

The Minister of State, Deputy Burke, is correct that the Government’s new housing plan sets out a series of measures, but it is particularly important to note that Dublin City Council and Cork City Council, which are the two largest urban areas with a large private rental sector, have published alongside the latest draft of their county development plans detailed housing needs demand assessments carried out under a set of tools provided by the Department, with data from the CSO and the ESRI and finalised by KPMG. Those housing needs demand assessments have concluded that if the Government meets all of its targets for social, affordable rental, affordable purchase and the private sector, as outlined in the housing plan, and if the economy grows on

the basis of the projections of Government-funded bodies, between now and 2028 rents in Dublin will increase by an astonishing 50% and rents in Cork city will increase by an astonishing 36%. These independent analyses, which are not just some reports, but reports conducted by our two leading local authorities, published as appendices in their county and city development plan reviews, tell us that even if all of the Government's targets are met, which is a big question, over the next seven years rents will rise exponentially. How the Minister of State can come in here and say that the marginal increase in commencements, which is a factually accurate statement, is somehow is going to lead to reducing rental costs when all of the evidence is suggesting the contrary, beggars belief.

The central problem is as follows. Accidental and semi-professional landlords are leaving the market in their droves. Deputy Healy-Rae is right about that. As Government sits on its hands and does nothing about that, the new rental stock coming into the market is following a particular financial model whereby they will have to have continually increasing yields of in the region of 2% to 5% for the financing duration of the project, which is up to 25 years. Rents are only going in one direction, which is up. Everything the Government is doing is pushing up rents and driving small and semi-professional and accidental landlords out, which is all the more reason the very eminently sensible study which Deputy Cian O'Callaghan has called for should at a very minimum be accepted by Government.

**Deputy Michael Healy-Rae:** Again, it comes down to facts. This is about the provision of an in-depth analysis of where we are going, which, of course, is very laudable. The *Business Post* recently did an analysis piece on the projected rent increases, particularly in County Dublin, and what that will mean. In the near short term of, I think, three years it is projected that they will increase by 25%. If you take the rents that are being paid in Dublin and its environs at present and add on 25% or, perhaps as suggested by Deputy Ó Broin up to 50% in six or seven years, that is not just worrying, it is frightening. It is a return to the nonsense which we all fell foul of and all that we did wrong during the boom. The boom subsequently went bust. My late father always said that there is no problem in making a mistake provided you have the ability to learn from that mistake. The real sign of insanity is when you keep making the same mistake over and over in the hope that you will get a different outcome.

I am still confused. I would like to think I have good handle on this, but I am still confused as to how we can turn this ship around and sail it in the right direction. I will repeat what I said previously. This should not be an Opposition versus the Government or a tit-for-tat between anyone of us. There is an onus of responsibility on everyone in this House to knock our heads together to come up solutions. I have read the analysis piece and the synopsis of it. I am convinced that it is factual to say that those rents are going to increase by that amount if we cannot do something. In doing something, we have to be careful that we are doing the right thing. We cannot allow a situation where rents that are already exorbitant are going to up by, perhaps, 50% in six or seven years' time and 25% in as little as three years. How can we keep chasing our tail in that way and expect people to be able to live?

We cannot lose sight of the fact that when talking about this issue we are talking about real people who need money in their pockets to live, buy food, educate their children and run their vehicles to get to and from work. It is awful to think of people not having a bit of money in their pockets for the comforts they are perfectly entitled to and that every penny they have will have to go on ever-increasing rents.

We have to look at what is being proposed here. This is sensible. What is being sought is

not an outrageous ask. I am interested in hearing what the Minister of State has to say about it.

**Deputy Thomas Gould:** I support this amendment. To solve any problem, you need data to analyse it and to identify the solutions. As stated by Deputy Michael Healy-Rae, we all need to work together. These are real people we are talking about and they are depending on us to deliver a solution. We are putting forward amendments that we believe will be a positive in regard to this Bill. Numerous Bills have been brought forward in regard to the resolution of the housing crisis. This Bill is another such measure.

I spoke to a landlord over the weekend. He charges €1,100 per month for his two bedroom property, which is below the market rate. He has not put up the rent in more than three years because he considers €1,100 to be more than what he should be getting for the property. He respects his tenants, who are working hard. One is a nurse, her partner is also in the health service and they have a child. There are many good, decent landlords who respect their tenants. The man I referred to is really sincere and all he wants to do is cover his costs. He originally bought the property as a type of pension for when he retires. That is how he looked at it. If we do not have the data on what is happening in the rental market, how can we make the right decisions? I ask the Minister of State to accept the amendment.

It is important to acknowledge the decent landlords but there are also landlords who are increasing rents. I know of a situation where a person was moved out of a property because the landlord was selling it. In fact, the landlord wanted to get new tenants and increase the rent by €300. That was the way of getting around the rent pressure zones. The tenants were given a notice to quit, the 16 or 18 apartments that made up the site were cleared and given a lick of paint and all of them were put up for rent again at €300 or €400 extra per month. Cork City Council then came in and leased the whole building for 25 years. A huge amount of money is being wasted, by the Government and the country, through such long-term leases. I support Deputy Cian O’Callaghan’s amendment.

**Deputy Peter Burke:** I thank the Deputies for their comments. I cannot accept amendment No. 10, which proposes to impose various reporting requirements on the Minister. My officials, the Residential Tenancies Board and the Minister, Deputy Darragh O’Brien, keep the Residential Tenancies Acts under constant review to ensure the provisions, including the grounds for termination and associated notification and procedural requirements, are fit for purpose in a modern rental market.

The Residential Tenancies (Amendment) Act 2019 made substantial changes to provisions in regard to security of tenure. It implemented a number of amendments to the tenancy termination provisions in sections 34 and 35 of the 2004 Act to make it more difficult falsely to cite or rely on any of the grounds for termination set out in section 34. Such invalid citation is now dealt with as improper conduct by a landlord for the purposes of Part 7A of the 2004 Act, under which the RTB is empowered to sanction such improper conduct. Where a former tenant provides his or her contact details for such purposes, the landlord is required to offer him or her a reletting of a rental dwelling where, for example, a sale of rental accommodation does not conclude within nine months of the termination, the landlord or family member moves out of the rental dwelling within 12 months of the termination or the necessary substantial refurbishment or renovation has concluded. If a landlord does not offer to relet in such circumstances, he or she is liable for a sanction of up to €30,000, to be imposed by the RTB. The periods of notice to be given by a landlord when serving notice of termination to a tenant, in accordance with table 1 in section 66 of the principal Act, were substantially increased in the Residential

Tenancies (Amendment) Act 2019, up to 224 days where a tenant has been in occupation for eight years or more.

Section 16(3) of the 2019 Act provides that:

The Minister shall-

(a) not earlier than 2 years and not later than 3 years after the coming into operation of *subsection (1)*, commence a review of the operation of the amendments of section 66 effected by that subsection,

(b) not later than 6 months after the commencement of the review, prepare a report in writing of the findings of the Minister resulting from the review and his or her conclusions drawn from the findings, and

(c) cause a copy of the report referred to in *paragraph (b)* to be laid before each House of the Oireachtas.

This section was commenced on 4 June 2019. Accordingly, the Minister is obliged to conduct a review of the extended notice periods before 4 June 2022. Furthermore, this Bill, as outlined on Second Stage, provides for the introduction of tenancies of unlimited duration six months after the passing of the Bill. This will significantly increase security of tenure and simplify the operation of the Residential Tenancies Acts for both landlords and tenants.

The Minister will ensure that the grounds for termination are kept under constant review. The Government is acutely aware of the challenges faced by renters in finding accommodation in a situation of constrained supply of residential accommodation for rent. Paragraph (b) of the proposed amendment calls for a review of the operation of rent increase restrictions in rent pressure zones with a view to introducing any necessary reform. Section 3 of the Bill, as passed by Seanad Éireann, provides for the reform the Government considers necessary at this time, including a requirement for a review of the operation of the updated rent increase restrictions in RPZs, incorporating the new cap of 2% per annum *pro rata* where high-cap inflation is higher. This review must commence not earlier than 12 months and not later than 15 months after the commencement of section 3 of the Bill. Not later than three months after the commencement of the review, the Minister is required to make a report in writing to each House of the Oireachtas of the findings and conclusions of the review.

Regarding paragraph (c) of the proposed amendment, I think we can all agree that the Residential Tenancies Acts are complex. My Department and the Office of the Attorney General are conscious of the need to simplify the legal framework and endeavour to streamline the legal text of any provision in the Acts when amendments are being drafted. A project to simplify and consolidate the Acts would be a substantial task at this point in time. Moreover, further legislation is planned to amend the 2004 Act and is taking priority at this juncture. The Law Reform Commission keeps up to date its online, unofficial consolidation of the Residential Tenancies Acts, which is a useful resource and reference point for stakeholders. The RTB also provides up-to-date information on the Acts on its website. The information is provided in a user-friendly manner and is kept under constant review.

Deputies expressed a number of frustrations with the progress being made. I genuinely believe that an increase as high as 48% in commencement notices year-on-year to October 2021 is not insignificant. The latest quarter-on-quarter increase of 60% is very significant. As I have

pointed out at every step of the way, there is huge hope for people in seeing supply increasing at pace, notwithstanding the difficult year this has been, with the construction sector closed for the earlier part of it. The numbers are very strong, there are diggers on site and builders building houses. That in itself will provide more supply right into the marketplace and will assist tenants. Everyone in this House, including me, is meeting very vulnerable people in very difficult situations who are trying to find accommodation or hold on to the accommodation they have. That is what this legislation is about. It is trying to limit the increase in rental inflation.

It can be very frustrating to see smaller landlords, whom we need, leaving the marketplace, as Deputy Michael Healy-Rae referenced. Some 86% of landlords in this country own only one or two properties. However, Deputy Ó Broin's party proposed to impose charges on those landlords in its pre-budget submission. Looking at the taxation measures in that submission and taking into consideration current taxation rates, including property taxation, to bring in another tax of €400 for every unit an individual rents out would be a very difficult measure at a time when supply is seriously constrained in the private rental sector. I am not sure increased taxation is the answer at a time when supply is so constrained, we are trying to get more small-time landlords into the market and we are trying our best, as a Government, to increase supply through the actions contained in Housing for All.

The housing need and demand assessment is a powerful tool that surveys all 31 local authorities in order to frame the demand for the next six years within their areas. The assessment found that nine local authorities need to increase their housing output over the next six years by more than 100% and a further ten must increase their output by more than 250%. The key thing is that all of those local authorities have to submit their plan, which is not in yet, to the Department by 17 December. This will be on how they will meet the framework and the targets contained within them. That programme will give us more information than ever before on the type of tenure that is needed. What are the main blockages in our major cities and in provincial Ireland? What type of tenancies do we need? That will assist us in making decisions within the Department as well. We are working hard to try to unlock and get the types of residences that are needed in the right places. That is key. I want to be clear, and my view is solid, that we need to keep increasing supply. In any marketplace, the basic laws of economics are that when demand outstrips supply, prices will go up. We are focused singularly across Government on trying to get supply up. Our investment of €4 billion in multi-annual funding is just what we need to meet the Economic and Social Research Institute, ESRI, requirements of 33,000 units per annum.

Amendment put and declared lost.

Section 3 agreed to.

#### NEW SECTIONS

**An Ceann Comhairle:** Amendment Nos. 11 and 12 are related. Amendment No. 12 is a logical alternative to amendment No. 11. Amendments Nos. 11 and 12 will be discussed together.

**Deputy Eoin Ó Broin:** I move amendment No. 11:

“In page 6, between lines 6 and 7, to insert the following:

**“Amendment of section 19B of Principal Act**

4. The Principal Act is amended in section 19B(3) by the insertion of “where such a payment is part of a combined payment, including tuition and materials to a third level educational institution as prescribed by way of regulation by the Minister” after “month”. ”.”

The Minister will remember a powerful campaign by the Union of Students in Ireland, USI, earlier this year. It provoked a cross-party Opposition Bill to introduce a number of protections for student renters. That Bill, thankfully, was not opposed by Government and the Minister for Housing, Local Government and Heritage, Deputy Darragh O’Brien, was true to his word. He brought forward his own legislation in a timely fashion to deal with those and a number of other issues that were of concern to many in the House. That Government legislation passed unanimously.

One of the issues in the drafting of that legislation was that, because the Government wanted to act speedily and it had our support in that, there was a particular loophole included with respect to where a student enters into a new licence or tenancy for the purposes of student accommodation. While the general rule is that they should only have to pay a month’s rent in deposit, with the consent of the student, they can pay more. When we queried this with the Minister and the officials, it was explained that there was a genuine concern from the Department of Further and Higher Education, Research, Innovation and Science that a certain class of international students who pre-arrive in the country via a package of education, tuition materials and accommodation would be prohibited from doing so if there was not some provision in the Bill. We accepted that. However, the drafting of such a provision was not technically possible within the short timeframe. Therefore, a looser provision was included in that legislation. We understood that the Minister and the Department were going to revisit in this Bill. I was surprised when I raised it previously with both the officials and the Minister at the outset of the passage of this legislation that we were told that it was not being considered in this Bill.

Many of us have spoken to USI over the course of the last number of months. There have been instances, thankfully few in terms of the number reported, where students who are under pressure to secure accommodation have been pressurised into “voluntarily” paying more than a month’s rent and a month’s rent in advance in order to secure accommodation. Obviously, in all such cases, the right course of action for the students is to go to the Residential Tenancies Board, RTB, after they have signed the tenancy agreement. Then, they will have standing in the RTB. Both we and the students’ unions have urged them to do so. The difficulty is that because students are desperate to get the accommodation they may not feel fully empowered to do so.

It is disappointing that the Government did not address that loophole and tighten up the language. I am not in any way suggesting that my amendment, or a similar amendment by Deputy Nash, that originate from the USI are technically proficient. I am sure the Minister of State and his officials could do a much better job. However, the core principle is the provision included in the last Residential Tenancy (Amendment) Bill, which is specifically to allow students coming into the country buying that package to continue to do so, needs further amendment. I urge the Minister of State to at the very least to give us a commitment to reconsider this issue. It is not acceptable in a time of diminishing supply, and probably the worst student rental crisis in the history the State and certainly in recent decades, for any form of loophole to be there that could unfortunately be exploited by unscrupulous landlords who want to charge families more than a month’s rent and a month’s rent deposit on taking up the tenancy or the licence.

**Deputy Michael Healy-Rae:** This is a terribly important point. The guidance going back

over 30 years was always simple. The deposit was whatever rent was per month. At a time when rents were £300 per month, I remember well that the guidance was that the deposit was £300. It was not £500 or it was not double the rent. There was never any such thing. That was an old fashioned thing that was always there. Why in the name of goodness should students be targeted for an extra deposit? At the end of the day, the deposit should only be used in the case of somebody abandoning a property, leaving a person high and dry or doing damage. In many cases if damage is done the deposit is immaterial because it will always cost a lot more than the deposit would be anyway.

It does not make sense. It has to be mentioned in the context of this because it is terribly important not to let this go. There was an awful situation when students got caught during Covid-19. They had paid their deposit. Through no fault of their own they had to go home. At the time it was one of the biggest issues going. My personal interaction with it was that the private and smaller property owners gave back the deposits to the students. Among what I would call the larger and institutionalised property owners, there was a blanket refusal to give back the deposits. I thought that was horrendous, because the students had not done anything wrong. They did not stay at home from college because they did not want to go to college. They could not go to college because college was closed. Those people, their parents and perhaps in many cases their grandparents lost their deposits at a time when families were so upset and financially challenged anyway. I thought that that was inherently wrong.

This is sound. It should always be that a deposit is a month's rent. That is what it should be and there should not be variants from that. Unless something is happening out there that I do not know about, it should not be happening. Going back over the last 30 years, that is the way it was.

**Deputy Ged Nash:** There is a danger of a bit of consensus breaking out across the Opposition divide, if I can call it that. I will not detain the House much longer, other than to say that Deputy Ó Broin articulated the point and the case well. I think the Minister of State understands what the issue is here, as will his officials. We would appeal to him to take cognisance of this and to try to address the points. I think the Minister of State would like to address the points for all of the reasons Deputy Ó Broin pointed out. He knows what this amendment wishes to achieve and I hope he will take cognisance of it and take action to address the problem.

**Deputy Michael Healy-Rae:** I would like to put something on the record because I forgot to do so twice. I declare what could be classified as an interest in this matter.

**Deputy Cian O'Callaghan:** Briefly, I want to support these amendments. When this loophole in the legislation was raised in the summer, a number of us questioned it. I opposed it. Assurances were given at that time that the legislation was being done quickly and it needed to go through, but that this would be looked at again when a new Bill on the residential sector was being brought forward later in the year. This is that Bill on which we were given those assurances. The argument was put forward that tuition and accommodation is sometimes sold as packages, especially to international students. I do not see any reason it must be sold as a package with full payment for accommodation upfront. I do not see why that is necessary or why that should be provided for. We have had some terrible exploitation of international students, especially last year, some of whom had been mis-sold accommodation and tuition packages in Ireland. They had been given the clear indication from some of the providers that they would have in-person tuition for the duration of the year, only for that to be cancelled at the last minute. The students had paid all their tuition and accommodation costs upfront. That is grossly

unfair exploitation and it should not be supported in any way through legislation. I ask that this be addressed urgently.

**Deputy Thomas Gould:** This is a very sensible amendment. We did not think we would need to table something like this because when we discussed this after the USI and everyone came together, the Minister of State accepted the points that were made. Allowing someone to look for payment upfront goes against the whole concept of paying one month's rent in advance and then paying the rent every month. It is fairly straightforward. We need to protect students, especially at this time. Student accommodation is so hard to get that parents of students will go further than they need to in order to get it. There is a crisis in student accommodation and to allow any student, whether international or Irish, to be put at risk and not to be protected is incorrect. I ask, in all sincerity, that the Minister of State accept this amendment for what it is. It is not a political amendment. It is one that makes common sense and that will protect students and renters.

**Deputy Peter Burke:** I thank the Deputies for their contributions. Unfortunately, at this moment in time I am unable to accept amendments Nos. 11 and 12, which propose to impose restrictions on the operation of section 19B of the Residential Tenancies Act 2004. Section 19B was introduced into the principal Act by the Residential Tenancies (No. 2) Act 2021 in July of this year, as outlined by the contributors. It provides that the total amount anyone can be obliged to pay upfront to a landlord by way of deposit or an advance rent payment to secure a tenancy is restricted to no more than the equivalent of two months' rent. A restriction of the equivalent of one month's rent is also placed on the amount a tenant is obliged to pay in advance as a rental payment to a landlord in the course of a tenancy.

Section 19B(3) of the principal Act provides that a student residing in student accommodation can choose to pay a greater amount of advance rent if he or she wishes to do so. This provision aims to help any student who may wish to manage his or her finances by making a larger advance rent payment by providing certainty that his or her accommodation needs are secured for the desired period. I do not propose to limit a student's discretion in this regard as it is a matter of choice for the student. However, on foot of what the Deputies have said, I want to make clear that the legislation states that landlords are legally not able to ask for more. If the Deputies have any examples of where this has caused an issue, I ask them to refer them to me and I will review them and come back to the Deputies. I note the heartache that was caused for many families earlier in the year by the fees that were charged. Right through Covid-19, many students and very vulnerable families that paid rent in advance were put under significant pressure and, unfortunately, in many cases students did not even get into the accommodation. I give a commitment that we will review the matter and I would welcome the Deputies contacting me with any examples.

**Deputy Eoin Ó Broin:** The rationale the Minister of State has given for the original provision, that is, that students might choose to pay more rent over a period of time to manage their financial affairs, is not the rationale that was given to us either by officials or the Minister when that legislation was passed. We were told the Department of Further and Higher Education, Research, Innovation and Science made a specific request to the Department of Housing, Local Government and Heritage to have this flexibility, not for students who choose to but for a very specific category of international students who purchase a package that includes accommodation. Deputy Cian O'Callaghan is right that there are problems with that but that was the rationale. No student would pay three, six or nine months in advance in order to manage their own financial affairs. Deputy Michael Healy-Rae is right. The reason this became such a con-

tentious issue was that large numbers of landlords, including universities in some instances, refused to give refunds for accommodation until significant pressure was applied. I am genuinely concerned by the reply the Minister of State has been given by his officials because it seems to misunderstand the nature of the original loophole and its scope for exploitation. There is no value in us giving the Minister of State examples. If we have examples of this happening we need those students to take those cases to the Residential Tenancies Board. That is the right place for them. I was hoping for something a little more forthcoming from the Minister of State but given that his officials do not seem to understand the problem as clearly as we and students do, I have no choice but to press the amendment.

Amendment put and declared lost.

**Deputy Ged Nash:** I move amendment No. 12:

In page 6, between lines 6 and 7, to insert the following:

**“Amendment of section 19B of Principal Act**

4. The Principal Act is amended in section 19B(3) by the insertion of “where such a payment is part of a combined payment, including tuition and materials, to a prescribed third level educational institution” after “month”.”.

Amendment put and declared lost.

SECTION 4

**An Leas-Cheann Comhairle:** Amendments Nos. 13 and 14 are related and will be discussed together.

**Deputy Cian O’Callaghan:** I move amendment No. 13:

In page 6, between lines 12 and 13, to insert the following:

“(c) in section 24 by the insertion of the following subsection:

“(24BB) With effect from the passage of this Act, and notwithstanding anything to the contrary in section 24A, orders under subsection (5) of that section shall be deemed to have been made in respect of the administrative areas of all housing authorities and, accordingly, the entire State is deemed to be a rent pressure zone for a period of three years.”.”.

Imperfect as rent pressure zones, RPZs, are, and there are problems with them, this amendment seeks to extend them across the country. At the moment some of the largest rent increases are happening in rural areas that are not covered by rent pressure zones. There is a need for these limited protections on rents to apply across the board and this should have been done a long time ago. I ask that the Minister of State accept the amendment.

**Deputy Ged Nash:** My amendment is very similar to Deputy O’Callaghan’s. It relates to the designation of rent pressure zones across the country in each administrative area, for the reasons that have been outlined. Rents are not just out of control in urban areas, which we have seen over the last few years, but are under pressure across the country. They are at a point now where they justify this type of intervention. That is why we designed this amendment in this way to demand this kind of action at this point in time.

**Deputy Eoin Ó Broin:** I support both these amendments and I will add one additional point. We still have some anomalies because rent pressure zones are calculated on the basis of local electoral areas, LEAs, and data provided to the Minister by the Residential Tenancies Board. In a certain number of locations, such as Cork city and county, half an LEA is subject to very substantial rent increases and the other half is not and in many cases one half does not have much rental stock because it is more rural or county based. As a result, the rent pressure zone does not extend to the full LEA. We called many times for more granular data at district electoral division, DED, level to be the basis of such assessments and the Government ignored that. However, that would require a change of legislation so in the absence of that the only other alternative, given the rising rents outside the RPZs, is to ensure that whatever limited protections they provide apply to all renters in all counties.

**Deputy Michael Healy-Rae:** To bring another perspective to this amendment, I would like these figures to be noted. In the county I represent, many so-called rural rents are €800 per month. Take off over 50% tax on that and that leaves €400 per month. That is €100 a week for the person who owns that property to maintain it, insure it, pay the property tax and pay the loan if there is one. We should be very careful when we talk about rent pressure zones. How in the name of goodness can you compare Dublin rents at €1,400 to €2,500 per month to rural rents? I am not trying to say for one second that the rural rent of €800 is small or insignificant for the person who is paying it. I consider it a lot of money when you have to come up with it every four weeks but we must remember that €800 is not €800. I am not blaming the Minister of State for this but the Minister for Finance, whether of this Government, the previous one or future ones, will always be taking 50%. It is not €800, but €400 we are discussing and probably much less when we take the charges that I mentioned into account.

I am trying to bring some balance to this. As was mentioned earlier, we must not let people believe that we are hurting the market by doing what we are discussing.

**Deputy Peter Burke:** These amendments propose to deem the entire State a rent pressure zone, which has been debated numerous times and which I cannot accept. Having regard to the constitutionally protected property rights of landlords, including the right to receive an income from their properties, a blanket extension of the rent pressure zone rent predictability measure to rental properties across the entire country could be regarded as an unjust interference with those rights because it places a legislative limit on rental income without adequate or proportionate justification, by which I mean the interference is disproportionate to the objectives sought to be achieved. For an area to be designated a rent pressure zone, it must satisfy criteria. The annual rate of rent inflation in the area must have been 7% or more in four of the previous six quarters and the average rent for tenancies registered in the area with the RTB in the previous quarter must be above the relevant average rent comparator under the Acts. The RTB rent index report provides a summary of the data used as the criteria for designating rent pressure zones in respect of all local electoral areas in the country. The Housing Agency continually monitors the rental market and may recommend further areas for designation.

The proposed amendments to deem the entire country a rent pressure zone are not considered to be warranted or legally justified. They are highly likely to be subject to a constitutional challenge in the courts and, accordingly, I cannot accept them.

Amendment put and declared lost.

Section 4 agreed to.

**Deputy Ged Nash:** I move amendment No. 14:

In page 6, between lines 12 and 13, to insert the following:

**“State deemed to be rent pressure zone**

5. The Principal Act is amended by the insertion of the following section after section 24BA:

**“24BB.** With effect from the date *section 10 of the Residential Tenancies (Amendment) (No. 2) Act 2021* comes into operation and notwithstanding anything to the contrary in section 24A, orders under section 24A(5) shall be deemed to have been made in respect of the administrative areas of every housing authority in the State which on that date are not, or are not deemed to be, rent pressure zones; accordingly, each of those areas is deemed to be a rent pressure zone from that date for a period of 3 years.”.

Amendment put and declared lost.

SECTION 5

**An Leas-Cheann Comhairle:** Amendments Nos. 15 to 17, inclusive, 22 and 24 are related and will be discussed together.

**Deputy Cian O’Callaghan:** I move amendment No. 15:

In page 6, line 22, after “paragraph (b)” to insert “and the deletion of paragraphs 3 and 4 of the Table to that section”.

This is to improve tenants’ security of tenure and limit the grounds for eviction. It recognises that where someone is renting is his or her home. The landlord has ownership and derives an income from it but it is the tenant’s home. This amendment seeks to bring us in line with many other northern European countries that recognise that where someone is renting is his or her home, where his or her children may be going to school, where he or she is making friends and has neighbours, and where he or she may be embedded in the community. We should be limiting evictions and notices to quit to the kinds of circumstances where a tenant is in breach of a lease, engaging in antisocial behaviour, is not paying rent, etc. Those should be the grounds for evictions. Our long list of grounds, which will remain intact under the Bill, is problematic and causes significant trauma for individuals and families. A family might have just reached the point of their child being settled in school, or they might have a child with learning disabilities and have got him or her supports in school, only to be served with an eviction notice. The problems and stresses that come from being uprooted will kick in for that family, as will the ensuing wider societal and State supports.

If we are serious about recognising that where someone is renting is his or her home, realising that the last place most people who become homeless had a stable home was in the private rental sector and trying to curb the number of people becoming homeless and all that entails, we should be looking to bring ourselves in line with other European countries, limit our grounds for eviction and create better security of tenure for tenants.

This is not just about the people who get evicted or are at risk of eviction. It is also about giving everyone else a sense of security about his or her home and taking that stress away. When people have a sense of a place as being their home, it gives them stability and they can get on with everything else in their lives without the constant fear that, even though they are paying their rent and upholding their end of the contract, their landlord could legitimately and legally give them notice to quit at any point on any number of grounds. This amendment seeks to remove that uncertainty and give people security, which they get in many other European countries and should get in Ireland.

**Deputy Eoin Ó Broin:** I wish to speak to amendment No. 22. Section 5 contains a real deceit. I am choosing my words very carefully. For several weeks, the Minister has been on the airwaves telling people that this legislation will introduce tenancies of unlimited duration. The Minister of State used the same phrase on Second Stage last week. A tenancy of “unlimited” or “indefinite” duration has a clear meaning. It means that if I sign a contract as a tenant and then abide by its terms to pay my rent, keep the property in good order and not engage in antisocial behaviour, I can stay in that tenancy for an indefinite or unlimited period. It is a commonly understood principle almost everywhere in the world. Nowhere in this Bill is there the creation of tenancies of indefinite or unlimited duration. That is a matter of fact, so for any politician to come to the House and claim otherwise is to knowingly or unknowingly mislead the House.

What is being proposed in this section of the Bill is a small technical change and I have no objection to it. It does away with the ability of a landlord to terminate a tenancy with no grounds at the end of a Part 4 tenancy. This is something that most of us who know the legislation would welcome. However, the most recent data I have from the RTB, which I received last week, make it clear that, of all the notices to quit issued since the end of 2019, only 3% were on section 34(b) grounds, that is, a notice to quit at the end of a Part 4 tenancy. In the past year, that figure has only been 1.9%. Of the other grounds given for notice to quit in recent years, the most common is sale of property at 53% with use of the property by the landlord or a landlord’s family member at 24%. We can debate whether these are good or bad things, but so long as these two core parts of section 34 of the Residential Tenancies Act remain on the Statute Book, then tenancies of indefinite or unlimited duration will not exist after the passing of this Bill. It would have been better had the Government been upfront with people and said that this was a small technical change that should have been made a long time ago, would not make much difference and would only protect a tiny number of people but let us do it anyway. We would have said, “Fair play, we will not get in the way”.

The Government’s claim is not an invention of this Government, as the previous Minister, former Deputy Eoghan Murphy, did the same and was on record as promising to introduce this legislation in the final year of his Ministry. In repeatedly making it, however, the Government has raised the expectation among renters that, if the Bill passes, a tenancy of indefinite duration will exist. It cannot exist unless the Government accepts the amendment that I have tabled, which would remove the other two no-fault eviction grounds from section 34, those being sale of property and use of the property by the landlord or the landlord’s family member.

Obviously, these two changes would not apply to current tenancies because those tenancies are governed under existing contracts and current tenancy law, but if we are serious about moving towards a long-term, stable and professionalised private rental sector, which is something that we do not currently have but on which both sides of the House agree, we must move to a situation where a rental property is a rental property and remains so instead of being flipped in and out of rental and owner occupation. In the commercial sector and as with the Minister of

State's constituency office and mine, once we sign the lease, if the owner of the property wants to sell, he or she sells for good, bad or indifferent with us *in situ*. So it should be ultimately the case in the private rental sector. Therefore, first, I would like the Minister to stand up and at least admit this Bill does not introduce tenancies of indefinite duration, because it does not and, second, to accept that if we want to have tenancies of indefinite duration we must do two things that the Government has implacably opposed doing, which is removing those other grounds from section 34 of the Residential Tenancies Act, that is, allowing a landlord to issue a notice to quit on the grounds of sale or use by a landlord or a landlord's family member. It is the only way for us to move into a much more stable and civilised private rental sector and if it is not done now it will have to be done at some point in the future. On that basis, I will press amendment No. 22.

**An Leas-Cheann Comhairle:** There are a number of speakers and we will run out of time.

**Deputy Ged Nash:** I will be brief in the interests of letting as many colleagues as possible in to discuss the amendments. I will speak on amendments Nos. 16, 19 and 23 in my name. Amendment No. 16 is drawn from the Bill I referred to earlier that was debated on Second Stage in the name of my colleague, Deputy Bacik. It seeks to strengthen protections for renters who are being evicted on the basis of renovations to a dwelling.

Amendment No. 19 allows for existing Part 4 tenancies to become tenancies of indefinite duration, as provided for in the Bill, but without requiring the consent of the landlord. The Bill exclusively provides for tenancies of indefinite duration where they are new Part 4 tenancies or where the landlord consents, which is problematic for us if we are to move towards a European-style progressive, civilised rental system.

Amendment No. 23 is again from the same Bill, so we have rehearsed these arguments here before in this House, as have other parties and Deputies. The amendment would require that details of previous tenancies, any refurbishment works relied upon justifying a change in rent and amounts of rent payable under all tenancies are published in the national tenancy register. We believe that is a reasonable amendment and it aims to achieve a greater level of transparency.

**Deputy Fergus O'Dowd:** I welcome any legislation that makes it easier for tenants to live free of fear and in a property that meets basic standards. I welcome the legislation introduced by the Minister, but there is an untruth at the centre of a lot of the properties rented in the country. It is epitomised by an article published recently in the *Irish Independent* which stated that 19 out of every 20 private rental properties were found to be in breach of the regulations for registered tenancies. It is unacceptable to allow landlords to put out a tenant because they say they want to improve substandard accommodation. We must address that in a clearer way. There are many tenants living in substandard accommodation, but they are afraid to complain because that will change their relationship with the landlord.

If we can make it more secure for people, that is where it is at. If tenants are paying the rent, that is where it is at. If there are no antisocial behaviour issues, that is fine with me too. We should be able to ensure that people in those situations are free of fear of a landlord knocking on their door. I know of a number of families that have been told by their very kind generous landlord that in one case they want to put a pregnant woman, whose child was due in a couple of weeks, out on the road because they wanted to "improve the property". The family was in a fierce situation. In that case the family was put under serious and unacceptable stress. There must be a balance here.

I welcome the changes in the legislation. In my view the balance should be in favour of the tenant. I agree with increasing the restrictions on a landlord's ability to unnecessarily and in many cases, cruelly, put out a tenant. We talk about the fact that 86% of private landlords have only one or two houses, but in many cases those houses do not reach minimum standards. We must address that issue and ensure that once a property is let, the process is secure and the rent is fair and reasonable for the person moving in. Properties must meet minimum standards and they do not do so currently. That is an issue we must address legislatively. I support what the Minister is saying, but we need a broader debate on the harshness of some unacceptably cruel and even vicious landlords who kick pregnant women out of homes that they say they want to improve when in fact they do not, and we all know that.

**Deputy Richard Boyd Barrett:** Every single day that I walk into my constituency office in Dún Laoghaire, staring me straight in the face, right across the road is living proof of the failure of the Government and successive Governments to deal with the ruthless, vicious landlords to whom Deputy O'Dowd just referred, and to protect tenants from what they are allowed to do under law by successive Governments. That is the multi-unit apartment complex that I have talked about here for four years, namely, St. Helen's Court. It stares me in the face, and I meet the people in there every day. When I look at it, it ticks every box of the failures of the Government to protect tenants and to deal with these types of landlords. Successive attempts by the vulture fund owners to drive people out were based on various grounds, but they have finally legally succeeded in doing what they sought to do at the beginning of the pandemic. The pandemic emergency measures saved the tenants for a while, but they are now legally evicted since the spring of this year. They are overholding because they have nowhere to go, but they are being evicted on grounds of sale by a vulture fund. A vulture fund does not need the property for itself. There is no justification at all for this fund to put these people out. They are decent, ordinary working people, some with families, some pensioners, some with serious health issues, people who have been working all their lives and they are just out. They have nowhere to go. There used to be 20 tenants in there, now two thirds of them have gone out of fear, anxiety and stress because there were successive attempts to evict them on grounds of sale or refurbishment or in one case it was not quite decided whether it would be for sale or refurbishment, but they were going to get the person out anyway. It was a case of just any excuse to get people out so they could maximise the value of the property. Two thirds of the property is empty for the past two years and it has been allowed to just sit there when there is a massive housing crisis in the area. Families are being made homeless week in and week out. They are trying to drive the remaining tenants out, but the perfectly good units where they have succeeded in getting the tenants out have been left empty for two years.

It is obscene. It is the definition of obscenity, greed and ruthlessness. I am sure this goes on in many other places across the city and the country. Time and time again I have come in here and challenged housing Ministers on what they are going to do about situations like this. What are they going to do to stop this obscenity, this gross injustice, this horrendous unjustifiable action that is being done purely for greed, for money? The answer is nothing. Nothing at all. There is nothing in this Bill that will do it for them either. I honestly do not understand it, except that the Minister thinks it is okay for these people who are driven solely by the desire to make money to do this to human beings. He allows it to happen. He makes excuses and justifies why he does nothing about it. We just keep going around in circles. The spin will continue and the pretence that we care, but nothing will be done.

*10 o'clock*

Once again, the Opposition has put forward amendments to try to prevent this from happening and the Government will find excuses for why it is okay to do it.

**Deputy Francis Noel Duffy:** I wholeheartedly welcome the indefinite tenure measures in this Bill. I have submitted three amendments in total to the Bill. Amendment No. 24 deals with removing the sale as a reason to end a lease, which is similar to the protection of leases on commercial properties in other jurisdictions. My other two amendments are critical to solving the issue of homelessness as a result of evictions. The first seeks an extension to termination notice periods to tenants in tenancies of less than six months from 28 days to 90 days. The second amendment is the most important. It is a simple but critical measure to ensure that both local authorities and the RTB are informed of termination notices to tenants once they are served. This will ensure local authorities have given enough time to assist families at risk of homelessness to avoid entering emergency accommodation.

I congratulate the Simon Community on the launch of its Bill, which I support, and I trust the Minister will work with the Simon Community to ensure its main provisions are met. I believe my amendments to this Bill support those provisions and go a step further to ensure early interventions are facilitated by informing and involving local authorities as soon as termination notices are served to tenants and not waiting until the tenant is at risk of homelessness before giving an extension.

**An Leas-Cheann Comhairle:** The Deputy is speaking to amendment No. 24, not amendment No. 25.

**Deputy Francis Noel Duffy:** I am nearly finished. We need early intervention. Families should not be waiting in limbo indefinitely, prolonging the inevitability of transitioning to a new home. I have a constituent, a mother with children, and they are being evicted in January. She has been in the system for 17 years and, therefore, the system should understand her position. The system needs to be proactive, not reactive, and another 90 days will not make her feel any better. It does not serve anybody to be stuck in a vacuum of anxiety. Early intervention will provide homes, not the stressful unknown.

**Deputy Thomas Gould:** I will speak to amendment No. 22. There is talk about tenancies of indefinite duration, which we all welcome, but this Bill does not deliver that. We have to be honest with people. There are renters out there tonight who are looking to the Minister for hope, security and protection, and this Bill does not deliver that.

Our amendment will help to protect renters. The excuses of use by a family member or that the property is being sold are used the majority of the time. As Deputy Ó Broin said, more than 75% of the time, those two excuses are given. Where is the security and where is the protection? Every day for the past month, we have seen an increase in the number of people getting notices to quit, and the notice to quit is an eviction. Let us call a spade a spade: where a person gets a notice to quit, they have to be evicted.

I got a text yesterday at 3:52 p.m. from a tenant who said that his landlord was outside, banging on the door. I will show the Minister the text afterwards. He shouted at the tenant that he did not care what HAP, Threshold or the RTB say, but if the tenant did not get out, he was going to blow the door in with a sledgehammer and drag the tenant out by the head. That is what I have here. The tenant was trying to phone Cork City Council homeless services yesterday because he is living in fear. This is not the first time this tenant has been threatened. Last

week, I was in the hospital and he contacted me. By the time I drove from the hospital to the tenant, he had spent three hours in his car because he was afraid to go into his apartment, for which he is paid up to date. This is the fear. I had to go into his room with him. Before I drove over to him, I advised him to phone the Garda but they said they do not react to verbal threats. However, if the threat comes to the door and if the landlord threatens him physically, they will come. That is the fear tenants are living in. He was given notice to quit for 21 December and it was then brought forward to 12 December.

**An Leas-Cheann Comhairle:** We are out of time.

**Deputy Thomas Gould:** Deputies O’Dowd and Duffy said they want to protect renters of indefinite duration. If they support this Bill, they will not be doing that.

**An Leas-Cheann Comhairle:** I apologise to the remaining speakers. The time permitted for this debate having expired, I am required to put the following question in accordance with an order of the Dáil of 7 December 2021: “That each of the sections undisposed of is hereby agreed to in committee, the Title is hereby agreed to in committee, the Bill is accordingly reported to the House without amendment, Report Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

**An Leas-Cheann Comhairle:** A message will be sent to the Seanad acquainting it accordingly.

### **Planning and Development (Amendment) (Large-scale Residential Development) Bill 2021: Report and Final Stages**

**An Leas-Cheann Comhairle:** As the Deputy is not present to move amendment No. 1, we will move on. Amendments Nos. 2 and 3 are related and may be discussed together.

**Deputy Richard Boyd Barrett:** I move amendment No. 2:

In page 4, lines 23 and 24, to delete “; or such other percentage as may be prescribed,”.

Amendments Nos. 2 and 3 concern large-scale residential developments, LRDs. The Bill is the replacement for the strategic housing development, SHD, legislation and requires that not less than 70% of any large-scale development should be either homes or student accommodation, or homes and student accommodation. It then provides a get-out clause, which suggests it could be any other percentage that may be prescribed. We are seeking to delete that because there should not be any wriggle room in the need to provide the accommodation that is desperately needed to address the accommodation crisis, the housing crisis and the student accommodation crisis.

We have many other concerns regarding the legislation’s ability to address the failures of the SHD model, and we will discuss those later. In this regard, we want to make sure there is no wriggle room in the proportion of the development that has to deliver accommodation. For the floor space that is not used for housing, which may be necessary in a large-scale development,

what goes into that floor space should be dictated through a proper consultation with the local community and what it feels is needed in that space that is not being provided or used for accommodation. It should not just come down to what the developer might wish to put in there, with a focus on how it can maximise its profits. If we are building large-scale housing developments, we want to make sure the services that will be provided as part of those developments will be beneficial to the community and will be what the community wants. The community should determine those things. That is the point of these two amendments.

**Deputy Michael Healy-Rae:** This is extremely interesting. When you are deciding what will be built in a large-scale development, it is obvious that the people building the development are not stupid. They would only build what the market needs and what is required in an area. For instance, in County Kerry we have a desperate urgency and need for one and two-bedroom accommodation. I know the Minister is acutely aware of that and in a recent visit to Kerry he heard that and acknowledged it, and I know he is deeply interested in helping to provide that type of accommodation. Each place around this country is unique in its own way and we have different pressures in different areas.

I have a worry when it comes to regulating. I know Deputy Boyd Barrett has good intentions when he mentions wriggle room but the thing about wriggle room is that we have to be careful that we do not bring in legislation that is so rigid that it frightens people away from developing and providing accommodation and that they would decide not to develop a piece of ground, rejuvenate a site, invest, spend money, borrow money or put money towards accommodation. It comes back to the old story of not throwing the baby out with the bathwater. We want to provide accommodation of all different types and sizes. I am detailing the unique and urgent need we have in County Kerry for one and two-bedroom accommodation. We need ordinary three and four-bedroom accommodation as well but our local authority has clearly identified what we want. I have no doubt Deputy Boyd Barrett is acutely aware of what is required in his area; probably nobody would know better. If you bring in legislation and it is made too rigid, I am fearful we could bring about the opposite effect to what we want. I thank the Leas-Cheann Comhairle for giving me the opportunity to come in.

**Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien):** I thank Deputies Boyd Barrett, Gino Kenny, Paul Murphy and Bríd Smith for tabling these amendments. We discussed this at some length on Committee Stage and we had a good engagement where I was able to explain the rationale behind this. I agree with Deputy Healy-Rae. I know he is not a member of the Committee on Housing, Local Government and Heritage so he did not take part in that discussion but what we are doing with this Bill is bringing planning back to local authorities. Instead of An Bord Pleanála making decisions above and over the heads of local authorities, we are bringing it back to local authorities and redemocratising many aspects of planning. It is not a replacement of the HSE - gabh mo leithscéal, I meant to say it is not a replacement of the SHD, strategic housing development, process. Rather, we are ending it-----

**Deputy Richard Boyd Barrett:** We could do with a replacement for the HSE as well.

**Deputy Darragh O'Brien:** We cannot do everything at once. We are bringing that back to our councils, where it should be. In a compliment to Deputy Boyd Barrett, Deputy Healy-Rae said no one would know the housing needs in Dún Laoghaire-Rathdown better than him. I put it to him that maybe the only people who would be the planners in that area and that is the purpose of this. We cannot be, nor should we be, overly prescriptive in allowing certain discretions

to happen at local authority level.

There has been good engagement on this and broadly positive acceptance of most of the measures within this legislation. That has not happened with all of the measures and that is fine. That is the way we can frame legislation better and we have made some changes on the way through this Bill. The reality of it is that any local authority will need to have the ability to respond to circumstances that may arise in the future. Where do we see large-scale residential developments, LRDs, and this 30% coming in? It is not an attack on the residential element of it. If anything it is the opposite. It is doing exactly what the Deputy has been asking for and it is making sure that, in the larger developments, we have the complementary and other services that are required to make that development viable, livable and good quality.

I have been a critic of SHDs and they have failed to deliver what they were intended to deliver because we have not seen the throughput of effective planning permissions that have been granted. It was a restriction to 15%. In the research we did on that we found it was making it more difficult to develop out and provide good developments that had coffee shops, crèches and all of those things, especially in brownfield site developments. That is where I see a lot of the LRDs, although not all of them, focusing - on the brownfield sites that we have not been able to develop heretofore at any decent scale in any of our cities or major regional towns. I am sure in Tralee, Killarney, Dublin, Dún Laoghaire, Buncrana or wherever we will all know brownfield sites that have not been developed. We need to let our local authorities get back to doing that properly. Why are we doing LRDs and why am I bringing in this legislation? First, I am doing it to end the SHD process from 17 December. Second, I am doing it to make sure we can streamline and provide the many thousands of homes we need. We will not deliver them with a planning process like the SHD process, which does not lead to planning permissions being effected and homes being delivered.

Understanding the motive behind the Deputy's amendments, I think they would have the reverse effect. He would be tying the hands of local planners to decide on specific applications that come in. I put it to the Deputy that the best people to decide on planning are not politicians but planners. They are the ones who are charged with doing that job in each of the local authorities. By getting rid of SHDs, the LRD process allows the publicly elected councillors to know about the applications and it allows the residents to make observations in a two-stage planning process at the early stage. I know we will get to the question of pre-application soon. The LRD process is also time-bound and efficient. It has strict time constraints and turnaround times for requests for pre-application, holding those meetings, the planning application going in, and everything else that is required for it.

Amendments Nos. 2 and 3 relate to the other uses allowed in LRDs and we need that to make viable and livable developments. Amendment No. 2 seeks to remove the ability to vary the percentage of residential use that must be provided in the LRD development by way of a regulation. I consider that the proposed amendment would limit the ability to respond to future circumstances. We have set the threshold at 70 but we will allow that to be varied. The amendment would limit flexibility that might be required to address the operation of the scheme in practice over time, which may also effect the viability of those sites being developed out and the quality of those developments. That would mean we would continue to have brownfield sites, that we all know of, not developed and not providing good and high-density developments for our people. High-density developments can be good when planned properly and at a local area. This is particularly with regard to urban areas and brownfield sites. The ability to vary by regulation the percentage of LRD "other use" floor space that makes up a development will

allow the planning system to respond to changing market conditions also. It would allow it to see what the circumstances are in any given area and determine if there is an over supply of a certain type of commercial activity in a given area or if there is too little residential development in another. There is nothing to be feared from this provision. If anything, it will make things better. Restricting the ability of our planners to make that decision would be a mistake which is why I cannot accept amendment No. 2.

Amendment No. 3 proposes that a public consultation shall take place with individuals and community groups in relation to “other use” floor space. The planning authority will have to have due regard to any observations received in connection with determining the granting of permission for “other use” floor spaces. We are bringing the process back so that people will actually be able to make submissions at planning stage. We will get to the pre-application stage shortly as we move through and there will be other mechanisms there whereby there will be proper transparency around pre-planning, which is needed. The decision on whether or not to grant permission, with or without conditions, is a matter for the local authority concerned. In making its decision on a planning application, the local authority is required to have regard to, among other things, any submissions or observations received in respect of planning applications. Why is that important? It is important because up to now, as we discussed on Committee Stage, when there was an SHD application, the first time an individual, apart from the local authority, could make a submission was directly to An Bord Pleanála. That is why we have seen an increase in judicial reviews in that space. If people were not happy with a decision, they had to go further and go to court. That will not be the case in this instance. Observations are back at the right stage, where they should be, which is at the start of the planning process when a planning application is lodged. All of the details of the development are made public and people will be able to make their observations. Furthermore, as I mentioned on Committee Stage, every elected member within that local authority area must be advised, and not at the discretion of the council, of any application under LRD that is lodged in the council area.

As I mentioned in relation to other proposed amendments on Committee Stage last week, the submission of observations on planning applications is the correct and long-established way for members of the public, be they individuals, community groups or any other interested parties, to have their say and to provide their input on such planning applications, including on the “other use” component. We varied that component on the basis of research which showed that the 15% limit ensured that a lot of developments did not happen and would not have been of the quality needed. For those reasons, I cannot accept amendments Nos. 2 or 3.

Amendment put and declared lost.

**Deputy Richard Boyd Barrett:** I move amendment No. 3:

In page 4, line 25, after “development” to insert the following:

“with regard to the LRD floor space not used for the purposes of housing, a public consultation shall take place with individuals and community groups which the planning authority shall have due regard to in determinations of the granting of permissions for such floor space”.

Amendment put and declared lost.

**An Leas-Cheann Comhairle:** With the permission of the House, I am going to go back to amendment No.1. I probably cannot do that so I need the permission of the House. Is the

Minister in agreement on that?

**Deputy Darragh O'Brien:** I do not mind. I have no objection but is that permitted under Standing Orders?

**An Leas-Cheann Comhairle:** I think there is discretion but I certainly need the agreement of the House.

**Deputy Darragh O'Brien:** I will be guided by the Leas-Cheann Comhairle on this but I have no objection.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Thomas Pringle:** It was a real dash to get over here. I was caught at something else. I was waiting for a vote on the last one but it did not happen-----

**Deputy Darragh O'Brien:** We do not always have to divide. Sometimes there is unanimity.

**Deputy Thomas Pringle:** I move amendment No. 1:

In page 3, between lines 21 and 22, to insert the following:

“ ‘Community Organisation’ means an established, active and representative, residents organisation, based in the locality of the proposed development;”.

We will see how we get on. I thank the Leas-Cheann Comhairle and the House for agreeing to take these amendments out of order. I apologise for not getting here on time. We had a discussion on these amendments on Committee Stage. Amendment No.1 provides that a definition of a community organisation be included in section 2. Amendment No. 21, which is also being discussed in this group, is the amendment to which the community organisation relates and what happens in that regard.

As I said during the Committee Stage debate, it is important that the local communities in which developments are taking place would be able to get involved in the process at a very early stage. That would be of benefit to the developers as well as the local communities in that it would remove a lot of the misinformation that is put about in relation to developments and so on. It is important for communities to get involved at an early stage so they can see exactly what is planned and exchanges of documentation would mean they are aware of what is happening. The Minister emphasised on Committee Stage that councillors would have to be provided with information on developments and he argued that this would meet the need of communities but I do not agree. I believe that communities need to be informed as well. That is very important. The Minister has also argued that there could be some difficulty with how community organisations would be identified in local authority areas but I do not believe it is difficult for local authorities to identify community organisations that they would have lots of experience of dealing with. I do not believe it is beyond the realm of possibility that it could be done. I do not accept that as a reasonable explanation for not doing this in the legislation. Ultimately, this is the crux of the problem and there is a real need for communities to be involved at an early stage.

**Deputy Paul McAuliffe:** Like Deputy Pringle, I also rushed over - so much so that I forgot my jacket - and I am glad that the House has agreed to take the amendment at this point. Some-

thing very fundamental is happening in this Bill. We are restoring to the local authority level the first opportunity for decisions on planning applications and that is really crucial. There have been lots of issues with developments in my community and in many other communities. Often when one breaks it down, there are multiple reasons for that. There are people who are opposed to high-rise developments. Many communities have rejected the model that the market has brought forward, the buy-to-let-only developments which mean that people will never be able to purchase a home. There are also people who are deeply annoyed that their community did not get what they would see as the first say on a planning application, with their local councillors and their established community activists. I recognise what this Bill does, which is to restore to local communities and their local authorities, the first opportunity to assess a planning application. That is really important. This is something that the Minister has been working on for some time. There are legal difficulties and transition arrangements but I, along with others like Deputy Lahart, will be very pleased to see this Bill pass because we know it will end SHDs and will restore that community voice.

What did we learn during the SHD process? We learned that by consulting with communities, we iron out many of the issues that need to be resolved in a planning application and that by not giving communities a say, the problem gets pushed further down the process. People's only option, in many cases, was to take judicial reviews. That was done very successfully in my community in relation to the Glenhill development where residents felt there was a contravention of the development plan without any adequate reason and they were supported. In Santry, residents opposed a particular development but unfortunately, because of the huge burden of responsibility of putting together a case, they failed to meet the required timeline and felt they were stymied at both ends. We learned that giving communities a say actually helps the planning process, helps applications to get through and helps to improve the final outcome. Therefore, I think Deputy Pringle's amendment has great merit, not least because it is very similar to an amendment I put forward on Committee Stage. There was one slight difference between our two amendments. We are both saying that at pre-planning levels, communities should have a say. I agree that the level and significance of that needs to be teased out and perhaps legislation is a hard place to do that. However, there is nothing wrong with giving communities access to information that applications are coming down the tracks and that councils are actively engaging with developers. If we follow the principle that by giving communities more involvement, it will help the overall process, the logical conclusion is that we notify communities when pre-planning happens.

A lot of pre-planning goes nowhere. That is fine. We have to make sure that we do not swamp communities which are excluded because they cannot keep up with the flow of information coming at them. The Minister told me on Committee Stage that he would consider the principle of my amendment and that of Deputy Pringle and that he might come back on Report Stage. The fundamental difference between the two was that my amendment would use the public participation network, PPN, which is the local authority-approved structure and the secretariat which is paid to provide secretarial services to the PPN. It would effectively allow residents' associations to register with their PPN as they do already and by using that statutory structure, it would allow them to be notified of pre-planning applications that are coming in.

As I examined the proposal, I realised there is a lot of work yet to do on this. My amendment, which I hoped would facilitate it, still needs more work so I can appreciate why the Minister might not be in a position to accept Deputy Pringle's amendment. However, I urge the Minister to consider a scheme that would use regulations along the lines that Deputy Pringle

and I are proposing so that local communities would be alerted at pre-planning stage of applications that are coming down the tracks and on which local authority officials are engaging with developers. We say “developers” but that often refers to approved housing bodies and others. We have put a lot of work into ensuring that there is public housing on public land. Sometimes that is done through the Part 8 system and sometimes through the regular planning system.

**Deputy Richard Boyd Barrett:** We have a similar amendment but we support Deputy Pringle’s amendment. I am surprised they are not grouped. Deputy Pringle’s is a bit more fleshed out. It relates to the earlier discussion about the non-residential space in these large-scale developments. The point about these developments is that they are large scale and they have big impacts on towns, communities and populations in a way that relatively small-scale developments do not. They need to be viewed differently because they can fundamentally alter the character of an area. They can alter the landscape of an area and significantly impact in a lasting way. To go slightly off the point, some would say that the biggest disaster that ever happened in Dún Laoghaire was Dún Laoghaire shopping centre. I actually quite liked it when I was a teenager but arguably it has become a major problem in the town’s development.

One can never perfectly legislate for these kinds of things but with the benefit of experience of the wrong kind of development often happening and the SHD being a particular model which has failed and done so quite spectacularly, we need to learn some lessons to try and do it better the next time around. One lesson is that with large sites, where there is potential for a big development impact, we cannot see it in terms of waiting to see what the developer hits us with. Then we are on the back foot from the word go because sites are sitting there for ages and often people do not know even who owns them. Then out of the blue - bang - there is a massive big development that is going to fundamentally impact on the people not only in the immediate vicinity but also on the entire town and that could fundamentally change the character of the area and impact on large numbers of people. We have to have a different approach to that kind of development than we do to the common or garden small or modest development. That means one gets the community in on the ground floor rather than having the community on the back foot reacting. Then there is an adversarial thing where people accuse one of always being a naysayer and serial objector. It is adversarial and confrontational from the word go. We need to change that.

I will give an example. I appreciate that the supporters of the Government are keen to say that this is a positive change and that they are bringing it back to the local authorities, that it is what we called for and it is. I accept that. Credit where it is due. However, things were not perfect around large-scale development before either. The SHD process was particularly bad but things had not been perfect before that. Therefore, returning to the pre-SHD *status quo* is not good enough. One can say the planners are good. Of course they are but the planners are also reacting to the proposals by private property owners who are primarily motivated by the concern to make money out of the site. Let us be honest here. These people are not primarily developing these sites in order to benefit the local community. That is not their purpose. Their purpose is to maximise the value of the site. They often have no connection whatever with the community but have come in because they see an opportunity to make money. There was a point about who knows what and whether they have good judgment and that we should not tie their hands when it comes to the site’s viability. Think about some of the disastrous decisions these developers make simply on the basis of how they think they can make money. They cannot even get that right and they build stuff they cannot even make money out of. I would give the example of the Seamark Building on Merrion Road. I keep talking about this because it has

been there for ten years. I pass it and it drives me absolutely ballistic every single day. This massive building built by McNamara is right beside St. Vincent's Hospital. It should be part of the hospital but it is just sitting there empty. It is an absolute disgrace. What a big mistake that was. Would the local community have ever suggested building that? They absolutely would not have suggested it.

The most recent example in my area is St. Michael's. One of the big SHDs that really broke the camel's back for many in Dún Laoghaire was a plan for a massive development on the St. Michael's Hospital carpark. First, it is shameful that the carpark of a public hospital - even if it is owned by a private religious charity but which we all pay for, it is our flipping hospital - was allowed to be sold to a developer. Then a big SHD was proposed. Everyone was going ballistic about it. It went to judicial review and then because, I think, the developers knew that the judicial review would not go well, they pulled out. Now, with this proposal, they would just put in a new application for a SHD on the site and that is allowed. This is a critical site. We in Dún Laoghaire will be dealing with another SHD, despite this legislation, on an absolutely critical site for the future development of Dún Laoghaire. This is on a historic, heritage site, overlooking the harbour, right next to the Dún Laoghaire-Rathdown County Council buildings. The people of Dún Laoghaire and the community organisations have ideas about what could be done with that site and always have had. As for what is going on some of the areas adjacent to that, in and around Eblana Avenue and so on, people have long thought we could do brilliant things for Dún Laoghaire. We have already got the abomination of Richard Barrett's Bartra co-living development going up just around the corner. It got in under the wire and is now towering above Dún Laoghaire. Potentially, the group could still get an SHD on a site around the corner.

**An Leas-Cheann Comhairle:** We are way over time. The Deputy will get a chance to come back in.

**Deputy Steven Matthews:** I thank Deputy Pringle for putting down the amendment. I am glad to have the opportunity to speak on it. There is broad consensus across all parties in the House that the sooner you bring people into the planning process, the more likely you are to get a development that mostly everybody is happy with. I do not think you will ever get one everybody is happy with. We should not ever be trying to chase that. I think every developer knows that and every resident does as well. What you do is bring people together.

Our planning system is very participative, right the way back. We end up with these conflicts when the drawing goes up and people see it and see five or six storeys or whatever it may be. However, our planning system is participative way back before that. The local residents elect councillors and that is a democratic process. Those councillors craft development plans and pass them. Then applications come in based on that development plan on which people can submit their observations. Those observations can be positive or negative. We always think in terms of objections but it is a submission and an observation on a planning application. I believe developers would be willing to engage in non-statutory consultations with local residents as well because they do not want a long, drawn-out process. They do not want a development that is going to be highly contentious and may end up in judicial review, and we have seen many of them going down that route. It makes a lot of sense. The earlier you bring people into the process, the more likely it is you are going to get an outcome that is acceptable to many people.

Deputy McAuliffe referred to bringing in the PPN, perhaps at the stage of the pre-planning consultations. I am not sure how that would work but at that stage, it would be sensible to try

to bring in a community representative group. That would have to be an entity that exists so the PPN might actually be the right one. If you were trying to bring in a residents' association it might be especially onerous on it to do that, whereas the PPN has those established links with the local authority already. It has those contacts out in the community and it could send that information out into the community where it is relevant. I hope the Minister will be able to look at this in the positive manner everybody is speaking about it with.

We are all aware we need to build more housing. That is obvious and every single one of us knows that. We do not hear people speaking about enough and in positive terms is that we have a limited amount of space in our town centres and in our towns and cities and we need to build at higher densities. It is always going to be contentious when you try to fit a large number of houses into an area where people have got used, over a generation, to having the type of three-bedroom semi-detached residential layout with eight to the acre and 20 to the hectare. That is the way we planned for the past 40 or 50 years. We planned all around the car and had this continuous sprawl out into the suburbs that results in people having commutes of two hours or more hour. They might be doing an hour and a half in the morning and the same in the evening. That has become normalised and it is really unacceptable.

We cannot make any more land and we cannot move it around. We know that. It is an unusual item in that sense. However, we must make the most of the land we have. Higher density make absolute sense to me. With higher density it is not just a matter of getting as many units as possible onto a single piece of land. It must bring other aspects into the whole planning process. It must bring a sense of community gain into it as well. It must provide for pocket parks or places where people can have recreation. Obviously, with higher density we are not going to be able to have front and back gardens of the same size as we had in the housing estates of the 1970s, 1980s and 1990s. Thus, we must have that community gain and provision we see in many European developments. That is the way we are going to have to go and I think we know that. It allows us to provide transport and all those things that match that scale and the economies of scale that go with that. Bringing the community into the whole development process at that pre-planning stage where they can make those points makes a lot of sense.

I hope the Minister will take away these comments. I think that across the board here, Members believe he should look at this, either by regulation or whatever stage it may be, and come up with a process. Moreover, it should be a process that is sensible because not every pre-planning application is going to end up as a planning application. There are some that may not. We have seen examples of that in other areas where a site notice will go up and the application may be withdrawn. Then another site notice goes up. I had an example in my own town where there were about six or seven such notices up at the same time. That does not comply with the planning Act. You are meant to take your site notices down. People got confused and in the end they stopped paying attention to it. We do not want to end up in a situation like that, where we keep feeding out all this information, like saying there is a pre-planning consultation going on and nothing ever happens with it. Thus it needs to be gauged and done carefully. I hope the Minister will consider that as he thinks about this and brings it in through regulation or at the next stage, and takes on board what the Deputies have said.

**Deputy Eoin Ó Broin:** I support both Deputy Pringle's amendments, as well as his comments and those of Deputies McAuliffe, Matthews and Boyd Barrett. Many of us have been arguing for quite some time that the earlier you involve third parties in any planning process, the better outcomes we get for everybody. However, I wish to put on record a slightly different view to a number of the comments.

I absolutely welcome the return to a two-stage process. The core of this Bill is a good proposition and many of us argued for it when we opposed SHDs at the outset. However, returning to a two-stage process is not, in and of itself, automatically going to result in a reduction in judicial reviews. I say that because the dramatic rise in judicial reviews of residential developments, which is something that was unheard of until 2020, is not actually due to the absence of a two-stage process. It stems from the conflict between the city and county development plans and the mandatory ministerial guidelines on building heights and design standards introduced by Eoghan Murphy, as well as the misapplication of the planning objectives contained in the national planning framework by An Bord Pleanála in some recent decisions. The difficulty is even though we will return to a two-stage process and that is good, the board, on appeal, potentially by a developer, may well continue the questionable practice it has been engaged in during the last two years. This has not only resulted in an increase in judicial reviews but a dramatic increase in the number of judicial reviews lost, at great cost to the Exchequer. It seems some members of the board do not seem to be cognisant of the fact they are repeatedly approving decisions on grounds that are repeatedly being challenged and defeated in the courts, and the taxpayer foots the Bill. We may not get to speak to them but Deputy Cian O’Callaghan has tabled amendments that deal with those issues with the mandatory ministerial guidelines. At some point, the Minister is going to have to deal with those.

Likewise, irrespective of the two-stage process, the very generous transitional mechanism, especially for applicants for the SHD process that are only entering pre-application now, is also going to lead to judicial reviews. When we discussed this at some length on an earlier Stage, I suggested there may well be a rush of applications to the board for pre-planning under SHD. The Minister said he did not believe that would be the case. On the front page of Monday’s edition of *The Irish Times*, Arthur Beesley has a good story showing there has been a significant increase in those pre-applications in the past three months when compared to this time last year. That relates to Deputy Boyd Barrett’s point. SHD applications will continue, in certain instances, until June 2022, with decisions by the board and potential challenges until October of next year. That is going to be highly problematic. Therefore, Deputy Matthew’s suggestion the Minister looks again at earlier pre-planning participation in a new large-scale residential development absolutely has merit. The essence of Deputy Pringle’s amendment is trying to achieve just that. Unless we tackle those other two key issues, unfortunately, potential conflict will continue, not just between applicants for planning permission and third parties but between the board and our local authorities. From memory, nine local authorities have been in direct conflict with the board over planning decisions. The Minister and I are on record as questioning the logic of legal challenges involving two arms of the State. My view is that Dublin City Council has done the right thing in challenging the board on its disastrous decisions with respect to the docklands strategic development zone. The courts have upheld those legal challenges. Either way, that is not a good planning space to be in.

I anticipate the Minister will not accept many of these amendments we will get to, but these are issues we will have to return to. The Minister and his eminent officials will need to come back to us about them at a later stage. Otherwise, we will be going around in circles, as we have done for the past three or four years, on these important issues.

**Deputy Emer Higgins:** The integrity of our planning system can be summed up in one word - transparency. This means transparency in our planning laws, consultation, decision-making and appeals process. Pre-planning is a lesser known but very important part of the planning system, especially when it comes to large-scale developments. It is also a very important

element of this Bill, which will deal with those developments. We all accept that meaningful collaboration with communities and residents is key to good planning. It is how developers achieve a plan that is a fit for the area as well as helping to tackle the housing crisis.

One of the benefits of the SHD process, and we can all agree there were not very many, was the dedicated website for residents. It worked. If the Minister makes provision for consultation mechanisms, similar to what is being discussed today, he should relook at that dedicated website for SHDs to see how it can be incorporated into this law. If he does that, it is vital that he goes beyond that and requires search engine optimisation so that those websites are easily found. That is the kind of transparency I refer to when I talk about the integrity of our planning system.

**Deputy Cian O’Callaghan:** I support these amendments. The importance of early consultation and engagement with communities can create a win-win situation, reduce conflict and, what is very important, get local knowledge into the outline pre-planning process. Very often, that local knowledge is not held by developers, the people working for them or planners. It is very important to get that in. Exactly as Deputy Boyd Barrett said, we are talking about large applications that have significant impacts. To get that local knowledge in early is very useful.

The Minister said this is about redemocratising the planning system and bringing decision-making back to local authorities. Getting rid of the SHD process is doing that, but there are two problems here that need to be addressed, especially if we want to see less conflict and fewer judicial reviews. Apart from the SHDs, the other part of the problem is the section 28 mandatory ministerial guidelines, which have undermined development plans. The SHD process has been the vehicle to implement that undermining of the development plans, but those guidelines, in particular, have been a problem.

As part of the Joint Committee on Housing, Local Government and Heritage’s scrutiny process of this legislation, the Dublin Democratic Planning Alliance stated:

We see that our cities and communities are being destroyed through a planning system that is increasingly and detrimentally altered under the pressure from private developers and institutional investment funds interested only in short-term gains. Meanwhile, democratically designed Development Plans are being undermined and hollowed out.

Specifically, the undemocratic and unsustainable changes to our planning system are facilitated by the implementation and continuation of planning legislation that was introduced in a well-intended, but misguided attempt to ease the housing crisis. Introduced at the behest of the property industry ... [the] legislation was based on the false premise that the planning process was slowing down the delivery of housing. This has never been the case...

This organisation goes on to state that SHD legislation and the section 28 ministerial guidelines are a particular problem. It is not just the Dublin Democratic Planning Alliance that has said that. In its recent review, the Department of Public Expenditure and Reform also came to a similar conclusion that planning is not in fact the problem in respect of housing supply. It pointed out, as others have, that there is no shortage of planning permissions. The shortage of commencements and construction is the problem.

We need to take on the issue of the mandatory guidelines in engaging more with communities and reducing conflict and judicial reviews. The reduced standards that came with the guidelines were lobbied for on the basis they would make apartment delivery more viable.

When they were introduced in 2015, the promise was that apartment delivery would come in at approximately €200,000 to €260,000. In 2018, the promise was that apartment delivery would be viable from €240,000 up and in 2021 we see viability figures for apartments in places such as Dublin city centre coming in at figures such as €500,000.

The Department of Public Expenditure and Reform review also pointed out that what is happening now is that the kind of build-to-rent delivery with reduced standards that is coming in, at the behest of investment funds, is only viable or affordable for households with a gross income of €100,000. This drive towards reduced standards that is being facilitated by those mandatory guidelines has been a disaster. It has not delivered the viability or affordability that was promised. If anything, the opposite has taken place. The section 28 mandatory guidelines have to be addressed in addition to the overall SHD legislation.

**Deputy Darragh O'Brien:** I thank Deputy Pringle and all the other Deputies who have contributed. I will deal with a couple of matters relating to the process. To follow on from Deputy O'Callaghan's point, no one would state, and I certainly have not, that this Bill is the silver bullet to solve our issues in the planning process. It is not. Likewise, I agree with Deputy Ó Broin that the return to the two-stage planning process will not mean the end of judicial reviews and residential developments.

Colleagues in government will know, as will Deputies Higgins and McAuliffe, that we are engaged in the most comprehensive review of planning that has been undertaken in decades. We intend to work closely with the Joint Committee on Housing, Local Government and Heritage. Its Chair, Deputy Matthews, was in the Chamber earlier. My Department, along with the Attorney General, will be moving that work forward with the aim of producing a report by next September, which means five years' work will be done in about ten to 12 months. We need to look at the options for what we can do. Fundamentally, to address the point most Deputies have made, including Deputies Higgins and McAuliffe - I met Deputy McAuliffe's constituents in Santry, which has seen an explosion of developments - we need homes. Let us be straight about it. We talked about housing commencements, which are, thankfully, up substantially year on year, as are commencements in respect of construction. We want to see that. As Minister, I want to see that.

The fact that people felt they were disengaged from the original process was a real problem. It led to issues in communities, including a feeling of disenfranchisement, which was shared by local councillors, in addition to helplessness. In many instances, all councillors could do was send a submission to their local authority that would go to An Bord Pleanála. That is not the way I want to see planning done in Ireland. It is not the way this Government wants to see it done. Hence we are bringing in this legislation.

Developments should be plan-led and should not be a surprise to residents. There is a job of work to be done as to how development plans feed into applications and that clarity is provided for existing residents about what will happen. You will never keep everyone happy. I have seen objections to good developments and good proposals for a wide range of reasons. That is people's want and desire, but I always encourage people to recognise where we are as a State. Fundamentally, we need more homes for our people. I have seen people and councillors objecting to social housing developments and affordable housing developments. That is a right people have and they can stand over it but, in fairness, we need at least to ensure the process becomes more transparent so that, we hope, those types of objections are reduced and good developments happen sooner and in a more efficient way.

11 o'clock

What will we do at a pre-planning level? We may not get to pre-planning as we move through the Bill, but we discussed it at length at committee. If someone has a pre-planning consultation, all the records have to be kept by the local authority and when an application is made, they have to be published. They have to be accompanied with the planning application and published on the local authority website. Next week, when I bring in the regulations to support this legislation, we will retain that aspect of the website for the developer or the development in order that the pre-planning discussions must be published there.

The question of what the opinion was at pre-planning also arises. What are we saying? We are saying that good pre-planning happens within set timeframes, with four weeks to request the pre-planning meeting and that request to be turned around, and with the meeting to happen after four weeks. Following a total of eight weeks in the pre-planning process, an opinion must be given. If there are issues with a development and it is inappropriate, that should be known very clearly if someone proceeds with planning. For example, a resident will see that Deputy Ó Broin has applied for a 20-storey apartment block in the middle of Clondalkin, but the planners have actually said-----

**Deputy Eoin Ó Broin:** It was 25 storeys.

**Deputy Darragh O'Brien:** Great. If Deputy Ó Broin has applied for a 25-storey apartment block and the local authority has said it is highly inappropriate and should not happen, people will be able to see that and point to that in their observations. If that goes to An Bord Pleanála, there are other issues there which we will deal with. That is all part of the process. That is transparency. The passing of this legislation will mean that this has to happen as part of the process. I discussed this at committee with Deputy McAuliffe.

I am afraid I can accept the thrust of neither of Deputy Ó Broin's amendments at this stage. I want to put an end to SHDs in order that the new regime will kick in from 17 December. With regard to public participation, I refer Deputies to section 4, on page 6 of the Bill:

The planning authority may, prior to the LRD meeting taking place, consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the LRD meeting in relation to a proposed development.

That aspect of it is included, but I will certainly look at the matter further. It is not appropriate to this Bill. Is there a mechanism to provide for this through a PPN? Deputy Pringle mentions "the locality" in his amendment, which proposes that "Community Organisation" means an established, active and representative, residents organisation, based in the locality of the proposed development". That would require us to get into defining "the locality". What is "the locality"? Is that the local electoral area? Is it the county? Is it the region? Given all of those things, one could not just take that amendment as it is. It could very well lead to having people involved in a pre-planning situation who should not be involved and who may get involved for other reasons, as well.

We want to make sure that pre-planning is transparent and it will be. More work can be done on involvement at a pre-planning stage. It has been mentioned that *ad hoc* pre-planning consultations can happen. In my job as Deputy, I have certainly seen such consultations in my area between the proposed builder or developer and the local community. This can lead to many of the potential issues and fears being dissipated and a better scheme coming in. I mentioned an

issue at committee. That will happen anyway. We do not lead to legislate for common sense. Common sense should prevail, in many instances. Where people work with communities-----

*(Interruptions).*

**Deputy Darragh O'Brien:** There were many comments on this.

**An Leas-Cheann Comhairle:** The Minister will be able to come back in.

**Deputy Darragh O'Brien:** Is Deputy Pringle coming in?

**An Leas-Cheann Comhairle:** He has the opportunity.

**Deputy Darragh O'Brien:** If Deputy Pringle comes in, I will come back in after him.

**Deputy Thomas Pringle:** I thank the Minister for his explanation, which raises many further questions. He has spoken about *ad hoc* meetings taking place with regard to developments in his area, which shows that this is needed.

**Deputy Darragh O'Brien:** I am talking about communities.

**Deputy Thomas Pringle:** Yes, we are talking here about *ad hoc* meetings taking place between communities and developers. We are talking about doing it on a structured level and in a way that ensures it has to take place for developments. My amendment refers to organisations that are “based in the locality of the proposed development”. I will use the example of the meetings the Minister had in Santry. The council will know that a residents group in Santry is interested in what is happening there. It will know that if a residents group based in Finglas, Glasnevin or Drumcondra seeks to get involved, it is not based in Santry. The local authority will know that. It will know what happens in an area. It is like saying that Donegal County Council would let a local community group from Letterkenny talk about a development in Killybegs. The local authorities know all these matters. This is already what happens.

The Minister mentioned that he has had a dealing with this. Page 6 of the Bill provides that a local authority “may” develop. The problem I see with it is that the local authority “may” do it. There is no onus on it to do so. It is open to the discretion of the local authority whether it does this. That is ultimately the problem with the whole thing. As has been said by other Members, these are large developments that will have a big impact on the communities they are in. That needs to be taken on board and stressed.

**Deputy Paul McAuliffe:** I am anxious to allow the Minister to continue, because he was going in a certain direction. He said something important that I had not taken into account. While the amendment is very important for all of the reasons we discussed earlier, if it were to be accepted, I imagine the Bill would have to go back to the Seanad, which may stretch out the Bill and cause us to miss the timeline. As much as I want to make sure we have pre-planning consultation, I want to see an end to the SHD process. Therefore, we cannot miss our timeline. I had not given consideration to that point. I hear the Minister’s point that the current arrangements allow for it, but I would like to see that fleshed out more at regulation level.

Deputy Pringle is right in the point he makes about a community group being known, but the difficulty is that this relies on local officials making an arbitrary decision. We know that arbitrary decisions in the planning area can often be contested. I would prefer any consultation to have a statutory structure. My suggestion was that we would use the PPN. I propose that

residents associations would register with the PPN and, just as local councillors get informed of planning applications, the secretariat of the PPN would distribute notification of pre-planning meetings to those associations. That would be a very simple system. PPNs are already part of our local government structure. People are already paid to be on the secretariat of a PPN. There are already residents associations that are members of PPNs. By use of regulation, we could, at pre-planning level, inform both local councillors and members of the PPN of pre-planning consultations. We could do that in the same way that you have a planning list. That would work very well. Local councillors would also appreciate that same facility.

**Deputy Emer Higgins:** I thank the Minister for his reply on the specific question around websites, which was very encouraging. The websites worked very well when it came to SHDs, but there were some shortfalls. Part of that is the search engine optimisation issue. If one sits down and googles “Palmerstown + SHD” or “Lucan + SHD”, one cannot automatically find the planning website for which one is looking. It is great that the Minister will now be introducing this requirement through regulation. Can he make sure those regulations, or the guidance around them, are strong enough for people who are searching for these things online to come across them easily? Can he ensure that there are some diktats around what is required to be included in the website? I suggest that there should be an obvious reference number or a very easy link to the local authority website or the An Bord Pleanála website. People and residents associations may need to be signposted towards certain resources to help them to make thorough and comprehensive submissions. That is really at the heart of this.

It is very important that we take what has worked from the SHD process. Unfortunately, there have not been that many benefits to it. However, it is important we lift and shift what has worked from the SHD process and make sure it works in this process. We must use this as an opportunity to improve the planning system and make sure that the websites are thorough, that all the information is on them for people and, most importantly, that they are easily accessible to people and easily searchable.

**Deputy Richard Boyd Barrett:** The Minister is saying he is sort of sympathetic to the issues raised but all we are being offered in the Bill is that, once an opinion has been given following the meeting, the public will be aware of that opinion. Across the board here everybody is saying it would be better to get communities in at the ground floor on these large-scale projects.

I could not understand why our amendment is different from Deputy Pringle’s.

**Deputy Darragh O’Brien:** Which amendment is the Deputy’s?

**Deputy Richard Boyd Barrett:** It is a bit further on. Maybe I am missing something. It is amendment No. 10. Deputy Pringle’s is more detailed. I am not saying mine is better. I am trying to figure out the difference, what we are talking about here and what a structured pre-planning consultation with stakeholders, community groups and resident groups would look like. From my experience of listening to people talk, and the Minister is echoing it from his experience, I can offer advice if he wants to do away with the constant antagonism that exists between communities and sites where people suddenly feel as if they have been unleashed on them and they are on the back foot. It is almost a knee-jerk reaction for people to say “No” because, particularly when it concerns significant sites in their area, they have often been chatting for month or years saying it would be great to have such a thing on that site.. There is local knowledge about some of these sites, what is needed need in an area and what would be good

or appropriate. That local knowledge would benefit the pre-planning process and plans for proper development on a community or area and avoid much of the antagonism and protracted processes, if the Minister got people who are familiar with and have a stake in that site having input from the word “Go”. The Minister should support the principle of these amendments.

**Deputy Darragh O’Brien:** We have to, and do, understand the distinction between pre-planning and planning. We also discussed this in committee. A lot of pre-planning does not go to planning. Deputies have referenced that when looking at large planning files and trying to track changes throughout, it can be complex. We have to figure out the best way to do this. There is something in the PPN piece. I could not accept Deputy Pringle’s amendment because it is not defined. Phrases such as “Community Organisation”, “in the locality” are far too loose. Legislation cannot be drafted like that and, therefore, the amendment will not be accepted.

The principle is a different issue. We are making pre-planning transparent now. It is not just the opinion; it is the minutes of the meetings. When an application is lodged, they must be published. I would say to residents and the public that the best place to make an observation is at the formal planning stage. Observations, if we were able to get an opinion at pre-planning stage, would not necessarily have any weight. Deputies say they want a mechanism whereby local groups are recognised or informed of what is happening. That speaks to issues we want to do with regard to making this plan-led. I will examine this further, though not in this Bill, to see if there is something by way of regulation, potentially through the PPN, to allow for recognised groups on a development to be known about.

Deputy Higgins raised the issue of websites and so on. All the applications within them, to make sure they are searchable and so on, will be included in the regulations. Let us look at where we are going with this. We are bringing everything back to the local authority, we are making sure the pre-planning process when it gets to application stage and the application is lodged is absolutely transparent and that people know exactly what is there.

As Deputies have mentioned, these are LRDs. Such developments are not necessarily bad. Deputies were talking about the impact on communities but those impacts can be, and, in many instances, are, positive. Some people do not like change and that is something they will have to stand over. If we are to house the growing population we have and make sure our people have an opportunity to live in safe and secure housing at an affordable rate to purchase or rent, we need to build homes and, therefore, we need a planning system that is fit for purpose.

Amendment put:

<i>The Dáil divided: Tá, 54; Níl, 72; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Brophy, Colm.</i>	
<i>Bacik, Ivana.</i>	<i>Browne, James.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>	
<i>Brady, John.</i>	<i>Burke, Colm.</i>	
<i>Browne, Martin.</i>	<i>Burke, Peter.</i>	
<i>Buckley, Pat.</i>	<i>Butler, Mary.</i>	
<i>Cairns, Holly.</i>	<i>Cahill, Jackie.</i>	
<i>Canney, Seán.</i>	<i>Calleary, Dara.</i>	
<i>Carthy, Matt.</i>	<i>Cannon, Ciarán.</i>	

Dáil Éireann

<i>Clarke, Sorca.</i>	<i>Carey, Joe.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Cronin, Réada.</i>	<i>Chambers, Jack.</i>	
<i>Crowe, Seán.</i>	<i>Collins, Niall.</i>	
<i>Cullinane, David.</i>	<i>Costello, Patrick.</i>	
<i>Daly, Pa.</i>	<i>Coveney, Simon.</i>	
<i>Doherty, Pearse.</i>	<i>Crowe, Cathal.</i>	
<i>Donnelly, Paul.</i>	<i>Devlin, Cormac.</i>	
<i>Ellis, Dessie.</i>	<i>Dillon, Alan.</i>	
<i>Farrell, Mairéad.</i>	<i>Donnelly, Stephen.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Duffy, Francis Noel.</i>	
<i>Funchion, Kathleen.</i>	<i>Durkan, Bernard J.</i>	
<i>Gannon, Gary.</i>	<i>English, Damien.</i>	
<i>Gould, Thomas.</i>	<i>Farrell, Alan.</i>	
<i>Guirke, Johnny.</i>	<i>Feighan, Frankie.</i>	
<i>Howlin, Brendan.</i>	<i>Flaherty, Joe.</i>	
<i>Kelly, Alan.</i>	<i>Fleming, Sean.</i>	
<i>Kenny, Gino.</i>	<i>Foley, Norma.</i>	
<i>Kerrane, Claire.</i>	<i>Griffin, Brendan.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Harris, Simon.</i>	
<i>McNamara, Michael.</i>	<i>Haughey, Seán.</i>	
<i>Munster, Imelda.</i>	<i>Heydon, Martin.</i>	
<i>Murphy, Catherine.</i>	<i>Higgins, Emer.</i>	
<i>Murphy, Paul.</i>	<i>Hourigan, Neasa.</i>	
<i>Murphy, Verona.</i>	<i>Humphreys, Heather.</i>	
<i>Mythen, Johnny.</i>	<i>Kehoe, Paul.</i>	
<i>Nash, Ged.</i>	<i>Lahart, John.</i>	
<i>Naughten, Denis.</i>	<i>Lawless, James.</i>	
<i>O'Callaghan, Cian.</i>	<i>Madigan, Josepha.</i>	
<i>O'Rourke, Darren.</i>	<i>Martin, Catherine.</i>	
<i>Ó Broin, Eoin.</i>	<i>Matthews, Steven.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>McAuliffe, Paul.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>McConalogue, Charlie.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>McGrath, Michael.</i>	
<i>Pringle, Thomas.</i>	<i>McHugh, Joe.</i>	
<i>Quinlivan, Maurice.</i>	<i>Moynihan, Aindrias.</i>	
<i>Ryan, Patricia.</i>	<i>Moynihan, Michael.</i>	
<i>Shortall, Róisín.</i>	<i>Murnane O'Connor, Jennifer.</i>	
<i>Smith, Bríd.</i>	<i>Noonan, Malcolm.</i>	
<i>Stanley, Brian.</i>	<i>O'Brien, Darragh.</i>	
<i>Tóibín, Peadar.</i>	<i>O'Brien, Joe.</i>	
<i>Tully, Pauline.</i>	<i>O'Callaghan, Jim.</i>	

8 December 2021

<i>Ward, Mark.</i>	<i>O'Connor, James.</i>	
<i>Whitmore, Jennifer.</i>	<i>O'Dea, Willie.</i>	
<i>Wynne, Violet-Anne.</i>	<i>O'Donnell, Kieran.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Gorman, Roderic.</i>	
	<i>O'Sullivan, Christopher.</i>	
	<i>O'Sullivan, Pádraig.</i>	
	<i>Ó Cathasaigh, Marc.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Richmond, Neale.</i>	
	<i>Ring, Michael.</i>	
	<i>Ryan, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Smyth, Ossian.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Varadkar, Leo.</i>	

Tellers: Tá, Deputies Thomas Pringle and Richard Boyd Barrett; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

**An Ceann Comhairle:** Amendments Nos. 2 and 3 have been dealt with. Amendment No. 4 is out of order.

Amendment No. 4 not moved.

**Deputy Cian O'Callaghan:** I move amendment No. 5:

In page 4, between lines 36 and 37, to insert the following:

**“Amendment of section 28 (Ministerial guidelines) of Principal Act**

**3.** Section 28 of Planning and Development Act 2000 is amended by the deletion of subsection (1C).”

I have already made the points I wanted to make about the section 28 mandatory guidelines. In the interests of time, I am happy to move straight to the Minister's response.

**Deputy Darragh O'Brien:** We have discussed at length this proposal to delete section 28(1C) of the Planning and Development Act 2000, as amended. I listened to the Deputy and others speak about it on Committee Stage and set out their reasons for supporting it. It would have a wide-ranging effect insofar as it would remove the legislative provision introduced to empower a Minister to ensure we have a nationally consistent approach to planning in all 31 local authorities. The amendment would simply remove that. I think what the Deputy is trying to get at are the particular mandatory guidelines that were set. However, if we are saying to any Minister that he or she cannot issue national guidelines or effect a change in the practices of the 31 local planning authorities, the three regional assemblies and An Bord Pleanála, which would be the case if the amendment were passed, then it would make it harder to effect change in respect of many of the provisions Opposition Deputies and others, but particularly the Deputies opposite, have been railing against, because it would remove the power of the Minister to do so by way of a nationally consistent approach. Removing such a legislative provision is something I just cannot accept.

Most people will agree that we need to have consistency when implementing national planning policy, particularly in the performance of the local authorities and planning authorities with regard to their planning functions, including the determination of planning applications. As I outlined at length on Committee Stage when we discussed this, such an approach is necessary because it provides clarity for both public and private investment and enables the progression of construction and development projects through the planning system in a consistent manner. I understand the perspective some Deputies are coming from on the issue of setting aside, in effect, provisions within development plans through some decisions that have been made by the board. That is a different issue. The application of specific planning policy requirements under section 28(1C) enables the system to facilitate the delivery of outcomes with greater certainty and viability than would otherwise be the case. Right now, fortunately, we are seeing an increase in construction commencements and in the effecting of planning permissions that are in place. However, where we may in the future see a certain type of development, such as apartments, in respect of which the previous guidelines have not worked as they were intended and may have to be looked at again, we would not have the ability to do that if this amendment was accepted. That in itself would be a retrograde step.

It is important to look again at what we are doing. I will not repeat myself because we want to get to other issues but this point is important. It is about restoring the two-stage planning process, giving the planning function back to local authorities and having a transparent pre-planning system that is time-bound, as well as a time-bound planning application stage, within both local authorities and An Bord Pleanála. It is about providing that transparency and providing strict timelines to ensure efficient delivery. If we were then to remove the ability to have consistency in national planning and a national planning approach, it would be totally contradictory.

The other matter the Deputy and others raised can certainly be examined, and we will do so, through the planning review. However, if we were to accept this amendment and remove the relevant subsection, it would have an extremely detrimental effect, particularly when we are trying to do, or the Government certainly is trying to do, is to enable good developments in which people can live at an affordable rate, whether for purchase or rent, that are built to a good standard and of high quality and that offer people a high quality of life. In many cases, that will mean high-density developments. There is nothing to be feared in that; high density does not mean bad development. It can be very good development and we need to get on and do it. That

is why ceasing SHDs and bringing in a much better, more efficient and transparent process is the way forward. For these reasons, I cannot accept amendment No. 5.

**Deputy Eoin Ó Broin:** I do not know whether the Minister is deliberately misrepresenting the intention behind this amendment or just does not understand it.

**Deputy Darragh O'Brien:** I understand it. The Deputy need not worry about that.

**Deputy Eoin Ó Broin:** Nobody on this side of the House is arguing against consistency or the right of the Government to frame policy. The specific problem with the section 28 mandatory ministerial guidelines is that they enable the Minister to institute profound changes to planning law without a single vote being taken in this House. That is the problem. As a direct result of the two sets of section 28 mandatory ministerial guidelines the Minister's predecessor introduced, we have had a perpetual series of conflicts at the High Court, often involving local authorities or third parties against An Bord Pleanála. The board has lost such a large volume of these cases that the bill to the taxpayer is running to millions of euro.

I made this point in our previous exchange. Returning to the two-stage planning process involving the planning authority and the board is a really good move, but unless the mandatory ministerial guidelines are removed and the misuse of the policy objectives in the national planning framework by the board is addressed - I make this point again because it does not get said enough - we are still going to have the same delays. Whether it is the local authorities or third parties, they are going to challenge decisions by the board to the courts, albeit at the second appeal stage, and, on the basis of the decisions the courts have made to date, the board and the bad and undemocratic planning decisions made by a Minister in previous years are at the centre of this. This is an eminently sensible amendment. It is entirely consistent with what the Minister is saying he wants to do with this Bill. The Minister is misrepresenting the amendment to say that it would remove a Minister's power. A Minister should only have the power that is entrusted to him or her by the elected Members of the Oireachtas. They should not be able to make profound changes to planning law by diktat. That is what this amendment seeks to remove.

**Deputy Paul McAuliffe:** In speaking to the amendment, I have great sympathy with the point that we want planning decisions to be made in local authorities. That is why I said in the previous amendment that I particularly welcome this Bill. It is a fundamental delivery of our commitment in the programme for Government to restore the two-stage planning process. I do not want to rehearse the comments I gave in an earlier amendment. However, it is important that when we speak about these amendments, we acknowledge that what we have done here has restored to communities that ability to contribute.

One thing that we spoke about at length is the reasons people object. Height is one of those reasons. There are clearly people out there who are opposed to height in all cases. Many of our local authority members are not opposed to height in all cases and who have quite progressive views on height, where it is appropriate. For example, Dublin City Council had quite an advanced height strategy. Unfortunately, the ministerial guidelines prevented an upper height limit. That in effect eliminated the height strategy. If there is no upper height limit in any area, you cannot prioritise where you would like height. It was clear where local authority members wanted height. They wanted it in the docklands. They wanted it in places, such as in my own constituency in Ballymun, where we were trying to develop a town centre. When that upper height limit was removed from anywhere in the city, it resulted in us not being able to prioritise height. Unfortunately, we got height in inappropriate places.

I speak against the amendment for a different reason. That is because I worry that it would limit the Minister's power to act in a way many Members in this House would like us to act. An example would be our decision, and another commitment the Minister made in the election, to roll back on the use of co-housing. Many people felt we did not want to see co-housing. As well as this, for example, the Minister gave an instruction to local authorities during the year to prevent student accommodation being turned into tourist or hotel accommodation. The Minister had these powers to direct local authorities on this. Many Members of this House saw this as a progressive move on housing. It saw us preventing something that would have decreased our supply. I worry that the deletion in this amendment may restrict the Minister's powers to act in that way.

I appreciate the motivation behind this amendment. Perhaps it would be better to revisit those specific guidelines, rather than completely removing the Minister's power to issue guidelines. As I say, we can trust local councillors. I believe we can. I believe we can ensure we have progressive height policies. However, I would not like to eliminate the Minister's ability to be able to direct consistency in local authorities throughout the country, because it is important we have that consistency for the two examples I have given alone.

**Deputy Michael Fitzmaurice:** I agree with the Minister when he talks about consistency and planning right now throughout Ireland. We do not have it at the moment. It could be down to a planner. It could be down to a director of planning. I will give the Minister an example. There are five counties in the west. If you worked in Dublin, bought a house in Dublin and then decided to move down to the west to build a house, four of these local authorities would not ask if you owned a house before. In Roscommon at the moment, which is scandalous in my opinion, if you own a house, whether it is in Wicklow, Kerry, or Donegal, you move to Roscommon because of work or you decide to move home to the family farm, if you say you owned a house anywhere in Ireland before this, you are not granted planning. That is scandalous in any county in this country. We need consistency with planners and with directors of planning in every county. The Department should be looking at this. It has been watching over this for a number of years. What is going on in certain countries is disgraceful at the moment.

**Deputy Emer Higgins:** I agree with what the Minister said around the regulations and why they are so badly needed. Also on a couple of points that were made around consistency, the guidelines provide such huge opportunity to give consistency. The Department, through the Minister of State, Deputy Peter Burke, is working at the moment on rural housing guidelines to replace existing guidelines. Things like that are so important. When you look at one-off rural housing in South Dublin County Council, for example, and how differently the local needs assessment is taken, interpreted and used versus a couple of miles down the road across the border in Kildare or Wicklow, consistency is required. That is why we need these kind of regulations.

The Minister spoke about the judicial reviews. Unfortunately, we have had so many judicial reviews when it comes to strategic housing developments, SHDs. Some 50% of judicial views came from environmental legislation. Yes, height is a concern and there is a lot going on that space, but it is important to note that as well and to look at that.

**Deputy Paul Kehoe:** I want to follow on from some of the earlier speakers who spoke about consistency throughout the country. Definitely, consistency is needed. There are plenty of examples in my own county of Wexford. I will give the Minister one example where a son or daughter wants to move into the family farm and the parents want to build a small bungalow or small house somewhere on the family farm. They are now being forced to build a granny flat

onto their family home. I do not think that is acceptable. There might be younger children in the family. They might not be living in the family home but they come home for weekends or whatever. It is only right and proper that whoever is going to be living in the farmstead would have their own home, and that mother and father - the original owners - are not being forced to build a granny flat onto the farmstead. That is unacceptable.

Deputy Fitzmaurice was right in what he said about consistency in different counties. We are encouraging people to relocate out of the cities, maybe back to where they were born and reared in rural Ireland, to build back up our rural communities. However, some of these planners act like dictators. The director of planning in Wexford is not, but some younger planners are like dictators. They determine who lives and who does not live in rural Ireland. I would plead with the Minister and his officials to look at exactly what is happening in counties throughout the country, to look at the examples, to look at the refusals and to look at why they are being refused. They are being refused because some of these people act in a way they should not. They have some draconian powers.

Deputy Durkan spoke in this House last week. In fairness to the Ceann Comhairle, it is not often that Ceann Comhairle will cross the boundary and say yes, we need a debate on this issue. We need a proper debate on this issue. I hope that in the new year we will have a proper debate in this House on the planning guidelines and what is happening throughout the country. In this debate, Members should be allowed to stand up and have 15 or 20 minutes and should not be forced to limit their speaking time to two or three minutes.

I can assure the Minister that every rural Deputy in this House has a huge number of examples from which the Minister and his officials can direct policy. I sit down with some of my colleagues in government or opposition, and we all have similar examples to what I face in Wexford, what Deputy Durkan faces in Kildare, what Deputy Fitzmaurice is facing in Roscommon or what Deputy Ring faces in Mayo. I ask the Minister, who is a member of Cabinet, that we have that debate in the House, that he speak to the Government Whip to allow for a proper debate and time here for Members to be able to speak their minds on this. This is the House where we represent our constituents. It is only right and proper that we be given the opportunity to debate that issue here in the House.

**Deputy Bernard J. Durkan:** I echo the points made by other speakers. We have to come to a decision that applies right across the country. People should be treated equally and the consistency that has been referred to should apply. It applies in town and country, as the Ceann Comhairle and I well know because we have had those debates in the past. There was a case once upon a time where there was a massive debate about an incline. There was a hill, for want of a better description, and the ridges of the houses had to differ. As it was proposed to raise the ridge tile nine inches, which had to be done or the work could not be carried out, the planning permission was refused. It is crazy stuff.

I would not be in favour of facilitating people who object to housing at all. However, I would always qualify any observation I make with the fact that it is not an objection to the concept but the way in which it has been done. It is quite simple.

The other thing I cannot understand, as it is an abuse of the Planning Act, is why somebody living 50 miles or 100 miles away from a development can slap in an application or objection. They win the case every time. The Ceann Comhairle and I know that applies right across the country. It is an abuse of power. People live on the basis of the success they have achieved

doing exactly that and frustrating everybody else. There is an expectation that people living in rural Ireland or semi-rural Ireland want to look after their parents and be within reach of them, to give care and attention to their parents as they get older. Why do people frustrate that? There is no need for it at all. What is even worse is that when those people, whose families have lived for 50 or 60 years or four or five generations in the area, get refused planning permission, suddenly somebody comes in with what seems a good idea and they are told it will be considered and granted if possible. That happens to the outrage, frustration and annoyance of the people who have lived there all their lives. There is no consistency to that whatsoever and we need to address it. It is the kind of thing that we as elected public representatives get blamed for but that we have no responsibility for at all. We can do nothing about it so we need to do something about it. I agree entirely with the call for that debate.

**Deputy Jennifer Murnane O'Connor:** I agree with previous speakers about consistency and guidelines within local authorities. There are huge issues there. We have to wonder whether planners realise the effect they can have on people's lives when they make decisions that they just cannot stand over. Young people who have emigrated to America, Dubai and so on and want to come home are faced with obstacle after obstacle. We should have a plan in place to bring back our children to this country when they want to come and encourage them. Instead of that there is obstacle after obstacle. There are huge issues. In rural Ireland where there are farming communities, two sons and a daughter might want to build on the family land but every time there is an issue and they are told they cannot live here or they cannot be there or there can only be one house on it. We need to have a look at the whole system in all the local authorities.

**An Ceann Comhairle:** I now call Deputy Fergus O'Dowd to give us the Louth perspective.

**Deputy Fergus O'Dowd:** It is a very important perspective. Development plans are a key part of the business of planning and it is the councillors who make that plan.

**Deputy Richard Boyd Barrett:** We are getting a right tour here.

**Deputy Fergus O'Dowd:** I will just make my point if the Deputy does not mind. There is not much time and I hope he will be interested in what I have to say. When the development plan for County Louth was being put together recently, I received a complaint from two people who made a submission about their land. They wanted it zoned to build a family home and they very kindly received an invitation from the Sinn Féin Party in Dundalk to attend a Sinn Féin meeting to discuss their planning application. This is the issue which is at the core of planning policy. They had to go to a political party meeting, adjudicated by what they call a chairperson. Deputies and councillors may have been present. The decision would then be given to the applicants some days later by a gentleman from Sinn Féin, or some other organisation, knocking on their door and telling them whether or not it was backing them. That should not be happening. It is wrong and it is abuse.

**Deputy Darragh O'Brien:** That is outrageous.

**Deputy Fergus O'Dowd:** I had the temerity to bring the matter to the attention of the Office of the Planning Regulator and it was not too interested in it. There are many abuses of planning but political planning, where people must attend the headquarters of Sinn Féin or any other party to make their case is absolutely unacceptable.

**Deputy Darragh O'Brien:** Hear, hear.

**Deputy Fergus O'Dowd:** It is wrong and disgraceful and Sinn Féin Members of this House should come in here and tell the truth about what is going on up there.

I have one last point and I hope I make it well and fairly. It is wrong for a county council to have a rule stating that if someone owns a house anywhere else they cannot apply for planning permission. That has to be unconstitutional. At the end of the day, the responsibility rests with the councillors who make the plan to exclude that as an option in the development plan. If that is excluded it cannot happen, which would mean a person could apply. There is a lot more work to be done. We need more transparency and accountability. We must not have political decision-making in any political party's head office on a person's county development plan submission. It is wrong.

**Deputy Michael Ring:** I agree with all the previous speakers. The one common denominator in all contributions has been consistency with planners. What we have done in this country is not the Minister's fault. I blame fellas like Deputy Boyd Barrett and the Green Party, who come down to Mayo, Cork and Kerry wanting to build a holiday home but the minute they build it they do not want anyone beside them and they object. We had objections from Dún Laoghaire, Wicklow and Germany to local people building homes. This week, this State is 100 years old. It is 100 years since we signed the Treaty. The Minister must do something with local authorities and planners. There are inconsistencies with planners because some of them have been trained in Belfast and some in Dublin. There is no consistency.

We have a dictatorship in this country. It is not a political dictatorship but a public service dictatorship and it has got to such a stage now that they think they are more powerful than the Minister. The local authorities do not care about the Minister anymore. They are out of hand. When I was part of the previous Government I preached at every Cabinet meeting that these people were gone out of hand. The Dublin 4 media, RTÉ and all these media people criticise the likes of Deputies Durkan and Kehoe for making representations for the people who elect us. They want it left to An Taisce. They are the ones deciding on planning in this country now.

I am going to start a campaign in the new year. I have the fight back in me again and I am ready for a fight. If the Minister, the Taoiseach, the Tánaiste and Government do not kick on the public service I do not know where this country is going to be. It is time a small bit of power came back to the elected representatives.

**Deputy Mary Butler:** Hear, hear.

**Deputy Michael Ring:** I have been in this House nearly 26 years. I have a question for the Ceann Comhairle and the Minister. Have they ever seen a public servant sacked or disciplined? Do they know what is done with them? They are rewarded and given a bigger office just to get rid of them if they are causing trouble. There has to be accountability. If these people were working for the private sector they would be accountable.

*0 o'clock*

There is no accountability in the public service. There are fellas here who will lick the county managers and there are fellas here that rub them. It is time that power was brought back to the elected representatives in this country. The Minister is an elected representative and he might think this is a joke but if we do not bring power back to the people then the people will take the power from the politicians. There was talk about the Ard Comhairle or Sinn Féin, bringing people to public meetings.

**Deputy Paul Kehoe:** The Army Council.

**Deputy Michael Ring:** When the Army Council is on one corner and the public servants are in the other corner then it is going to be hard luck for this country so it is.

**An Ceann Comhairle:** That certainly was a very colourful contribution, Deputy Ring. No more than we would expect. Thank you very much.

**Deputy Paul McAuliffe:** Ceann Comhairle, apart from that being a disgraceful slur on many public servants, I ask Deputy Ring to correct the record of the House. The State was not founded 100 years ago. The State was founded when the Republic was declared by the first Dáil.

**An Ceann Comhairle:** Thank you very much. The bottom line is that the vast majority-----

**Deputy Michael Ring:** I will tell the Deputy-----

**An Ceann Comhairle:** No, Deputy, please. The vast majority of us do not want to see anybody fired from any job.

**Deputy Michael Ring:** Do Members not remember? When the Treaty was designed, it was-----

*(Interruptions).*

**An Ceann Comhairle:** Please, Deputy Ring.

*(Interruptions).*

**Deputy Michael Ring:** When the Treaty was designed it was-----

**An Ceann Comhairle:** Deputies, please. It is extremely late and that possibly does not bring out the best in any of us.

*(Interruptions).*

**Deputy Mary Butler:** We need our beds.

**An Ceann Comhairle:** Let us contain ourselves. Deputy Steven Matthews wants to make a contribution.

**Deputy Mary Butler:** Follow that.

**Deputy Steven Matthews:** It is always a tough act to follow Deputy Ring but I will do my best here. In my contribution I will do my best to defend the planning system, the planners and An Taisce that have all been criticised here tonight.

**Deputy Michael Ring:** The Deputy is finished with me.

**Deputy Steven Matthews:** I was probably finished with the Deputy well before I started this speech.

I have listened to planners being criticised in council chambers and up and down the country for the decisions that they make. The planners do not plan decisions out of thin air. The plan-

ners make their decisions based on a county development plan and the objectives contained therein or on a local area plan. The objectives contained in those plans are put in there by the councillors. The councillors craft a plan.

**Deputy Michael Fitzmaurice:** They interpret the decisions made about a plan.

**Deputy Steven Matthews:** I did not interrupt Deputy Fitzmaurice. I will discuss one-off rural housing in a minute because I notice, Ceann Comhairle, that this discussion on an amendment tabled by Deputy Cian O’Callaghan has turned into a discussion on one-off rural housing. The discussion on one-off rural housing is always just very shallow and below the surface when we talk about any planning matters in this country. I will come back to the amendment but I just need to correct some of the things that were said here if the Ceann Comhairle allows me the time to do that.

I think that the criticism of planning profession is unfair. Recently I was at the Irish Planning Institute conference in Wexford where we heard contributions from across the board from people who have an interest in planning, professional planners and people who contribute to the fine profession, of which planners are members, up and down this country.

I have heard planners being criticised in the Chambers unfairly. When people have a planning decision go against them they think that the planning system is corrupt, ridiculous or does not work. When they get a planning decision that goes their way suddenly the planning system is the best thing in the world and the planners are great. We need consistency. People have criticised here tonight and said that there is no consistency. In criticising the planners’ decisions, we are saying that we do not want to have consistency in the planning system. We have to have planning consistency for people and developers who apply for planning permission, and for people who invest in developments in the planning system.

Recently we had a long debate and discussion on the Maritime Area Planning Bill. It is another planning matter and I hope that the Ceann Comhairle will allow me to explain why I mention the Bill. An amendment was tabled to that Bill, which was vague, uncertain and talked about interim measures. In my view the amendment would have brought an inconsistency and uncertainty to the system that would have resulted in contested decisions, quite rightly contested because the amendment did not accurately define what the Members sought. I learned a lesson that day that when one crafts legislation, in the same way that we craft development plans, it needs to be sure and precise because there is a huge amount of investment involved and people’s homes depend on this planning legislation being correct.

**An Ceann Comhairle:** I thank the Deputy and must interrupt him.

**Deputy Steven Matthews:** Am I out of time? Yes. Unfortunately, I am out of time. I would like to have gone on to defend An Taisce, which has an exemplary record in the planning system.

**An Ceann Comhairle:** Deputy Steven Matthews made a very valid point. He emphasised the need for us to have a debate on this particular matter in the new year when we return after Christmas. I regret being involved in the debate as I have been-----

**Deputy Darragh O’Brien:** I am sure you do. So do I.

**An Ceann Comhairle:** -----because of the debate that took place here before. I have to

say that in 36 years of experience at local government and national levels, I would say yes, the planning system has been consistent. It has been consistent in its inconsistency and that is the difficulty but let us debate that matter in the new year as the opportunity arises.

The time permitted for this particular debate having expired, I am required to put the question in accordance with the order of the Dáil of 7 December: “That, in respect of each of the sections undisposed of, the section is hereby agreed to in Committee, the Title is hereby agreed to in Committee, the Bill is accordingly reported to the House without amendment, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

### **Criminal Justice (Smuggling of Persons) Bill 2021 [Seanad]: Committee Stage (Resumed)**

#### NEW SECTIONS

Debate resumed on amendment No. 5:

In page 11, after line 40, to insert the following:

#### **“Report on operation of the Act**

**11.** The Minister shall, on an annual basis following the passing of this Act, lay a report before both Houses of the Oireachtas detailing—

- (a) the number of prosecutions not pursued due to a humanitarian defence,
- (b) the number of prosecutions pursued where a humanitarian defence was employed, and
- (c) any impact which this Act may have had in respect of the level of engagement of humanitarian organisations in humanitarian activity in respect of smuggled persons.”.

**Deputy Catherine Connolly:** I understand that amendments Nos. 5 to 7, inclusive, are being discussed together. It is late and I am not going to speak too long to these amendments. I have said all that I have to say about this Bill. It is unfortunate that the defence we sought was removed; it should have been treated as an exemption if one is a humanitarian organisation or acting for humanitarian purposes. We have lost that.

Amendments Nos. 5 to 7, inclusive, are very basic amendments. I understand the Minister of State does not propose to accept these amendments but maybe I am wrong. These amendments are so factual that I am going to read them out.

Amendment No. 5 reads: “The Minister shall, on an annual basis following the passing of this Act, lay a report before both Houses of the Oireachtas detailing— (a) the number of prosecutions not pursued due to a humanitarian defence”. This speaks directly to what the Minister of State said on the last occasion, that he did not expect any prosecutions to be brought if it was

a humanitarian organisation or someone acting for humanitarian purposes. We need to see the evidence for that.

The amendment continues: “(b) the number of prosecutions pursued where a humanitarian defence was employed, and (c) any impact which this Act may have had in respect of the level of engagement of humanitarian organisations in humanitarian activity in respect of smuggled persons”. All of the research, comments and evidence from the organisations on the ground are that this legislation will have a chilling effect on humanitarian activities.

Amendment No. 6 provides the Minister shall, within 12 months of the passing of this Act, lay a report before both Houses in regard to training and so on. That is clearly set out. Amendment No. 7 provides that the Minister shall, within 12 months of the passing of this Act, lay a report before both Houses of the Oireachtas setting out proposals to strengthen the identification of smuggled persons and the potential for human rights experts from non-governmental organisations, NGOs, to assist in identification and support of smuggled persons. This comes directly from the UN protocol, which sets out the protection of smuggled persons as one of its main purposes.

I will finish by referring to some of the recommendations of the Irish Human Rights and Equality Commission, IHREC, in regard to the absence of data. The commission informed us - this was at the point when the Bill was at general scheme stage - that the Bill is silent on data collection, as it still is. The Office of the High Commissioner for Human Rights, OHCHR, recommends that states should continually assess the human rights impact of migration measures and consider facilitating independent monitoring of the operation of migration policies and legislation. It further states that the Council of the European Union has stressed the need to significantly increase and improve the collection, sharing and analysis of data and knowledge about migrant smuggling in order to develop more effective, co-ordinated evidence-based policies. On the previous occasion, I cited the European Parliament and I will do so again. It states that member states should put in place adequate systems to monitor the enforcement and effective practical application of the facilitators’ package - which is the overall name for the directive and decision that this legislation is trying to implement - by collecting and recording annually information about the number of people arrested for facilitation at the border and inland and so on. There are, therefore, any number of organisations telling us that we need to collect data.

In regard to human trafficking, Ireland has been placed on a watch list by a particular organisation in the United States. The Minister of State took exception to us quoting it on the last occasion, but they are the facts.

I ask the Minister of State to take on board these three amendments. I indicated that I could not vote for this legislation, even though I see the importance of it in terms of strengthening the penal procedure and penal provisions to stop smuggling and to catch smugglers. Unfortunately, in trying to do that we have made it much harder for humanitarian organisations on the ground by not providing them an exemption and by providing that we will only allow it as a defence, which is a penalty. Even if there is no prosecution, they are being penalised. That is unacceptable. I might have supported the Bill if the Minister of State had been prepared to take these three amendments on board because they are very factual. It would show that the Government is opening to learning and to putting the evidence before us and, in the future, changing the legislation accordingly, if necessary.

**An Ceann Comhairle:** I omitted to mention that there are four Ministers present to em-

phasise the importance of this particular matter, which is particularly good. The next speaker is Deputy Howlin.

**Deputy Brendan Howlin:** I, too, will try to be brief. This is important and timely legislation. Members may not be aware of it, but today, 8 December, is the 20th anniversary of the finding of a container in Wexford, my home town, wherein Kurds and Turkish men, women and children were entombed, five of whom died. There was a memorial service this morning, at which the chairman of Wexford County Council laid a wreath.

We need robust legislation to tackle those responsible, who make money from the misery of human trafficking, but this has to be done in a way that facilitates humanitarian actions. I know that is the Minister of State's intention as we have debated it at length. The Minister of State tells us that section 9 of the Bill provides the humanitarian assistance defence. The issue about which we have been arguing over the last three nights we have been debating this legislation is that it is a defence that can be deployed by humanitarian organisations *post facto*, that is, after a prosecution is commenced. We argued on previous amendments that that is the wrong balance and that there should be an exemption for clearly defined humanitarian action such that any humanitarian actor assisting a migrant cannot fall foul of or be caught in legislation designed to deal with traffickers.

At the core of the Minister of State's argument is a simple fact that since the initial legislation was enacted 20 years ago, there have been only two prosecutions. The Minister of State has told us that that is because it is impossible to prosecute a human trafficker or a people smuggler because financial gain has to be proved and that has proven impossible. Unfortunately, the flaw in the Minister of State's argument is that he does not know that to be the fact because he has never provided us with the data as we do not collect data. How many prosecutions have failed? How many investigations have reached the point of "if only we could prove this net point, we could prosecute". We do not know that.

Deputy Connolly's amendment No. 5 provides that going forward we should be armed with that data. That is not only a reasonable proposal, it is an essential one. The amendment provides that the Minister shall, on an annual basis following the passing of this Act, lay a report before both Houses of the Oireachtas detailing the number of prosecutions not pursued due to a humanitarian defence, the number of prosecutions pursued where a humanitarian defence was employed and any impact which this Act may have had in respect of the level of engagement of humanitarian organisations in humanitarian activity in respect of smuggled persons. Surely, that is data we need to have to know that we are actually doing what the Minister of State or the House wants to do, namely, to put in place robust legislation that will enable us to prosecute people traffickers who are gaining financial benefit from human misery while, at the same time, ensuring that we in no way criminalise, even to the point of threatening to prosecute, bona fide humanitarian actors, be they organisations or individuals, who are simply motivated in rescuing people in peril through desperation, whether embarking in the back of a truck into the ports of Rosslare or Waterford or on a rubber raft approaching our coast, or the coast of any other country because this legislation is multinational in scope with international jurisdiction.

I ask the Minister of State to consider and accept these amendments. This legislation is important and I will be supporting it and recommending that my party supports it, but it will be flawed if we do not have the data that Deputy Connolly's amendments would require the State to provide to the Oireachtas on an annual basis.

**Deputy Peadar Tóibín:** This is a very important debate. I will be supporting Deputy Connolly's amendments, both in terms of providing the House with the statistics on prosecutions but also with regard to the protection of smuggled persons from prosecutions from the act of being smuggled. The Bill is silent on the rights of smuggled persons - victims - and that is wrong. I have no doubt that fear of prosecution or deportation is deterring victims from coming forward to report those who smuggled or trafficked them. Statistics released to Aontú are startling. I credit Luke Silke for the work he has done on this. These statistics were provided by the Department of Justice in the past week. They show that in the past decade there have been 1,000 offences for sexual exploitation or trafficking of persons before the courts. Shockingly, the vast majority of these cases relate to the sexual exploitation of children and, incredibly, of these 1,000 cases, a mere three people have been convicted in a District Court.

It would be fair to say this is not the full picture. For those where charges have been brought against persons, there are many others who never see the light of day or remain undetected by gardaí. There has to be an answer to that crisis that is happening in Ireland. This is happening in real time. It is happening in every town and city in the country where children are being trafficked into this country and are being sexually exploited. It is barbaric and it demands a far more rigorous response from this Chamber and from this Government. We need to strengthen the laws, not only on smuggling but also on trafficking. Unfortunately, given that Government has already indicated its opposition to these amendments, many smuggled persons will refrain from reporting offences because they are afraid they will face prosecution or deportation as a result of coming forward, and that means that many of these terrible crimes will continue. I urge the Government to support these amendments.

**Minister of State at the Department of Justice (Deputy James Browne):** I thank Deputy Connolly for her proposed amendments. I will speak to the three grouped for discussion: amendment No. 5 in respect of reporting around prosecutions in humanitarian assistance, and amendments Nos. 6 and 7 in respect of training and identification.

Like Deputy Howlin, I would like to remember the tragic events that unfolded in Wexford 20 years ago yesterday, 8 December - we are gone into the 9th now. Deputy Howlin, on a previous occasion, expressed very eloquently the experience that day. The Deputy was there on the ground on that day. We think of those families and those people today and what those surviving families are still going through. They were Kurdish and Turkish.

I appreciate the concerns that have been raised in respect of the approach to humanitarian assistance but I do not intend to revisit the discussions we had previously. I accept we have good faith differences on that point of what is the correct approach, but I will limit my comments to the amendments at hand.

I would first emphasise that a post-enactment report will be prepared on this Bill in accordance with Standing Orders and laid before this House, and this will provide an opportunity to address some of the issues of concern to the Deputies. I think it is fair to say that should the scenario Deputy Connolly is afraid of come to pass, a politicised prosecution of an NGO, it will be, by definition, in the public eye and we will all be very much aware of it.

This will also be considered at a European level in the coming years. The European Commission is committed to a review of the action plan against migrant smuggling in 2023, which will consider a range of matters, including the types of measures that are being implemented in member states and the effectiveness of the facilitators' package. If necessary, the Commis-

sion will propose to revise the legal framework, and implementation of that will come before the Oireachtas in due course. I look forward to seeing this EU review take place. Throughout these debates, the message has come through very clearly regarding the vital importance of a coherent migration plan across the bloc and, indeed, the deficiencies in the current approach.

We have revisited some harrowing experiences of migrants trying to escape what are simply desperate situations and acknowledge the difficulties they face in seeking safe passage and what they sacrifice to seek safe haven for themselves and for their families. Of course, it is also not lost on me that this Bill is being debated today, on that 20th anniversary.

More specifically, amendment No. 5 envisages an annual statutory report on the number of prosecutions pursued and not pursued due to humanitarian defence. I understand where the Deputy is coming from but I do not believe it is practical. Any possible prosecution goes through several stages from suspicion and investigation to the preparation of a file for the Director of Public Prosecutions, DPP, and a direction to prosecute. It may be the case that an investigation is not pursued at an early stage where it is clear it would fall under the defence. It would also almost always be the case that there are multiple factors influencing a decision whether to prosecute. Any statistics would be inherently misleading.

In respect of subsection (c) of the amendment dealing with the effect of the Act on humanitarian organisations, I do not see an annual statutory reporting obligation as being an appropriate way of assessing this. It may well be the case that further research would be valuable in terms of perspectives of NGOs towards Ireland's approach to migrants and how we protect those in vulnerable situations, but to be valuable that needs a wider scope than this Act.

In terms of amendments Nos. 6 and 7, these focus on training, in particular, around identification. How we identify those in vulnerable situations is clearly very important. However, I would suggest that this is better addressed in the upcoming trafficking legislation in respect of human trafficking and the national referral mechanism. People who are vulnerable and require protection may or may not have been smuggled, they may or may not have entered into the State irregularly, and they may or may not be in the international protection process. Looking at these issues through a smuggling lens is not, in my view, the correct approach.

As I mentioned on Second Stage, this House will be aware there is significant work ongoing in this area. I referred to some aspects of this in my Second Stage speech. These include the appointment of a national rapporteur, the development of the national referral mechanism, and the development of a new action plan on trafficking with legislation to go alongside that. There has also been work on developing of training through NGOs targeting front-line staff in hospitality, airline and shipping industries who may have come into contact with trafficked persons, and providing dedicated accommodation for female victims of sexual exploitation.

There are also improvements being made to the criminal justice system to support victims through the implementation of Supporting a Victim's Journey, the running of a new awareness-raising campaign in partnership with the International Organization for Migration, an increase in funding for support of victims of crime generally, and increased funding dedicated directly to supporting victims of trafficking. The Department is reforming the criminal justice system to ensure all victims, including those both smuggled and trafficked, are better supported and empowered. It is vital that victims are confident in the knowledge they will be supported, informed and treated with respect and dignity by the system and by everyone they come into contact with as part of their journey.

8 December 2021

In the circumstances, I cannot accept the amendment.

Amendment put:

<i>The Committee divided: Tá, 50; Níl, 72; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Brophy, Colm.</i>	
<i>Bacik, Ivana.</i>	<i>Browne, James.</i>	
<i>Brady, John.</i>	<i>Bruton, Richard.</i>	
<i>Browne, Martin.</i>	<i>Burke, Colm.</i>	
<i>Buckley, Pat.</i>	<i>Burke, Peter.</i>	
<i>Cairns, Holly.</i>	<i>Butler, Mary.</i>	
<i>Carthy, Matt.</i>	<i>Cahill, Jackie.</i>	
<i>Clarke, Sorca.</i>	<i>Calleary, Dara.</i>	
<i>Connolly, Catherine.</i>	<i>Canney, Seán.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Cannon, Ciarán.</i>	
<i>Cronin, Réada.</i>	<i>Carey, Joe.</i>	
<i>Crowe, Seán.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Cullinane, David.</i>	<i>Chambers, Jack.</i>	
<i>Daly, Pa.</i>	<i>Collins, Niall.</i>	
<i>Doherty, Pearse.</i>	<i>Costello, Patrick.</i>	
<i>Donnelly, Paul.</i>	<i>Coveney, Simon.</i>	
<i>Ellis, Dessie.</i>	<i>Cowen, Barry.</i>	
<i>Farrell, Mairéad.</i>	<i>Crowe, Cathal.</i>	
<i>Fitzmaurice, Michael.</i>	<i>Devlin, Cormac.</i>	
<i>Funchion, Kathleen.</i>	<i>Dillon, Alan.</i>	
<i>Gannon, Gary.</i>	<i>Donnelly, Stephen.</i>	
<i>Gould, Thomas.</i>	<i>Duffy, Francis Noel.</i>	
<i>Guirke, Johnny.</i>	<i>Durkan, Bernard J.</i>	
<i>Howlin, Brendan.</i>	<i>English, Damien.</i>	
<i>Kelly, Alan.</i>	<i>Feighan, Frankie.</i>	
<i>Kenny, Gino.</i>	<i>Flaherty, Joe.</i>	
<i>Kerrane, Claire.</i>	<i>Fleming, Sean.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Foley, Norma.</i>	
<i>McNamara, Michael.</i>	<i>Griffin, Brendan.</i>	
<i>Munster, Imelda.</i>	<i>Harris, Simon.</i>	
<i>Murphy, Catherine.</i>	<i>Haughey, Seán.</i>	
<i>Murphy, Paul.</i>	<i>Heydon, Martin.</i>	
<i>Mythen, Johnny.</i>	<i>Higgins, Emer.</i>	
<i>Nash, Ged.</i>	<i>Hourigan, Neasa.</i>	
<i>O'Callaghan, Cian.</i>	<i>Humphreys, Heather.</i>	
<i>O'Rourke, Darren.</i>	<i>Kehoe, Paul.</i>	
<i>Ó Broin, Eoin.</i>	<i>Lahart, John.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>Lawless, James.</i>	

*Dáil Éireann*

<i>Ó Ríordáin, Aodhán.</i>	<i>Madigan, Josepha.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Martin, Catherine.</i>	
<i>Pringle, Thomas.</i>	<i>Matthews, Steven.</i>	
<i>Quinlivan, Maurice.</i>	<i>McAuliffe, Paul.</i>	
<i>Ryan, Patricia.</i>	<i>McConalogue, Charlie.</i>	
<i>Shortall, Róisín.</i>	<i>McGrath, Michael.</i>	
<i>Stanley, Brian.</i>	<i>McHugh, Joe.</i>	
<i>Tóibín, Peadar.</i>	<i>Moynihan, Aindrias.</i>	
<i>Tully, Pauline.</i>	<i>Moynihan, Michael.</i>	
<i>Ward, Mark.</i>	<i>Murnane O'Connor, Jennifer.</i>	
<i>Whitmore, Jennifer.</i>	<i>Noonan, Malcolm.</i>	
<i>Wynne, Violet-Anne.</i>	<i>O'Brien, Darragh.</i>	
	<i>O'Brien, Joe.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connor, James.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donnell, Kieran.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Gorman, Roderic.</i>	
	<i>O'Sullivan, Christopher.</i>	
	<i>O'Sullivan, Pádraig.</i>	
	<i>Ó Cathasaigh, Marc.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Richmond, Neale.</i>	
	<i>Ring, Michael.</i>	
	<i>Ryan, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Smyth, Ossian.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Varadkar, Leo.</i>	

Tellers: Tá, Deputies Catherine Connolly and Brendan Howlin; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

**Deputy Catherine Connolly:** I move amendment No. 6:

In page 11, after line 40, to insert the following:

**“Report on training**

**11.** The Minister shall, within 12 months of the passing of this Act, lay a report before both Houses of the Oireachtas outlining—

(a) the training provided to frontline staff involved in the identification of smuggled persons,

(b) measures which may be taken to improve such training in particular in relation to the provision of supports that a smuggled person may need in order to exercise their rights under international protection, and

(c) consideration of the need for additional personnel, including independent civilian experts.”.

Amendment put and declared lost.

**Deputy Catherine Connolly:** I move amendment No. 7:

In page 11, after line 40, to insert the following:

**“Report on identification of smuggled persons**

**11.** The Minister shall, within 12 months of the passing of this Act, lay a report before both Houses of the Oireachtas setting out proposals to strengthen the identification of smuggled persons and the potential for human rights experts from non-governmental organisations to assist in identification and support of smuggled persons.”.

Amendment put and declared lost.

Sections 11 to 30, inclusive, agreed to.

TITLE

Question proposed: “That the Title be the Title to the Bill.”

**Deputy Michael McNamara:** Vótáil.

**An Ceann Comhairle:** Will the Deputies claiming a division please rise?

*Deputies Connolly and Pringle rose.*

**An Ceann Comhairle:** As fewer than ten Members have risen I declare the question carried. In accordance with Standing Order 82 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Bill reported without amendment and received for final consideration.

Question proposed: “That the Bill do now pass”.

**Deputy Michael McNamara:** It is not agreed. That is the point. It is what we disagree on.

Question put and declared carried.

The Dáil adjourned at 12.55 a.m until 9 a.m. on Thursday, 9 December 2021.