



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 29 Meitheamh 2022

Wednesday, 29 June 2022

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.10 a.m.

Paidir.

Prayer.

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 37A and the name of the Member in each case: (1) Deputy Steven Matthews – to discuss the provision of the school meals programme for newly awarded Delivering Equality of Opportunity in Schools, DEIS, status schools for September 2022; (2) Deputy Carol Nolan - to discuss an update on the status and operational timeline for the new primary care centre in Birr, County Offaly; (3) Deputies Emer Higgins and Fergus O’Dowd - to discuss subsidising gluten-free foods for those with coeliac disease and simplifying the process of claiming tax relief on gluten-free foods; (4) Deputy Holly Cairns - to discuss with the Minister for Health the 206 people who had to travel to the UK for a termination of pregnancy in 2021; (5) Deputy Michael Creed - to ask the Minister for Education if she will urgently review the design brief in respect of a new school in County Cork given the current enrolment and projected population growth in the area and the demand for additional classroom accommodation in adjacent new primary school buildings; (6) Deputy Christopher O’Sullivan - to discuss with the Department of Children, Equality, Disability, Integration and Youth the unsuitability of the new core funding model for many early educators and childcare providers; (7) Deputy Richard Bruton - to ask that the Cabinet establish a cross-government group to respond to the recent report on safeguarding adults who are vulnerable to abuse; (8) Deputy Brian Stanley - to discuss with the Minister for Health the lack of dental services for children and the current difficulties with the dental treatment services scheme in counties Laois and Offaly; (9) Deputy Jennifer Carroll MacNeill - to discuss the third national strategy announced on Tuesday, 29 June and the plans for its implementation; (10) Deputy David Stanton - to discuss with the Minister for Justice the urgent need to put in place a system to accommodate Irish students who require clearance to take up training positions on foreign-registered cruise liners as part of their training; (11) Deputy Brendan Griffin - to discuss the need for a motor tax renewal waiver; (12) Deputy Maurice Quinlivan - to discuss with the Minister for Health the HIQA report on the inspection of the emergency department at University Hospital Limerick, UHL, and ask him to outline what steps are being taken to address the concerns outlined in the report; and (13) Deputy Niamh Smyth - to discuss the need to urgently address the cuts to

North-East Doctor on Call, NEDOC, services in Cavan-Monaghan.

The matters raised by Deputies Carroll MacNeill, Matthews, Higgins and O'Dowd, and O'Sullivan have been selected for discussion.

Saincheisteanna Tráthúla - Topical Issue Debate

Domestic, Sexual and Gender-based Violence

Deputy Jennifer Carroll MacNeill: Yesterday was a very significant and important day with the publication of the third national strategy on domestic, sexual and gender-based violence. I thank the Minister and congratulate her on her work in steering the Department towards the strategy's publication yesterday. It is an extremely far-reaching strategy but its real strength is that it has been built on exceptional collaboration between the Government and the sector, including the service providers in the area of domestic violence and NGOs representing women and men who have experienced such difficulties in their homes and workplaces and on our streets for many years. This strategy and the implementation plan that goes with it are a real step forward by the State. What will be important now is how we measure its implementation by the various Departments, including the Departments of Education, Children, Equality, Disability, Integration and Youth, and Justice, because the implementation plan is very detailed. I congratulate the Minister on that.

The reason we need this strategy is well known and that has been especially the case over the Covid-19 period. This year, facilitated by the Ceann Comhairle, I have been reading into the Dáil record the names of the far too many women who have died at the extreme end of gender violence, that is, femicide. The 244 women who have died in violent circumstances over the last 25 years have been identified by Women's Aid. If the Leas-Ceann Comhairle does not mind, I will read out the names of those who died in the months of July and August in each of past 25 years.

Those who died in July were Jamie Maughan Farrelly, Xiang Yi Wang, Eileen Coyne, Bridget McFadden, Margaret Concannon, Carmel Marrinan, Elizabeth Troy, Paiche Onyemachi, Sheola Keaney, Mary Sleator, Linda Evans Christian, Catherine McEnery, Nicola Vonkova, Nora Kiely, Marie Quigley, Deirdre Jacob and Debbie Fox.

Those who died in August were Margaret O'Sullivan, Maura McKinney, Fiona Pender, Catherine Doyle, Margaret Murphy, Chantal Bergeron, Carmel Coyne, Mook Ah Mooi, Lynette McKeown, Frances Ralph, Ann Walsh, Breda Ryan, Jean Gilbert, Eugenia Bratis, Elizabeth Duff, Jacqueline McDonagh, Elaine O'Hara, Aleksandra Sarzynska, Carol McAuley, Clodagh Hawe, Antoinette Corbally and Neasa Murray.

Sometimes, when names are read out like that it can seem like a list. It can seem a little prosaic but every single one of those names is a woman who died in violent circumstances. Every single one is a woman who is missed by her family and friends. Friends and families of those women have contacted me since, not to thank me but to acknowledge their remembrance in the Dáil. It is the reason this Government and the Minister have been working so hard towards this

strategy and towards developing a culture of zero tolerance.

Of course, the issue is not just femicide but everything before that point. It is every measure of harassment and every entry-level aggression. It is all the things that contribute to making women feel unsafe and make all the women inside and outside the Oireachtas act differently from their male counterparts, whether it is in the workplace or when going home at night on public transport. It is all the things women have had to put up with and which, at the very extreme end, can result in what I have described. This strategy paves the way towards helping to reach the serious cultural change that I hope will underpin a different experience for the next generation over the coming 25 years from the experience of the generation that has gone before.

Minister for Justice (Deputy Helen McEntee): I thank Deputy Carroll MacNeill for raising this issue. In particular, I thank her for the way in which she has remembered and acknowledged each and every one of those women who, as she rightly said, died in such violent ways in the past number of years. The memories of those women and their families and friends, and the memories of the many other women who have been victims of domestic, sexual and gender-based violence, were at the forefront of all our minds yesterday and over the last 18 months or two years as this strategy was developed and launched.

What is different about this strategy is that we worked in a real spirit of collaboration. My Department worked very closely with Safe Ireland, the National Women's Council of Ireland and every Department across government to make sure we produced a whole-of-government strategy that works very closely with those who are working on the front line with women, men and children day in, day out. Above all, it is to make sure that we as a Government come together to make sure this is a priority for us.

This €363 million strategy is built on the four pillars of the Istanbul Convention, namely, prevention, protection, prosecution and policy co-ordination. Above all, it has set a very ambitious target of zero tolerance for any kind of domestic, sexual and gender-based violence and, indeed, the attitudes that underpin it. I have been asked many times what we mean when we say zero tolerance. It is about changing attitudes and perceptions and how we deal with domestic, sexual and gender-based violence. For all of us, it is about changing hearts and minds. To paint a picture, it is about not accepting violence, abuse, sexual abuse or any type of abuse, financial or otherwise, simply because it happens in a family unit behind closed doors. It is about all of us. We have all been guilty of laughing off comments or saying it is only a joke, of just walking away from someone when they are pestering us and saying we will leave them to it. It is also about getting back to the basics. At this stage, I think we all agree that we cannot simply say we should not talk to young children about these issues because they would not understand. Younger children are coming into contact with these issues more and more. It is important that we talk to young people from primary school age right up to secondary school and beyond about relationships and the difference between a healthy relationship and an unhealthy one, and as they get older what a healthy sexual relationship should be like.

What we have tried to do in this strategy, under all of the 144 actions, was focus on education and raising awareness of all of these issues and how we can better protect survivors. There is a very clear commitment to double the number of refuge spaces and accommodation that we currently have, which is not enough. We have 141 spaces, which is simply not enough. We are promising in this strategy to double the number and to go beyond what is in the strategy. It is important that we get the structure right and to do that we will work very closely with the sector and ensure the resources that are put in place are specific to the needs of women and children.

We must also make sure there are spaces available for men because while this issue predominantly impacts women, it also impacts men.

From a justice point of view, this is about being tough on perpetrators and making sure that if a person commits a crime, there is a penalty and a sentence at the end of process. We must also try to ensure we reform and rehabilitate and also have perpetrator programmes.

The final piece of the puzzle relates to policy co-ordination. The new strategy has a very clear implementation plan, dates, timelines and actions. It allows us to make sure we are doing the work we have said we will do. For the first time, we will put on a statutory footing a single agency that will have sole responsibility for domestic, sexual and gender-based violence. Under its auspices, we will deliver the services, improve standards and bring everyone together to ensure we implement this plan and it ultimately changes the behaviours we are trying to change.

Deputy Jennifer Carroll MacNeill: The implementation plan is crucial. Members of Government parties, the Opposition and the sector will rightly hold the Department and the agency to account on that. The plan shows a clear commitment to set out quarter by quarter exactly what is intended to be delivered by each Department. That is the only way to ensure implementation on a cross-government basis.

What the Minister said about education and the relationships and sexuality education programme is very important. It is core to this. Family law reform is also central to the issue. I have spoken to many different people who are experiencing ongoing controlling behaviours through the court processes. One of the ultimate abuses is to use one of the processes of the State against a partner or former partner to continue to exert control. It is one of the first issues I spoke about in the Dáil, and it goes on and on. It is a core part of this strategy. We have much improved the victim experience in court, but we have more to do. The crucial issue occurs before we get to court.

As the Minister indicated, it is about being believed. That is one side of the coin. All of us, including me, have laughed off comments and experiences. The only reason we did so was that the alternative was that we would not get a hearing, would not be believed or would not be taken seriously. It is simply easier to laugh off these things. That is why the zero tolerance approach is so important.

The video that was shown at the launch was exceptional. I hope it is pushed out more broadly because it really speaks to the experience of having a hand placed in appropriately on the shoulder or lower back and how that makes a person feel smaller. We know how difficult it is for a woman in that context to turn away or say something and to try not to disrupt the dynamic that is going on around her, despite it not being in any way her fault. It is about all of those small things. I hope everybody learned a great deal about that over the past two years. We have much more to do. I hope the video can get a much broader hearing. I know there is funding in the package to try to do exactly that public awareness piece.

Deputy Helen McEntee: On the Deputy's final point, there is funding available, and it will be part of the strategy to make sure we get that message across. It is important that we communicate what we are doing. Part of the role of the agency will be to work very closely with the sector in the way we have been doing. There is a campaign to raise awareness of the supports that are available and make it part of people's day-to-day thinking that this is an issue on which we need to respond and that we should not tolerate any longer.

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As regards education, while the focus on children is important, so too is the education of front-line professionals. As the Deputy said, when a person takes the step to come forward and even before he or she thinks about court, we must ensure the first person to whom he or she speaks, be it a healthcare professional, a member of An Garda Síochána or a counsellor, is trained and there is an understanding of the trauma the person may have gone through. There is significant focus in the Supporting a Victim's Journey plan, which has been translated and expanded in this strategy, to make sure this is not just about members of An Garda Síochána and the legal profession but that it goes even further and we have a very clear understanding of what a child, a person from a Roma or Traveller background, someone who has been sexually exploited or somebody from the LGBTQI+ community goes through and that we can respond to his or her needs.

As regards family law reform, the strategy works with a number of different strands in place in my Department and across many other Departments. I mentioned Supporting a Victim's Journey. There is also the issue of family law reform. The family court Bill will be brought to Cabinet before the summer recess and the family justice strategy that will accompany the Bill indicates the very clear need to ensure intersectionality between a civil case and a criminal case. As Deputy Carroll MacNeill stated, so often the abuse continues into the civil courts. There must be a way that we can prevent such abuse from continuing. In addition, we must ensure that legal professionals and others, in particular judges, are trained to understand such abuse. That is why it is so important that we have family courts that are specific to family cases and that judges are trained to deal with these types of issues. We are going even beyond that in this strategy to look at whether we will have judges trained specifically for domestic, sexual and gender-based violence.

I again thank the Deputy for raising this issue, on which I look forward to working with her and other Members.

School Meals Programme

Deputy Steven Matthews: I am delighted to have the opportunity to discuss this issue. The school meals programme is of vital importance to the students that benefit from it. The Minister of State, Deputy Fleming, will be aware that the Minister for Education, Deputy Foley, announced a €32 million investment and expansion of DEIS schools this year, which brings another 60,000 students into that support and benefits 310 schools. I welcome that. It is good that the Government recognises that there are students, schools, teachers and parents that need extra support. My concern is that it does not appear that the supply of school meals has been included in the budget for this year to support the 310 extra schools. It may well be the case that when the budget is passed in October those measures will be introduced, but it means that there will be a gap for the new DEIS schools from September up to that point. That is my understanding of the position. I hope measures will be put in place to increase the budget to allow for that.

School meals are provided under the Department of Social Protection's budget, whereas DEIS schools are funded under the Department of Education's budget. I wonder about the wisdom of that. It would probably make more sense to bring those together and have the entire DEIS programme, including school meals, supported by the Department of Education.

The school meals programme is of vital importance to children. Visiting schools over the past two years or so to discuss the environment, climate issues and projects and work the

schools are doing, I have met students of all ages. On some of my visits, hot meals have arrived. Apart from the nutritional benefit and the benefit to students in their studies of getting a hot meal during the day, it is also a social occasion for the children. It is great to see. We know what the benefits are when children get nutrition during the school day. It helps them with their education and improves their attention.

Many children go to school hungry and live in poverty and deprivation. The provision of school meals is a very small intervention by the Government to assist those children. I worked out that the budget for the school meals programme probably amounts to about €1 per day per student.

We also have the hot meals programme, which caters for 280 schools and approximately 54,000 students. I want to ensure we put in place a budget that enables the new DEIS schools to avail of the school meals programme from September onwards and that we finalise that in the upcoming budget.

Minister of State at the Department of Finance (Deputy Sean Fleming): I thank the Deputy for raising this issue. I take his point completely and will bring it back to the Minister. The school meals programme provides funding towards the provision of food to 1,506 schools and organisations, benefiting 230,000 children. The objective of the programme is to provide regular, nutritious food to children to enable them to take full advantage of the education provided to them. The programme is an important commitment of the Government and is a key component of policies to encourage school attendance and extra educational achievement.

The Government has provided €68.1 million for the school meals programme this year. In recent years, entry to the programme has been confined to DEIS schools, in addition to schools identified as having levels of concentrated disadvantage that would benefit from the school meals programme. Prior to the introduction of DEIS in 2005, all schools and organisations that were part of one of a number of the Department of Education and Skills' initiatives for disadvantaged schools, including Breaking the Cycle, Giving Children an Even Break, the disadvantaged area scheme, home school community liaison and the school completion programme, were eligible to participate in the programme.

Budget 2022 provided funding for all DEIS schools currently in the programme. Any provision to extend the programme to schools newly added to the DEIS programme will need to be considered as part of the budgetary process. That is what the Deputy is asking for but I accept that there is a time issue involved. We are absolutely committed to continuing to grow the school meals programme, particularly the hot school meals element, building further on the significant extensions announced in the last few budgets.

As part of budget 2019, funding was provided for a pilot scheme from September 2019, providing hot school meals in primary schools. The pilot involved 37 schools, benefiting 6,744 children for the 2019-20 academic year, and was aimed primarily at schools with no on-site cooking facilities. In budget 2021, we announced that an additional €5.5 million would be allocated to extend the provision of hot school meals to an additional 35,000 primary school children currently receiving the cold lunch option. In budget 2022, we provided for hot school meals to be extended from January 2022 to the 81 additional DEIS schools that submitted an expression of interest but were not selected as part of the extension to 35,000 children in budget 2021. That change came in on 1 January this year. The number of children currently in receipt of hot school meals is 54,236. This represents almost 10% of the total primary school popula-

tion. There are no secondary school children in receipt of hot school meals as the programme is aimed at primary schools with no on-site cooking facilities. We are actively working on this issue and I assure the Deputy that everything is being done to ensure we can support as many schools as possible. I again thank the Deputy for raising the matter.

We have heard from schools that when the hot school meals programme is available in some schools in a region, it is a disadvantage to schools that do not receive it. There are many provincial areas where there could be a few schools in a large provincial town and some have it but some do not. It is becoming an issue for enrolment.

I acknowledge the great work done by Marcus Rashford, the Manchester United and England soccer player, in this area, even though it is across the water. He went out on a limb to promote this issue last year and ensure children would get the meals at home during the Covid period. He helped raise the profile of this topic, not just in the UK but here in Ireland as well.

Deputy Steven Matthews: I thank the Minister of State. I am glad to have had the opportunity to raise this matter. I raised it yesterday with the Taoiseach during Questions on Policy and Legislation and I have submitted a number of parliamentary questions on it. While I welcome the expansion of DEIS schools, which is positive, I am concerned that we do not seem to have allocated any funding in the budget for those extra schools that are being brought into the school meals programme.

This is a targeted measure. We have recently been discussing the cost-of-living crisis. The cost of food is going to increase and mortgage interest rates will probably go up as well. It is a challenging time for people's personal finances. We have seen the benefit of the targeted measures the Government has introduced over the last 12 months, both in the previous budget and the emergency measures that were introduced. We have seen how those targeted measures have worked. This is an investment in children and their welfare to improve their education. Getting a meal during the day while at school helps children's attention and helps them concentrate so there are educational benefits as well as nutritional benefits. I am glad the Minister of State will take this back to the Minister. The Taoiseach understood clearly what I said yesterday and I think both the Minister for Social Protection and the Minister for Education have got the message from me as well. I hope we will see progress on this issue.

Deputy Sean Fleming: I appreciate the disappointment and frustration for the new DEIS schools that are keen to access the school meals programme. The level of interest in the programme is a clear sign of the need for its expansion and that is something we are committed to doing. I have had contact from schools that did not make the new DEIS allocations this year. That is the next group in line because there are quite a number of them. Some people felt the decision was arbitrary but there is an appeals system in place and maybe some more schools will be included in due course and be able to avail of the school meals programme.

The hot school meals programme has gone from a pilot with 37 schools in 2019 to 284 schools now covering 54,000 children availing of a hot meal as part of their school day. The significant extensions of the programme over a number of successive budgets outline our commitment to extending the provisions of hot school meals and building on what has been achieved to date. In this regard, the Minister for Social Protection has commissioned an evaluation of the school meals programme to be undertaken in 2022 to inform future policy direction and decisions on the scheme. What the Deputy has spoken about is a more short-term issue with regard to schools getting their meals provision as new entrants into the DEIS programme.

This evaluation will assess all aspects of the provision of school meals and will engage with all stakeholders. The evaluation is due for completion in November 2022. I am conscious that will be after the budget. The Deputy is asking about budget measures in the meantime. The provision of the school meals programme will be considered as part of the budgetary process for 2023 and all options for the possible inclusion of schools will be explored. I am not making any commitment but the budget focus this year will be on cost-of-living issues and this is a cost-of-living issue. Historically, we make announcements on budget day but sometimes they do not come into effect until January or later the following year. This issue should be put on the agenda for consideration for earlier implementation.

Tax Reliefs

Deputy Emer Higgins: I thank the Minister of State for taking this Topical Issue debate. Despite the fact that there is no register for coeliac disease in Ireland, the condition is estimated to affect up to 75,000 people in this country. I thank the Coeliac Society of Ireland, which is based in my constituency of Dublin Mid-West, in the heart of Clondalkin. It makes a huge contribution to the data we do have on coeliac disease in Ireland. It provides information and support and even the opportunity to purchase gluten-free food locally in Clondalkin. We have made great advances in the availability of gluten-free foods in Ireland. That can be seen in cafés and restaurants, where there are so many options and choices now. However, the fact stands that some gluten-free foods can cost up to 75% more than foods containing gluten. The cost of following a gluten-free diet is €444 more expensive for adults and €903 more expensive for parents of children with coeliac disease. That is not even counting the additional costs of healthcare. Following a gluten-free diet is more expensive. That is a fact. It is particularly so for low-income families and individuals.

We currently offer one tax refund of up to 20% of the cost of gluten-free products purchased but there are some difficulties around that. One issue is that many products that are gluten-free are not specifically marketed as coeliac-friendly foods. They may not even say that on the package. This causes problems for people because the products do not fall within the scope of the tax refund. The system needs to be simplified. Another issue is that the tax refund does not benefit those outside the PAYE system. A survey by the Spanish Federation of Coeliac Associations in March revealed that Ireland was an EU outlier in terms of providing support for coeliac patients who fell outside the PAYE system. Will the Minister of State examine this matter?

Deputy Fergus O'Dowd: Coeliac disease is a serious, lifelong illness. There is no cure for it and any person diagnosed with it must go on a gluten-free diet. The costs are clear. According to the Coeliac Society of Ireland, this food costs approximately €1,000 more per year on average. If you have a family, it affects the types of food that the whole family eats. It affects where you go for recreation and to eat.

I welcome the Revenue Commissioners' letter to me in May, in which they acknowledged that progress was being made. The Minister for Finance has stated that he wishes to make it easier for people suffering from coeliac disease to claim tax relief or, where they cannot and do not pay tax, to provide an additional benefit to them in terms of social welfare or whatever the case may be.

This is over to the Minister. The chairman of the Revenue Commissioners has stated that he is studying whether additional measures can be introduced to ease the administrative burden on

the taxpayer who is asked to provide additional documentation. What progress has been made in this regard? I understand that there is a willingness on the part of Revenue and the Minister for Finance's office to deal with this issue in an appropriate and caring way.

Deputy Sean Fleming: I thank the Deputies for raising this matter. I should point out that the issue of subsidising gluten-free foods for those with coeliac disease is a matter in the first instance for the Minister for Health. However, if the Deputies are suggesting that gluten-free foods for those with coeliac disease should be subsidised via the tax system, I will point out that decisions regarding tax reliefs and incentives are normally made in the context of the annual budget and Finance Bill process. Such decisions must have regard to the sound management of the public finances and to the Department of Finance's tax expenditure guidelines. The guidelines make clear that any policy proposal that involves tax expenditures should only occur in limited circumstances where there are demonstrable market failures and where a tax-based incentive is more efficient than a direct expenditure intervention.

Regarding the issue of simplifying the process of claiming tax relief on gluten-free foods, this is an issue that the Minister for Finance has addressed previously through parliamentary questions. By way of background, section 469 of the Taxes Consolidation Act 1997 provides for income tax relief where an individual proves that he or she has incurred costs in respect of qualifying health expenses. Furthermore, only health expenses incurred in the provision of healthcare that has been carried out or advised by a practitioner will qualify for income tax relief. To be clear, "health care" is defined as the "prevention, diagnosis, alleviation or treatment of an ailment, injury, infirmity, defect or disability". "Health expenses" are defined as "expenses in respect of the provision of health care" and may include, but are not limited to the services of a practitioner; diagnostic procedures; maintenance or treatment necessarily incurred in connection with the services or procedures carried out by or on the advice of a practitioner; and drugs or medicines supplied on the prescription of a practitioner.

I am pleased to state that coeliac patients may claim income tax relief in respect of the cost of foods that have been specifically manufactured to be gluten free. I am advised by Revenue that, in such cases, a letter from a medical doctor stating that the taxpayer is a coeliac sufferer is generally accepted as proof of entitlement to tax relief on such costs. However, I should point out that the arrangements exclude costs incurred in respect of gluten-free alcohol, which people will appreciate. I am further advised by Revenue that, as with all claims for tax relief, a taxpayer may be asked to provide additional supporting documentation to prove his or her entitlement to the tax relief claimed. The type of information that a taxpayer will need to provide will depend on the nature of the expense involved.

It is important to point out that, if a taxpayer is requested to provide receipts to support a claim for income tax relief on the cost of gluten-free foods, the receipts and documents provided should contain sufficient information to satisfy the Revenue office dealing with the claim that the costs incurred by the taxpayer relate to foods that have been specifically manufactured to be gluten free. In verifying claims for tax relief on gluten-free food, Revenue officials may accept either a chemist or supermarket receipt or evidence from food packaging in support of a claim if the information provided clearly demonstrates that the foods purchased have been specifically manufactured to be gluten free and show details of the expenditure incurred.

It is also worth pointing out that some multiples provide a service for coeliac sufferers to receive an annual statement showing details of any expenditure that they incurred on specific gluten-free products during the year. This statement can be used to validate a claim to Revenue.

Revenue officials may also accept information from the Coeliac Society of Ireland's annual food list if it is provided by a taxpayer in support of his or her claim for tax relief, together with proof of the expenditure incurred.

Revenue has engaged directly with the Coeliac Society of Ireland and, in correspondence earlier this year, invited the society to engage with it on the matter if the society had further queries.

Deputy Emer Higgins: There are six EU countries in which monthly aid, averaging €67.66, is provided to coeliacs. Following a gluten-free diet as a coeliac can be costly. In light of the rise in the cost of living and other inflation, this is an issue that we need to examine. We need to simplify and expand the current process.

I am grateful to the Coeliac Society of Ireland in Clondalkin for raising this issue with me and Deputy O'Dowd. I will remind my constituents that they can purchase gluten-free products in the society's shop in Clondalkin and use those receipts as part of their tax relief process.

I hope that we will see supports for coeliacs improving. The budget will form part of that plan in the context of non-PAYE supports and potentially expanding the tax relief.

Deputy Fergus O'Dowd: I am unhappy with the Minister of State's reply. I reject it absolutely. I know he was only reading from a script that he was given, but he said "the arrangements exclude costs incurred in respect of gluten-free alcohol." I do not know who wrote that, but if he or she believes that people who suffer from coeliac disease are guzzling alcohol and looking for a subsidy for that, then nothing could be further from the truth. People are concerned about the health impacts on them and their families for their whole lives: osteoporosis; amnesia; vitamin B deficiency; and various cancers. That script had a callous writer – the Minister of State did not write it – and what was in it was unacceptable. I reject its first paragraph, according to which this "is a matter in the first instance for the Minister for Health." As I told the Minister of State, the chairman of the Revenue Commissioners has made it clear that he accepts his responsibility. He went further, writing that the Minister for Finance had stated that he would ask his officials to discuss this matter with Revenue. He also wrote that Revenue was engaging with the Coeliac Society of Ireland.

The Minister of State has been given a bum steer. It is not good enough that someone would send him into the Dáil with that rubbish. I want to know what is happening and what progress is being made on Revenue's commitments. The script's writer would be hauled over the coals if he or she was in my office.

Deputy Sean Fleming: I thank the Deputies for their comments. I apologise for the insensitive reference in my script.

Deputy Fergus O'Dowd: It was absolutely unacceptable and offensive.

Deputy Sean Fleming: The issue mentioned is probably dealt with in legislation, but I accept that the context in which I read it out was insensitive. I hope that the Deputy will accept my bona fides in that respect.

I stated that the question of subsidising gluten-free foods for those with coeliac disease was a matter for the Minister for Health in the first instance, but let me explain. If it is not handled in that manner, Revenue and the taxation side can play a role. If it was handled by the Depart-

ment of Health in the first instance, though, then people might not need to go through the tax system. Since it is not being done through the Department of Health, the tax system is coming in as a safety net for some people. As Deputy Higgins pointed out, that does not address people who are not in the tax net, who are not covered by Revenue's intervention. Perhaps it should all be dealt with more holistically through the Department of Health and not require Revenue or taxation interventions. That is a longer term policy issue, but it would be a better solution and would not need to involve the Revenue Commissioners at all. I take Deputy Higgins's point.

People need to keep receipts and so on, but it can be done in a simplistic way. Most people's income tax returns are on a self-assessment basis. They just put down the figure for their medical expenses on a form each year. Only if they are subject to an audit must they produce receipts. It is not normal to have to send in all those receipts or go through all that paperwork. I take on board the importance of the issue from a health perspective. Where the Revenue Commissioners or the Department of Finance can help those income tax payers, we are happy to do so as best we can.

Childcare Services

Deputy Christopher O'Sullivan: I thank the Minister for taking this Topical Issue matter. He will remember that I intended to submit this matter a number of weeks ago and the Minister was not available to take it at the time, so I said I would come back to raise this important issue, which I am doing now. I know the Government is motivated to reduce childcare costs and that the Minister is motivated to do so as well. Since he Minister has taken office, a key goal of his has been to make childcare more affordable and accessible. In doing that, we have to ensure there is a childcare and early education service in place that can provide the service we are looking to provide to parents and guardians, which is very important.

I know the Minister says that, under the core funding model, an overwhelming majority of service providers will see an increase in funding and that only 1% will not see an increase. However, the bottom line is that if the new core funding model was fit for purpose, we would not have had a situation where hundreds of early childcare providers, early education providers, crèche operators and Montessori school operators descended on the gates of Leinster House like they did last week. I know the Minister went out to meet, address and listen to them, but the message I was getting is that the core funding model is not fit for purpose. It will be suitable and it will increase funding for a number of operators, which is right and merited, but we have to make sure nobody is left behind in this. That is incredibly important.

It is also important the smaller early childhood care and education, ECCE, operators are not left behind and I consider that they are. They are the people who were outside the gates of Leinster House last week. They were joined by many of the bigger chain operators in solidarity but it was mainly those smaller operators. My fear is that if we lose the smaller ECCE operators, we will leave gaps in services, especially in rural parts of Ireland. I am not being parochial and I know the favourite hobby of some Members is to list the towns and villages in their constituencies, but last week we had people from Skibbereen, Clonakilty, Aghyohil and Aghadown at the protest. The reason I mention those areas is not just to list off names but because if these ECCE operators find it hard to maintain and sustain their businesses under the new model, which they say they will, there will be gaps in services and parents and guardians will have to drive 7 km or 8 km to avail of childcare, Montessori and early education services. It seems to be affecting

those smaller operators in rural areas more than in the bigger urban areas.

It is also not right that we have situations where many members of staff are signing on during the summer months simply because their work is not sustainable. That is something they do not want to do because many of the staff, and I am not trying to call anyone out with this, are having to say they are available for work when they essentially are not because they will join the service again in September when it reopens. It is also not fair that there are situations where the early education operators may have received €80 per child under ECCE because they had graduates and they are now dropping down to €69 per child. They are essentially being penalised for having graduates on their books. It is not fit for purpose and I am asking for an amending of the core funding model and some bit of movement. All the providers are asking for is to bring that payment per child from €69 up to €100. It is a big ask but surely we can meet them somewhere in between so that we can keep that service available.

Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O’Gorman): I thank the Deputy for raising this issue, which he has done one on one with me on a number of occasions, and he has been a strong advocate for the sector. The Deputy is right that one of my goals as Minister is to reduce costs for parents, but I have always set out two other goals. My second goal is to ensure childcare professionals get properly paid, and we are about to achieve that through an employment regulation order, ERO. My third goal is to protect the sustainability of services. I want to reduce costs for parents, get better pay for staff and protect sustainability. Those are the three goals.

Core funding is the new funding stream to support the delivery of early learning and care, ELC, and school age childcare, SAC, for the public good, quality and affordability for children and families, sustainability and stability for providers and staff, and, importantly, accountability, transparency and value for money for the State, considering it is an investment of €221 million in the first year. Services that sign up for core funding will become partner services, working with the State to deliver SAC and ELC. Core funding is designed to improve quality for children, including through support for better terms and conditions for staff, underpinned by that ERO, improved affordability for parents by ensuring fees do not increase and the full benefits of the national childcare scheme, NCS, are felt, and offering stability to providers with an income that contributes to the cost of delivery and does not fluctuate with child attendance.

Core funding is worth €221 million in full-year costs, and that allows for an estimated 19% increase in the total cost base for the sector in the first year. That is a significant public investment in services so that services income may now include core funding, ECCE and NCS capitalisation, and parental fees. Core funding will be allocated based on the capacity of services being offered. Capacity is determined by a service’s opening hours, a service’s opening weeks, the number of child places, and the age group of the children being cared for. These are the primary drivers of services’ costs of delivery and this is, therefore, a fair, reasonable and logical method for distributing funding. Core funding is a new way of providing funding for the sector and it addresses some of the disparities in the previous system of funding. There is no solid foundation in evidence for the concerns that core funding will undermine the viability of services.

Every year a number of services close and others open. Current data show the closure trend is less than in previous years. These data also show services close for a wide range of reasons and few of those closures relate to sustainability. They are mainly to do with retirements and the like. The vast majority of services will see an increase in funding with the introduction of core funding, and less than 1% of services will see no change. No service will see a decrease in

funding. For any service that experiences financial difficulties, we have put in place the safety net of the sustainability fund. This new strand of the sustainability fund is directly linked to core funding and, for the first time, it is available to private services as well as to community services.

Core funding is designed to facilitate a partnership between the State and early learning and childcare services for the public good. With 94% of services currently participating in the transition fund and associated fee management, and with 83% of services having completed the sector profile, services have already shown considerable openness and willingness to engage. I have met providers, including meeting them at the Dáil last week, and I will meet their representatives. We will continue to work, listen and engage. This is the first year of core funding and this will deliver for the entire sector.

Deputy Christopher O’Sullivan: I appreciate the Minister’s response and I do not question his motivation on better pay for staff involved in the sector and in making childcare affordable and accessible for parents. We have to come back to the facts of the matter. We had hundreds of people protesting outside Leinster House last week. Many of these operators were being sustained on the employment wage subsidy scheme, EWSS, which has been removed, and they are finding it difficult to retain staff without that support. As well as that, the Minister mentioned the fact that core funding will lead to an increase in funding for the vast majority of service providers.

10 o’clock

The Minister says many of these providers, the 1% and those outside that 1%, will not be any worse off, but these same staff, operators and business owners protested in February 2020. At that point they were already unhappy with the *status quo*. Why would they all now suddenly be happy with it? They still believe this core funding model is not fit for purpose and it will not lead to the increases that would be appropriate to keep their businesses open.

There is a final, incredibly important point. As part of core funding there is a sustainability fund of approximately €20 million, if I am correct. That is in place to kick in if businesses are having difficulty remaining open and viable. With all due respect, why would there be a sustainability fund if we are not concerned about the viability of operators? That is an important point. All I ask is that we look again at the figure of €69. The operators are seeking €100. Surely there is a middle ground in between in the €221 million budget whereby we can keep everybody happy and keep the smaller operators in rural areas open to ensure we do not have a gap in services.

Deputy Roderic O’Gorman: I look at the sustainability fund in another way. I do not know many other sectors where the Government provides a safety net for private providers. We are doing that because we recognise the importance of this sector. Where there is a situation where a private provider has a sustainability issue, the Government is ready to step in. There are not many other sectors of private enterprise where the Government provides that safety net. That is how I look at the importance of the sustainability net - it is a final level of protection.

I emphasise that the ECCE two years and ECCE-only services remain a fundamental part of the offering. We recognise that different parents have different needs and terms. Some want full childcare and some just want the ability to do the early learning and care, the three hours per week or the sessional element. As part of our commitment to ECCE, we are undertaking

a significant evaluation of it at present. It is an evaluation I believe will result in ECCE being put on a statutory basis and enshrined in law, further copper-fastening the place of ECCE in the system. In terms of the access and inclusion model, AIM, which everybody recognises, last week I increased the capitation for AIM workers. AIM workers are only in ECCE services. I increased the capitation from €210 to €240, a 14% increase.

We are continuing to look at the system and where there are pressures. In the case of AIM workers, ECCE services were experiencing a pressure there, and we have responded to that pressure by increasing the capitation. We will continue to look at, address and refine core funding. Fundamentally, core funding is going to deliver for the sector, for services, for parents and for children.

Autism Bill 2022: Second Stage [Private Members]

Deputy Aodhán Ó Riordáin: I move: “That the Bill be now read a Second Time.”

I am sharing time with Deputy Bacik. Deputies Bacik, Nash, Duncan Smith and I have just come from a briefing with parents who live with autism every day of their lives. Once again, they told their stories of how they are trying to manage the system. As a result of that briefing and other discussions I and my colleagues have had, I feel a new onerous sense of great responsibility to bring their experiences to the House. They are in the Visitors Gallery. We welcome them and we want them to be part of the solution. We bring forward this Bill in good faith. We want it to be enacted into law. We want the children, young people and adults with autism in Ireland to have what their counterparts take for granted in Northern Ireland under its Autism Act 2011, what they have in England under its Autism Act 2009, and what they have in Malta under its autism empowerment strategy. We want a national autism strategy in Ireland.

The Labour Party brought forward a motion in April 2021 seeking a national autism strategy. We now find ourselves in June 2022 with a discussion, debate and controversy on the basic provision of school places for children. It is still a topic of debate. That shames us all. If any child is having a difficulty accessing a school place because he or she has autism, that is a disgrace. It is a disgrace to our Republic. We use the word “republic” a great deal and we speak about republicanism and living in a republic, but you cannot feel you are living in a republic if your child is refused a school place because of who the child is.

We have been working on this for quite a period of time. It does not just come down to education. It comes down to health as well. We listened to what the parents said earlier in our briefing. They are wondering where the ambition and vision are, why we are losing the massive potential of the cohort of young people and adults who have autism, why parents are turning into de facto campaigners, why they are beginning to accept a waiting list of 36 months for basic assessments or interventions and why they have to accept going from school to school to try to access a school place for their children. We heard today that one woman had to travel to 25 schools to try to get a school place for her child. We do not often hear of these cases because parents are so exhausted. They feel they are going through this by themselves and they find they do not have the time to reach out to other networks or to engage with the political system. They have come to the conclusion they are second-class citizens and they have to go with that.

Then there comes the crunch point where they decide to fight back. However, they should not have to fight back. They should not have to engage in the political system to point to 36

months of a waiting list being wrong, the lack of provision of a school place being wrong, the fact employment opportunities are so low, the fact Departments do not talk to each other, and the fact we do not have national strategies in Ireland as other jurisdictions have or the basic provision of having health and education plans working together for young people. It is about having ambition and a vision. What we are trying to do in our legislation is provide that vision and ambition. This debate is crippling and crushing, and it does not have to be this way.

I have to turn to the controversy over last weekend centred on the Minister of State at the Department of Education, Deputy Madigan, and her comments on national radio. This is not the first time this Minister of State has let us all down. It is absolutely outrageous that a Minister of State would name four schools as being the problem or insinuate they are the problem. There is a problem with accessing school places. We know 15,000 children and young people move outside their school catchment areas to access school places elsewhere. Some of the school places that are accessed are based on reduced timetables, and a substantial number of young people in school are not being properly cared for or empowered by their school placement. In addition, we were dealing with 268 cases of young people who could not get secondary school places until recently. I met the families in Dublin 15 and I know the families in my constituency.

Rather than accept that as a problem to which we all must find a solution, we first had the warehousing proposal, effectively a direct provision proposal for children with special educational needs. Then the Minister of State decided at the weekend to isolate and name four DEIS schools as the problem, all of which are engaging with the system and with the National Council for Special Education, NCSE. One of them had a site visit by the Department of Education on the previous Wednesday. The Minister of State has not even bothered to apologise for her misinformation and mischaracterisation of these four DEIS schools. Maybe she is completely unaware of what a DEIS school does or how it serves the community around it, but there are challenges within those schools I am quite sure she has not got a clue about in her constituency. For her to name and shame those schools, and to shift her responsibility and that of the Government for that, was very regrettable. The Government has to account for that, apologise for it and never do it again.

On the wider issue, and in trying to be positive and trying to find vision, there is common cause in these Houses between the Government and the Opposition. I do not think anybody in the Government believes it is good enough to have a 36-month waiting list for an assessment or intervention. There is nobody in the Government who believes it is good enough that somebody would be restricted from a school place, yet it keeps on happening. We have to raise the level of ambition and vision and move from a situation where we are firefighting all the time to one where we recast our brains and attitudes fundamentally and look at every child in this country as an integral part of this Republic, without an asterisk beside that child because he or she has autism. That seems to be the prevailing sense we get from different Departments on how we deal with, empower and enhance this, and how we make it better.

Children with autism are a valued and integral part of this Republic, so why are we sticking them on waiting lists? Why are we saying “No” to them when they try to access school places? Why are there so many barriers when they go into or try to enter the workplace? Why are there so few people in the public service or the private sector who understand autism? How many Deputies on these benches really understand autism as parents do? How many people working in our school system, the HSE, supermarkets or the transport service understand autism? How many of us fundamentally understand what we have to do collectively as a Republic to lift this

experience? I do not think we do. I know I do not know enough. We all have to tool up.

We can have a national autism strategy, which we need. We want it to be legislated for, we want it to be the same as it is in other jurisdictions, and we want to lift the experience of parents. We do not want them to become full-time campaigners anymore. We want them to feel differently about the Republic in which they live. We want them to close the door at night and say their interactions with the State, HSE and education system were positive and that their child is cared for, loved, safe and part of this Republic, but they do not feel like that.

It is not just about legislation, strategies and political bun fighting on the last week of the school term over school places in September, and emergency legislation being rammed through the House on Friday. We need collectively to change all our attitudes and fundamentally cherish all the children of this Republic equally. That is why this issue is so important.

Deputy Ivana Bacik: It gives me great pleasure to second this Bill on behalf of the Labour Party. I commend my colleague, Deputy Ó Ríordáin, on speaking so passionately in proposing it. He has fought so hard for so long on the rights of children with autism in education. As he said, we are very glad to be joined today in the Public Gallery by many parents who have spent so long fighting for the rights of their children. I thank them very much for engaging with us. We appreciated the opportunity to learn from and speak to them this morning, especially parents in my constituency from the Involve Autism Dublin 6 and Dublin 6W group and the neurodiversity Dublin 4 group, in addition to parents from Clondalkin Autism Parents Support Network, Families Unite for Services and Support and Dublin 12. We are also glad to be joined by members of Inclusion Ireland and AsIAM. We are conscious there are advocacy groups, parents and individuals who have had to give up much of their time and, in many cases, paid work, to campaign and fight so hard for basic services and basic provision for their children.

This morning we heard some very harrowing stories and experiences of parents. We heard about the frustration, as Deputy Ó Ríordáin said, and the exhaustion parents are experiencing. We heard the real fear and concern parents have at each one of the key points in their children's lives. These include the point at which they are due to go to primary school and may not be able to access appropriate places in their area, the point at which children move to secondary school where there is again a lack of available places in so many areas, and the point at which they age into adulthood at 18, when services are again lacking and concerns arise about adequacy and appropriateness of residential care and where, in fact, parents cannot access sufficient supports to keep children at home. We heard from parents who rightly want to see, as we all do, the potential of their children fully realised in education, further education and training, and in the workplace. There are some very disturbing statistics on the high levels of unemployment and low levels of jobs being taken up and being available to those with autism. It is not just children with autism. We are talking about adults with autism and children and adults with other additional needs.

For their sake, and the sake of families and households everywhere, we ask for change. We ask the Government not just to accept our Bill - we are glad it is not being opposed on Second Stage - but to enable it to pass to the next Stage and into law. We want to see the Government, this State, and all of us collectively taking action to ensure a holistic strategy based on proper data, with proper planning for education, jobs, healthcare and other basic services to be available to those with autism and other needs, as we see in other states. We know of and we heard this morning about other countries and jurisdictions where services are available, sometimes in countries less wealthy than ours. On our neighbouring island, we see a better holistic approach

being adopted, a national autism strategy, for example, and proper planning based on real and up-to-date data on levels of need across communities. That is what we are seeking in putting forward this legislation. As Deputy Ó Ríordáin said, we put this matter forward as a motion a year ago. We are now bringing it back as a Bill. We emphasise this is in response to the needs, desires and wishes of all those to whom we have spoken, whom we contact and whom we hear from every day.

I will share some testimonies with the Minister of State from frustrated and deeply distressed parents. They have given me permission to share their testimonies on how their children with autism and other needs are currently being let down by our State. One mother of two children, a boy and a girl, who contacted me said:

I am waiting 15 months so far for speech and language therapy for my four-year-old son. My little girl has also now received a diagnosis. Services are a nightmare. I have contacted 18 schools for my son for this coming September – nothing. I now know that I need to find a place for my little girl too. I am so scared.

Another mother who contacted me said her 16-year-old has been without a suitable school place since she was in primary school. Her family was initially forced to accept an inappropriate place as that was all that was available and they now feel they have fallen off the radar. Another mother of a four-year-old girl contacted me to say her child's diagnosis was deemed "not complex enough" for the local children's disability network team but too complex for other types of support. As a result, she is receiving barely any support at all.

I have been contacted by many others, not just parents of children with autism but those who have children with other needs, who again lack sufficient access to services. One distressed mother whose three-year-old was referred to children's disability services due to developmental delays described the "hell" she went through with the services since then and how she and her family are coping with a child who sleeps less than four hours every night, who has serious self-injury and safety concerns, and who had to have her head glued after headbutting herself so hard her hair clip pierced her skin. That family has spent their savings procuring private interventions to ensure they can get supports for their child.

These are the testimonies, the real stories and experiences we are all hearing across our constituencies. The figures are not clear, but we understand that more than 200 children may be without a school place this September. According to a damning report published by Ombudsman for Children, in excess of 15,000 children and young people are forced to leave their communities to access education outside of their area because there is nothing available in their catchment. In my constituency, there are serious issues in Dublin 6, Dublin 6W and Dublin 4. Parents in Dublin 12, Dublin 15 and Clondalkin have also told us of their issues with getting appropriate school places.

We understand there is immense frustration and that more needs to be done to ensure school places and other supports are available. Where school places are available, they must include access to the other services often needed. Often a complex range of services is required. Other supports, such as occupational therapy and speech and language therapy, need to be provided, ideally in a local setting. I know the Minister and the Minister of State, Deputy Rabbitte, are very aware of the level of need. We are all aware of the level of need. We want to see measures taken by Government to address that. Last April, Labour Party Deputies stood in this House and debated our motion to introduce a national autism empowerment strategy. The Govern-

ment committed to taking action within a year. We accepted that response. Indeed, we have left it for longer than a year. More than a year has past since April 2021 and, regrettably, we are still hearing the same experiences and frustrations being expressed to us. Our headlines, even in the past week, continue to be dominated by stories of how many children with autism are not able to access places. The Ombudsman for Children, in his damning report, has highlighted the failures in provision.

We are asking the Government to state that a difference will be made and to commit to making a difference where it counts. We are asking for holistic strategies and the systems that work elsewhere in other countries to be introduced here. We also ask for responsibility to be taken. One of the big challenges many of us face in addressing constituents' concerns and those expressed to us by families is establishing who will take responsibility for different issues that arise. That may involve seeking an early assessment for a child, or providing sensory-friendly rooms for adults in public buildings and for children in schools. I can think of one school in my constituency that has been pushing for the provision of adequate bathroom facilities to accommodate children who require particular support from special needs assistants, SNAs. It may be that basic facilities are required, such as the provision of extra space in bathrooms for SNAs. I pay tribute to the wonderful SNAs. Indeed, we have heard from many of them on this issue. There is a difficulty at a practical level in getting these supports and knowing who to approach for them.

Our Bill proposes the adoption of a long-term strategy. That is essential. We also highlight the need for short-term and immediate intervention and action now. We know the Government has committed to some actions, but we need to see them speeded up and improved upon. We were here a year ago, proposing a constructive means to address the real difficulties, hardship and frustrations expressed by many to us. I reiterate to our guests in the Gallery the Labour Party's commitment to staying the course in this campaign. I know they will not give up. We will not give up either. We will continue to press from opposition, but we want to work constructively with Government to see that real and effective measures and strategies are introduced that will deliver real and necessary change to ensure children and adults with autism and other needs are enabled and supported to realise their full potential in society. Otherwise, our society is not inclusive and equal. We want to change that. That is why we are here today.

Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O'Gorman): I thank Deputy Ó Ríordáin and colleagues in the Labour Party for bringing forward this Bill to allow us to debate the incredibly important issue of support for persons with autism in Ireland and their families. I welcome the families who are here in the Dáil to witness this debate. Like Deputy Ó Ríordáin, I share that sense of responsibility both as Minister and as a constituency Deputy. In the two years since I have been elected, time and again I have engaged with families struggling with access to education and therapies, and the potential for their children to go on to further and higher education and gain employment. I am deeply aware of the issues. The provision of support for persons with autism and responding to the particular challenges and barriers they face is a shared priority for me and the Minister of State, Deputy Rabbitte, as it is for many of our colleagues across the House who are participating in the debate today.

The Autism Bill 2022 seeks to create a statutory obligation to develop a national autism strategy aimed at addressing certain prescribed matters. The Bill also seeks to provide a statutory definition of autism in amendments to the Employment Equality Act 1998 and the Equal Status Act 2000. These are intended to provide for an autism-specific reference in the disability

definitions of those Acts. Action on autism is an existing commitment in our programme for Government. The Minister of State, Deputy Rabbitte, is leading on work to establish a national autism innovation strategy to honour those commitments. I want to be clear this Government is committed to providing targeted and bespoke solutions for neurodiverse people that sit harmoniously in the wider context of disability policy and action.

However, it is the Government's view that legislation is not the most appropriate vehicle for advancing the objectives of the Bill, as primary legislation may not evolve sufficiently quickly to address changing realities and in view of the work already under way to develop a national strategy on autism. The development of a national strategy on autism is something we have already taken steps to deliver. On World Autism Day 2021, the Minister of State, Deputy Rabbitte, announced her intention to develop a national autism innovation strategy. An initial budgetary allocation of €100,000 was secured in budget 2022 for the purposes of designing and raising awareness of the strategy. This year, important steps have been taken to get the development process for the strategy under way. In April 2022, to mark autism awareness month, the Minister of State launched a comprehensive public consultation to inform the design of the autism innovation strategy. I am very conscious of Ireland's commitments under the UN Convention on the Rights of Persons with Disabilities, UNCRPD. Therefore, it is critical the autism innovation strategy is co-designed and informed by the lived experiences of people with autism, their families and their representatives. That is the approach we have taken in our consultations to date.

Consultation on the strategy has been conducted in an accessible format, with an easy-to-read version of the consultation document provided. The disability participation and awareness network conducted information sessions for its members on responding to that consultation. There were very positive responses to the process. My Department is working to analyse the submissions received. Furthermore, applications are currently being invited for membership of the oversight and advisory group. That will play a central role in overseeing the implementation and monitoring of the innovation strategy. As a next step, my Department will work across Government to prepare a draft of the strategy. It is anticipated a further public consultation will take place in advance of finalising the strategy.

The autism innovation strategy will have as its immediate focus delivering real and tangible solutions to the challenges, needs and experiences of people with autism and neurodiversity. It will be flexible, agile and capable of evolving in line with best practice and the wider policy context. The strategy offers a real opportunity to complement the existing national disability strategy, the national disability inclusion strategy and the comprehensive employment strategy by addressing the bespoke needs of people with autism. It is the Government's view this strategy, and not the one prescribed by primary legislation, is the most appropriate vehicle for addressing the particular challenges and barriers faced by people with autism and their families. The strategy needs to be given time to develop and to come to fruition.

Introducing primary legislation at this time is not only unnecessary, as we are already taking steps to deliver on the commitments, but it also risks producing unintended and undesirable consequences. We believe it would be less flexible and more difficult to amend than a strategy that is based on a policy framework. If an autism strategy was introduced by statute, there is a concern there would be a risk of enshrining a somewhat piecemeal and hierarchical approach to disability by focusing on particular medical impairments. That is at odds with the social model of the UNCRPD. It is also at odds with our approach in Ireland to date. Both the Disability Act 2005 and the Equal Status Act 2000 seek to respond to the needs of people with disabilities in an

holistic manner. These Acts look at the common challenges faced by persons with disabilities while allowing space for specific and bespoke needs to be identified and addressed at a policy level. The Government is also concerned about the proposed definitional changes set out in the Bill, which would introduce changes to the disability ground for discrimination contained in the Equal Status Act to take account for autism. However, a review of Ireland's equality legislation is under way and this review will include a review of the definition of grounds of discrimination. It is expected that the review will be completed by the end of 2022.

I want to take this opportunity to re-emphasise the Government's commitment to removing barriers for people with autism and their families. It is the Government's firm view that the autism innovation strategy, which is based on a whole-of-government and policy action framework, is the most appropriate structure by which we can take the lead in a more autism-friendly country and better address the needs of persons with autism and the neurodiverse community. This approach would avoid the inflexibility of a legislative approach and any unintended consequences of that.

It is important that we have a debate and flesh out the best approach in this area, which is why the Government is not opposing the Bill today. The Government will continue to advance its autism innovation strategy as the mechanism to deliver those real and tangible solutions for people with autism in Ireland and as a mechanism to deliver on the issues rightfully raised in the Bill. I thank the Labour Party for bringing forward this Bill and for giving us the opportunity to have this really important debate.

Deputy Pádraig O'Sullivan: I will share some of my own thoughts and come to the Bill at the end. I was struck by something Deputy Ó Ríordáin said, which was that we all have a shared responsibility here. We do have a collective responsibility - public representatives, the HSE or whatever State agency you want to name. We all sit in very similar committee meetings and get similar briefings from constituents and agencies and there is one consistent thread, which is that the State has fundamentally failed people with disabilities, including people with autism. This needs to be stated from the outset.

While I do not know the particulars of the Minister of State's interaction with the four schools in question because I have only been following it online, I believe certain schools need to be called out. I will point to Cork because I know it best. I look at schools in Deputy Ó Laoghaire's constituency. I think of towns like Ballincollig with 30,000 people and one ASD class. Meanwhile five miles up the road in Dripsey, there are three ASD classes for a school population of 150. Ballincollig has a school population of 1,300. There are occasions to call it out. There are three ASD classes in the school where I taught in Fermoy and a fourth one is under consideration. Two other secondary schools in the town have no ASD class and there is no intention of opening one. I do not know the particulars of the Minister of State's case or the case in that particular area in Dublin but I do know that the ratios of ASD classes to students in Dublin is appalling and embarrassing and, therefore, I believe that on occasion, we need to speak the truth and share that responsibility.

I am encouraged by the words of the chief executive officer of the NCSE, John Kearney, yesterday when he met members of the Joint Committee on Autism. He is new to the job but he looks like he is taking the right approach. He is going around and meeting public representatives and I believe he has met the Minister. I have met Mr. Kearney. I know the NCSE is supportive of the emergency legislation the Government is proposing this week. I agree with the Minister that we should not have to introduce legislation at the eleventh hour but this is the

situation in which we find ourselves. God knows, I am blue in the face from calling for this legislation for the past 18 months. While it is very late in the day to be looking at it, better late than never. I believe we can streamline that section 37A process. It is not fit for purpose. Any bureaucratic situation that requires 18 months for somebody to dictate to a school that it must or should open an ASD class is not fit for purpose so I welcome Government action on that.

I welcome the fact that we are allowing this Bill to proceed and are having a debate on it. This is to be encouraged. The one thing I am concerned about is possibly creating a hierarchy of needs within disability. Hopefully, this can be teased out in the debate to come.

Deputy Ged Nash: For the benefit of those watching, the Government is not supporting the legislation. It is merely not opposing it and has provided its own critique. We do not want to be here legislating for basic public services that should be provided as of right to persons with autism. Deputies Ó Ríordáin and Bacik said that we were here in April 2021 calling on this Oireachtas and the Government to adopt our motion, which was constructively debated and forwarded by the Labour Party, to introduce a national autism empowerment strategy. This strategy drew very heavily on the experience in Malta and other EU states - modern, progressive and liberal democracies. We also know that there is an autism Act in the UK that provides for basic legal rights and access to basic universal public services to all citizens. We had hoped that we would see progress since the Government decided not to oppose our autism empowerment strategy but here we are again. That motion was not opposed so we assumed in good faith that progress would be made but it was not made. This is why we are presenting a Bill here today to provide for a legal framework underpinned by primary law within which the health, educational and employment rights and services needed by persons with autism can be delivered.

I understand that the Minister believes that this is an inflexible approach. We have no problem with being inflexible when it comes to the rights of people with autism. We demand that their rights be delivered and heard. Persons with autism demand that their rights be heard and demand the basic services we should expect to see delivered as of right in a republic. In a republic, we should not have to legislate for these rights. These rights and services should be provided as of right - plain and simple. Deputy Ó Ríordáin spoke very eloquently about the idea of a republic. In this country, we spend far too much time talking about a version of republicanism Irish-style that is focused on the political unification of this land mass on which we happen to live. Labour's vision of a republic is not about the fabled four green fields. It is about liberty, freedom, equality and universality. There is no equality when young people with autism and their families have to knock down doors, push down barriers and become semi-professional advocates and campaigners to obtain rights that should be theirs as of right. There is no freedom and no community when the State cannot accommodate a child with a school place in their own home place. I know only too well that there are children from Donaghmede in Deputy Ó Ríordáin's constituency are being ferried to my home town of Drogheda every day to access appropriate school places. That is not right and that is not sustainable. Nobody can stand over that.

I was really struck by one remark I heard made earlier that will stay with me - "her family feels that they are being punished because there is a child in the family with autism." Let us think about that for a minute. In a republic and one of the wealthiest states in the developed world, why are parents providing us with evidence that services work in objectively less well-off countries such as Spain and Portugal? What is wrong here? On a very basic level, there is a failure of accountability and a failure to resource, plan and manage services properly in a co-ordinated way. This should not be beyond Ministers working together. It should not be beyond

senior public service and Civil Service managers.

The under-representation of people with additional needs in our workforce is frankly disgraceful. The Labour Party was founded on the principle of work, equal access, the right to work and a fair day's pay for a fair day's work. We exclude far too many people with additional needs from becoming full and active members of our workforce, economy and society. Let us start with the public service. We were told earlier that 85% of people on the ASD spectrum do not have a job. What kind of a republic is that? The number of people with additional needs employed in the public service is disgracefully low. We cannot tell the private sector that we want it to do certain things if the public sector will not do the same. I call on Ministers to review that strategy and to ensure everybody in this society, including those of varying ability and those with additional needs, is enabled to become an active through full membership in the workplace and to have the dignity of work.

Deputy Duncan Smith: I am very disappointed in the Minister's script. While he did not read these words out, his script states: "It is for these reasons that the Government will not oppose, but can neither support at this time, the Autism Bill 2022." We did not pitch this Bill to be two or three steps away from the Government position so that it could not support it. We spent an awful lot of time working with parents, families and adults with autism to write a Bill that is deliverable. We feel we have done that. We came to the Chamber this morning on the understanding and with the belief that the Government was not opposing the Bill and that we would see it progress to Committee Stage for discussion. If the Government wants to make changes, it could table amendments and we could discuss them. As Deputy Bacik said in her contribution, we will work on this constructively. Unfortunately, this will instead go where all Opposition motions and Bills have gone - into the ether. It will stay on the Order Paper but go no further. Quite frankly, that is a tragedy for the thousands of people with autism all over this country, their families and their support networks.

I have a friend whom I first met at a party a number of years ago. He has a child for whom he was just beginning to seek interventions at that time. He said something to me that has stuck in my mind. I had just started as a county councillor at the time. He said that it was like he had just been thrown into a jungle with no map. That was how he felt. The fight began then. It is a fight for services, including speech and language therapy, early intervention and audiology; the list goes on. I am not even going to read out the waiting list numbers. We know them. They are astronomical. The question that is always asked of parents, usually by public health officials, is whether they would go private. That is always asked but that is a question that should never be asked. It is an awful question to ask because many people cannot afford to go private. They should not have to go private. Even if they can afford it and do go down that road, the waiting lists are out the door even in the private sector and the services are not there. It is a complete catastrophe.

Deputy Ó Ríordáin spoke about one of the other fights, which is the fight for education. One family had to go through 25 schools to get a school place. I ask everyone in this Chamber to think about their community and where they live and count 25 schools away from there. How far does that take you? For me, in Swords, it would take me up to Drogheda, where many families in my area send their children to school, down to Donaghmede, in Deputy Ó Ríordáin's constituency, or into Dublin city centre. That is the reality. This is again a total dereliction of public duty.

There is then the fight for the right to work post education. A couple of Fridays ago, I

received a call from a parent whose son in his mid-20s. He has got jobs but been let go very quickly because of a lack of compassion and understanding of his neurodiversity. That is why, in the Bill, we have sought to amend legislation and introduce definitions to tackle the discrimination taking place in workplaces. We are really disappointed that the Bill will go the way of our motion last year. We feel that it is there to be debated and to be amended on Committee Stage, to become law and to improve the lives, opportunities and roadmaps of a great many people who are feeling excluded from this republic and from their communities. That is something none of us can or should stand over.

Deputy Pauline Tully: Sinn Féin will support this Bill. I commend the Labour Party on bringing it forward. My party colleagues in Sinn Féin and I supported a similar Bill from the Regional Group in October 2021. It is important that we see the development and implementation of a cross-departmental and multiagency autism strategy that has legislative underpinning. In April 2019, my colleague, Deputy Funchion, moved a motion on behalf of Sinn Féin calling for the development of an autism empowerment strategy and the establishment of an Oireachtas committee on autism. The motion received cross-party and widespread support and a commitment was given at the time to deliver on both of these aims. Yesterday, the first public meeting of the Joint Committee on Autism took place, having been established in February, almost three years after the motion calling for it. More than three years after the motion was passed, the strategy is still not complete.

In April 2021, the Minister of State, Deputy Rabbitte, announced her intention to establish a working group to develop an autism innovation strategy with the aim of launching it in early 2022. I acknowledge that Covid restrictions held this up but it was only at the end of April this year that a public consultation process was launched and only in early June that an open call for expressions of interest to join the autism innovation strategy oversight and advisory group was issued. The Minister, Deputy O’Gorman, indicated that, on the back of the initial consultation, a draft strategy will be produced and a second public consultation will commence. I welcome the progress on the draft strategy and acknowledge that Covid restrictions have slowed this process somewhat but I would like to see this delivered without any further delay because three years since the initial motion is more than enough.

Autism is a lifelong developmental condition that affects how people communicate and interact with the world. While it is linked with challenges, it is also associated with cognitive strengths and talents. Autism is said to be a spectrum because, while autistic people can experience the world differently in specific areas such as sensory processing and communication, not all people will have the same profile of differences.

A number of key policy issues need to be addressed with regard to autism. The first relates to assessments of need and access to therapy services. The Disability Act 2005 provides for an assessment of need to determine the health or educational services required by a person with a disability. The Education for Persons with Special Educational Needs, EPSEN, Act 2004 seeks to provide for an assessment of special educational need so that further provision can be made for a child with such needs to be educated in an inclusive environment. While the Disability Act was fully commenced, sections 3 to 13, inclusive, of the EPSEN Act have not been commenced. This is significant because the two Acts were drafted to work in concert with one another.

In the absence of the procedure under the 2004 Act, students who require an assessment of their educational needs are applying for an assessment of need under the 2005 Act, which has

put increasing pressure on the 2005 Act mechanism. To try to relieve this pressure and speed up the process, the HSE introduced a preliminary team assessment in January 2020. However, after approximately 10,000 children had gone through these assessments, the process was found not to comply with Disability Act and these assessments have now been stopped. Each of the approximately 10,000 preliminary team assessments has to be reviewed and each family engaged with to establish whether additional assessments are required. This is a significant waste of time for children, parents and therapists, not to mention the waste of public money, and the waiting list continues to expand.

With regard to appropriate school places for children with autism, all children have a constitutional right to education. Under the UNCRPD, people with disabilities must have access to education on an equal basis with others in the community they live in. There is a programme for Government commitment to ensure every child with an additional educational need has an appropriate school place, yet a recent AsIAM survey revealed that at least 260 children do not have an appropriate school place for this September. The true number is likely to be much higher. We know that 120 children in Dublin alone have no appropriate school place. It is likely that many of these children have autism. The Department of Education and the NCSE have access to data on the true number of children who require a place but have not planned or acted accordingly.

I will highlight the severe lack of employment supports for autistic people. More than 85% of autistic people are either unemployed or underemployed. Recent research, carried out by AsIAM in collaboration with *IrishJobs.ie*, revealed numerous perceived barriers to obtaining employment and found that the workplace is generally considered unaccommodating to the needs of autistic adults.

There are many other issues but I am limited by the time allocated. I again commend the Labour Party on introducing the legislation, which we will support.

Deputy Donnchadh Ó Laoghaire: There is so much I could say that I am not sure where to start, but I will begin with the Government's approach to the legislation. The context here matters. The Government has indicated it will not oppose or support it. In April 2019, Sinn Féin brought forward a motion in support of a special autism committee and an autism empowerment strategy, and finally, three years later, that first meeting happened yesterday. Within that time, there were two Sinn Féin motions in March, an Independent Group motion last year and a motion from the Labour Party some months ago. All the while, things have been moving forward at a snail's pace. In any event, I commend the work done by Deputy Ó Ríordáin on this Bill.

It is difficult to credit an attitude from the Government suggesting legislation is not the suitable vehicle given so many motions have been brought forward, and so many attempts to articulate the issues in a general sense and to give the Government scope to go forth, develop strategies and so on have been met with progress at a snail's pace. Moreover, it is not the case that legislation in general terms is unsuitable for dealing with the various challenges and resource needs that accompany autism. Seventy miles up the road, in the North, an autism Bill has been passed, as has been the case in many jurisdictions throughout the EU. There is nothing to say legislation is not a suitable place to deal with these issues. If it is the Government's view there are shortcomings or gaps in this legislation, not that I see any at first glance, there is no reason they cannot be addressed through committee hearings, amendments and so on. Let us work with the legislation that has been published and get an autism Bill through. I do not see

a problem with that. It is the same old approach of the Government of keeping its head down and trying to minimise criticism without truthfully addressing the matter.

I commend the groups in the Public Gallery, several of whom I have met. I have also met other groups from Dublin 2, 4, 6, 6W, 15 and 24, Kildare and Cork but there are many other groups beyond that and I commend the national groups such as AsIAm, Inclusion Ireland and Families Unite for Services and Support, FUSS, Ireland. One of the points of frustration that both those groups and others articulate relate to the question as to what would be in those areas if they were not there. There is not anywhere like enough of them in those areas, but what would be there if they were not, by way of school places, therapies and so on? It should not be the case that parents, who have jobs, lives and many other things they have to do to support their child, have to get up, organise and push the NCSE, and that they at times have to correct the NCSE and the HSE in respect of the situation on the ground. That should not be their job. The services should meet them where they are. They should not have to meet them halfway, or even three quarters or nine tenths of the way sometimes, and that is the reality. They have to fight for every little bit.

I spoke at a Families Unite for Services and Support, FUSS, rally recently in Cork and articulated a view that parents' patience is wearing very thin. Many of these issues have long been articulated and there has been no solution. This issue relating to school places has been going on for five or six years at least and probably longer in some localities. Every year, the NCSE and the Department suggest they will probably be okay in September, and by the time it comes to March, they say they do not have enough places and they do not know what they will do, and then they must scramble to find places. It should never get to that. In other areas, such as in therapies, it seems to be going backwards. Parents are completely lost in the system, not to mention the children, and the HSE barely knows where to direct them. Waiting times seem to be getting longer. A parent of a six-year-old child who has been waiting two years for an assessment of need came to my clinic but, unfortunately, that is not at all unusual.

It should not be the case parents have to fight tooth and nail for everything. Why not give a legislative basis to their rights and entitlements and to the resources? I urge the Minister to reconsider that position. The Bill is going to pass Second Stage, which is positive, but I hope he will clarify his philosophy by the time it gets to Committee Stage, actively engage with us and try to get it progressed.

Deputy Mark Ward: I too thank the Labour Party for bringing forward the Bill and allowing me the opportunity to speak to the challenges people with autism face. Some challenges they have are pronounced, such as those relating to social interaction and communication, repetitive and restrictive patterns of behaviour and sensory processing. These challenges are bad enough, but the greatest challenge they face is in getting a timely intervention that will allow them to reach their full potential.

I commend those in the Public Gallery from all the campaign groups and particularly that from my area, the Clondalkin autism support network. I welcome two members of that group in particular, Jennifer and Lisa, and thank them for their tireless campaigning and their will to fight for the best services for their children, but they should not have to fight to meet the basic needs of their children. They should not have to fight for appropriate school places for their children or to ensure those school places are within their communities, or to make sure their children are part of the school community and not apart from it, or to get the proper therapeutic interventions their children need, such as occupational and speech and language therapies.

They should not have to fight simply in order that their children can reach their development milestones, but fight they must.

Years of underinvestment and a lack of political will have led to abject failures in the provision of children's disability services. Even when the Government legislates for timely interventions, such as providing for an assessment of need within six months, the Government either disregards the law or blatantly tries to sidestep it. I stood in the Chamber last year when the HSE was introducing preliminary team assessments to replace comprehensive assessments of need and warned this would be in breach of the Disability Act 2005. Parents such as those in the Gallery today had to go to the High Court, which found this did not comply with the Disability Act and that the Government and the HSE had broken the law. Parents do not want to fight anymore and they should not have to. They should not be here listening to us today but should be able to meet the basic daily needs of their kids. That is not too much to ask.

Deputy Chris Andrews: I welcome the Labour Party Bill. It is so important because it speaks to who we are as a society. Groups such as Involve Autism, which is represented in the Gallery, do such powerful work in advocacy but also in supporting families in communities who are struggling day in, day out. There is also Neurodiversity Irishtown, Ringsend and Pearse Street, which does amazing work for families that it should not have to do. We all want to see classes opened as a matter of urgency. Just as a school should not be opened without a wheelchair ramp, a school should not be opened without an autism class. Schools must be compelled to open special education classes and, equally, they must be given resources to ensure that when they are open, they will have the necessary speech therapy and a sensory room. They have to have the wrap-around services because opening a class with just four walls might as well be in a field, and that is not acceptable.

We need to ensure the services are there for the children. Neurodiverse children deserve a high quality education in their community and they should not have to be taxied out of their homes, past their schools and far from where they live. As I have said previously, more than €70,000 per day is spent on taxiing children out of their homes past their local schools in south Dublin alone. That €70,000 could easily be used to resource schools that are opening classes. It is essential that happens because it amounts to a significant waste of money and it is unfair on the families and children who are taxied out.

11 o'clock

Last week I mentioned a child aged two-and-a-half years who is being taxied out of their class because no early intervention is available in the community. Our children deserve a decent education. It is good for the community and for everybody in society.

Deputy Patricia Ryan: I welcome the groups in the Gallery and wish them well. I welcome the opportunity to speak on this Bill, which we in Sinn Féin support. Indeed we supported a similar Bill last October that was reintroduced by the Regional Group. That Bill is scheduled for Second Reading this October.

In April 2019, Sinn Féin brought forward a motion calling for an autism empowerment strategy and the establishment of an Oireachtas committee on autism. The motion received widespread, cross-party support and a commitment was given to deliver on both issues. Two years after my colleague, Deputy Kathleen Funchion, introduced our motion, the Minister of State, Deputy Rabbitte, finally announced her intention to establish a working group to develop

an autism innovation strategy. A further year later, on 29 April this year, a public consultation process was launched. Almost three years after the Sinn Féin motion, a Joint Committee on Autism was finally established last February.

The Government needs to listen to groups that support people with autism. The recent AsIAM research highlighted the lack of employment supports available. More than 85% of people with autism are either unemployed or underemployed. There are many perceived barriers to obtaining employment and workplaces are generally considered unaccommodating to the needs of adults with autism. For example, 57% of businesses do not provide work experience opportunities for people with autism. More than 75% of people with autism believe they face barriers in getting the jobs they want or starting their own businesses. This is not acceptable. Some 70% of respondents did not feel confident that managers, colleagues or clients know enough about autism to support them at work. As a result, less than 10% felt confident enough to be open in the workplace about their autism diagnosis. There is a reluctance among people with autism to request reasonable accommodation from an employer.

The first step to the workplace is a good education. We need to ensure that every child has an appropriate school place. As I said last week in the House, our children have a constitutional right to education yet as the recent AsIAM survey revealed at least 267 children do not have an appropriate school place this September. We spoke about the Minister of State, Deputy Madigan's regressive proposals on centres of special education. That is a huge concern. The Minister for Education has been on national radio recently calling out four schools in a manner that left these schools baffled. This needs to be taken in hand.

The final statement in the Minister, Deputy O'Gorman's, script that the Government will not oppose or support the legislation is a disgrace.

Deputy Johnny Mythen: I thank the parents of children in the Gallery. I also thank the Labour Party for bringing forward the Bill. It is obvious that to address the shocking lack of services, relentless lists for assessments and unavailability of school places for children with autism that something must be done. At the moment, parents of children with special educational needs do not know if their children have a school place in September. Something must be done. Parents and guardians are at breaking point, mentally and physically worn out from trying to access proper services. Their entire day is taken up with fighting the system to get their children on a waiting list that can mean waiting for anywhere between 18 months and four years. There is not a Deputy who has not been contacted by parents looking for the basic right of assessment. Some tell us they have to borrow money, usually beyond their means, to get private assessments for their loved ones. As legislators, we need to recognise the serious problems with the current unworkable and unmanageable system and put in place a comprehensive autism strategy to be published in 12 months, as provided for in the Bill.

At present, we have no means of collecting the full data or the means to provide accurate information on autism. This is one of the main pitfalls that must be tackled now. An accurate information system will lead to determining the correct policies, staffing levels and provision to deliver autism services throughout the State and pinpoint where they are most needed. In my own county of Wexford there are four children's disability network teams, CDNTs, which have vacancies for four occupational therapists, three psychiatrists and 3.9 speech therapists, and they have at least 445 children on waiting lists. This is not acceptable for families with children with disabilities, especially autism. The kernel of the Bill is to have a clear system of accountability and scrutiny with direct oversight by the Minister of the day. The question of autonomy

by various managers must also be fully examined. The protocol to the UNCRPD cannot be put aside any longer. We are also calling for the immediate fast-tracking of section 37A. Sinn Féin fully supports this Bill and calls on all Deputies to do likewise.

I will also say that the Government, by neither opposing or supporting this Bill, is putting good legislation into no-man's-land.

Deputy Holly Cairns: I welcome the Bill tabled by Deputy Ó Ríordáin and I thank the Labour Party for using its limited Private Members' time to advance this legislation. The Social Democrats are strongly in favour of the Bill and its intended outcomes. Awareness of autism and neurodiversity more broadly has increased in recent years. Developmental needs of children are finally being recognised and diagnosis of adults illustrates how the condition has been so misunderstood for decades. Disgracefully, this wider awareness has not been matched by the provision of State services. Every week I am contacted by families who are deeply concerned about a child or family member with autism who cannot access the therapeutic interventions in educational supports to which they are entitled. The situation is equally challenging for adults who do not receive support to gain employment or live independent lives, or those having to navigate complex systems after a recent diagnosis. The Bill provides for the creation of a cross-departmental autism strategy and requires all relevant Ministers and public bodies to co-operate with its implementation. It also outlines the need for strong leadership, an awareness campaign and the training of State officials. The Bill outlines exactly the actions that Government should take. That it has to be put forward by an Opposition Party taken within Private Members' time speaks volumes.

The Department of Health document estimating the prevalence of autism spectrum disorders in the population demonstrates that the actual number of people with autism in Ireland is unclear. Operational estimates put it at 1.5% of the population, which, according to the latest census data, equates to more than 76,000 people. That is close to the entire population of Galway city. The sheer scale of individuals and families affected demands a coherent and properly resourced State response. It is shocking that there is not a strategy for autism already in place. Unfortunately, even within Departments, policy is disparate and inconsistent.

The shameful lack of adequate school places for children and young people with autism is a result of poor planning. Since last September, I have worked with deeply upset and distressed parents seeking school places for this September. Some have secured places, in other cases children are being forced to travel for hours every day from west Cork to the city to access education. In some situations children are repeating a year in primary school not because of their individual needs but because the Department of Education is giving them no other alternative.

I am sure the Minister of State knows the size of the Cork South-West constituency. In that entire constituency there is not one special school. Parents have had to form a campaign group in an attempt to get one. If it could be possible, the situation in the area of healthcare is even worse. AsIAM's report into autistic children's access to healthcare last year reveals that two thirds of parents and guardians surveyed have had to wait two years or more to receive an autism diagnosis for their children. More than half felt very dissatisfied with the HSE support services for their autistic children. Almost four in five said they were not in receipt of any support either from early intervention or school-age going teams. Regrettably, this will come as no surprise. CDNTs continue to be disgracefully understaffed, for example the west-central Cork team is currently missing a speech and language therapist, 1.4 occupational therapists and a half-time physiotherapist while the Carrigaline-Kinsale-Bandon team is short 3.62 occupation-

al therapists, two psychologists, one physiotherapist and 0.5 of a speech and language therapist.

The HSE continuously commits to recruiting and retaining staff but there is very little evidence of this. Clinicians and therapists are also deeply frustrated at not being able to provide the care they want as professionals. Moreover, the poor treatment of students and graduates is a disincentive for therapists to work here. Ultimately, it is children who are impacted, with their capacity to live full independent lives being eroded due to the absence of supports.

All of these examples and figures are indicative of the reality faced by autistic children and their families. It is clear their rights are being breached daily. A failure by the State to provide basic services forces all responsibilities and obligations onto already overstretched families. Families work and sacrifice to get private diagnoses, therapies and support. Many others do not have the option and must watch their child suffer and even deteriorate on public waiting lists.

Too often, autism is surrounded by stereotypes and misunderstandings. A strategy designed with representative groups and advocates is necessary to appreciate their needs. Figures from the National Disability Authority note approximately 50% of adults with ASD or autistic adults have a concurrent intellectual disability and many of them require lifelong services. Of the other 50%, some have very little need for supports but there is a significant cohort who are disabled by our education, employment and State systems. Unfortunately, the needs of this group are often not met. This situation, combined with the lack of data on autism in Ireland, underlines the need for a strategy. In this regard, the Bill also responds to current Government deficits by requiring public bodies to maintain data collection systems to identify and record the number of people in their client bases who have autism and to calculate current and future needs for services.

I highlight also necessary improvements that could be addressed on later Stages. Crucially, the Bill must have an implicit and binding obligation on the Minister to engage with people with autism, advocates and disabled persons' organisations, DPOs. Paternalistic and ableist cultures are hardwired into Government Departments and State bodies. It is highly probable that without such a clause, the strategy, awareness campaign and associated measures would be developed without any input from people with autism. The exclusionary process surrounding the rushed Assisted Decision-Making (Capacity) (Amendment) Bill is the latest example of this type of approach. I have no doubt Deputy Ó Ríordáin is open to that inclusion.

The Government likes to talk about a rights-based approach to autism but we actually have a budget-based approach. Services, therapies and classes are provided according to budgets, not needs. This is the most sickening part. We know and understand the need. The Government, the Departments of Health and Education and the HSE are all aware of it. There is an abundant and pressing need for an autism strategy that adequately and respectfully provides the full range of integrated services needed by both children and adults. Children with autism and their families are being failed every day. They have been denied proper educational opportunities in their localities. Assessments take years and therapeutic interventions are practically non-existent for many families. Adults with autism face particular challenges and barriers that are only beginning to be fully understood, not to mention resolved. We need a fully resourced strategy that recognises the complexities and diversity of issues and experience involved. Any delays or deferrals intentionally make the situation worse for individuals and families who are struggling. Children, families, adults and whole communities need this strategy as soon as possible.

Deputy Bríd Smith: I am sharing time with Deputy Barry. I welcome everybody to the

Gallery. I always think it sends a powerful message into the House on what democracy means. We can sit here chatting all day in a vacuum but to have people from the outside with real lived experience coming in sends a powerful message and I hope the Minister of State also recognises that. People Before Profit welcomes this Bill and we will support it as a step in the right direction.

Supports for those with autism are shockingly poor. We need a strategy. While I am always hesitant when it comes to announcing more strategies, documents and reviews when what we actually need is action and investment, this Bill would be an important step forward. For too long, the needs of autistic people and their families have been ignored. They have been seen and not heard but, more and more, they are speaking up through groups such as AsIAM and the Irish Society for Autism, whose members are in the Gallery.

The report from the Ombudsman for Children makes for stark reading. It highlights how the Department of Education is utterly failing children with special needs. AsIAM and others are demanding investment in education, more SNAs and a reduction in class sizes. Ireland, as we know, has some of the largest class sizes in the EU. That disadvantages all our young people but especially those with special educational needs. These groups have been fighting for years to have more SNAs, therapists, case workers and front-line workers hired. This would be a win-win for everybody as it would create decent jobs, cut waiting times and improve our education and public services. People Before Profit's alternative budget showed how it could be easily done by taxing the super-rich. It is a political choice that the Government makes to prioritise tax dodgers rather than children.

We know of at least 267 children with autism who have no school place yet for September. That is 267 families anxiously contacting schools because they are terrified their child will be left out. All the Minister of State, Deputy Madigan, could do was try to dodge responsibility and blame the schools. The buck stops with the Minister of State. Her response to the crisis has been shocking. She has lashed out at the schools for her and her Department's utter failure. Why is it only now, in June, that the Government is finally talking about this? Surely it knew well in advance how many children with autism would need school places? Where these children live and how many places there are available in the areas in question is not unknowable. It is a failure of the Minister of State and the Department. I have an email from a principal of a DEIS school in Dublin 8 who states:

I'm not sure she [the Minister of State] grasps the choices principals have to make everyday to allocate scarce and finite resources. I have to continually prioritise children with complex needs ... [and we are not equipped to do so]. This means that children with mild to moderate needs who ... are equally worthy ...[to be catered for], are falling further and further behind. It's actually heart breaking

We should have planned years in advance, as I said, to expand the number of special education classes, hire the extra special needs teachers and assistants and have more capacity. Deputy Gino Kenny tabled an interesting parliamentary question in which he asked about the graduate diploma in education on the autism spectrum in Dublin City University for the next academic year. It is startling that 80 teachers applied to take that diploma course and the university could only provide 18 places. Of course, the reply to the parliamentary question did not answer the question but answered everything but the question asked. It is totally unsatisfactory. Again, as with all public services here, it seems the Government prefers to fly by the seat of its pants and leave everything until the last minute. The result is huge anxiety and pressure on families,

teachers and principals. Most particularly, it leaves the children behind. The Government can plan when it comes to looking after data centres and we will see later today that it is about to spend €500,000 to increase electricity capacity to facilitate these centres.

On top of this scandalous shortage of school places we have the massive backlog of people waiting on the list to get a diagnosis in the first place. How can the Minister of State justify a situation where parents are left waiting up to three years to get the necessary appointments so their children can have a diagnosis. Those are three key developmental years in their lives that they are forced to go through alone without having the extra supports to which they are entitled in school and in their lives. Is the Government not ashamed of that?

AsIAM and other advocacy groups, including those with us today, have been pushing for years for increased investment to cut these waiting times. People Before Profit completely supports them but this Government has failed to deliver. The result is many families who can barely afford it are forced to go through private services, which further deepens the inequalities in our society. This can no longer be accepted. We need to invest now to bring the waiting times down to months rather than years in order that children with autism get the supports they and their families need when they need them.

Deputy Mick Barry: I wish to use the time allocated to me to raise concerns relating to autism and the housing crisis. Those concerns arise from a case in Cork city with which I am dealing. It involves a woman who has been living in emergency accommodation for about a year. She has been offered alternative accommodation in the form of a one-bedroom apartment. She self-identifies as autistic, however, and states that the alternative accommodation being offered is totally unsuited to her needs as it is sited on a road that is noisy, particularly at rush hour. High levels of noise are a significant issue for autistic people with hyperacusis. As I live near the road in question, I can testify that it is a far from quiet area.

The emergency accommodation provider in question has told the woman that she must quit the premises by next Monday. This decision is in writing and comes into effect after an appeals process. In effect, the woman now faces a choice between accepting a property that she believes is totally unsuitable for her needs and being made homeless. I stated that she self-identifies as autistic. Like many other people in this country who would like to get a diagnosis, she went to the HSE. The process moves at a snail's pace, however, and she has not been able to afford to go private and pay a four-figure sum. Her general practitioner, GP, has put in writing that she is autistic. I have met her and believe her claim is credible. She clearly and sincerely believes it to be the case. As far as the system is concerned, however, she has no diagnosis and, therefore, is not autistic and can be offered a choice between homelessness and accommodation that is totally inappropriate to her needs.

Emergency accommodation providers are under significant pressure as a result of increased homelessness, notices to quit, increasing domestic violence and our rightful obligation to accommodate refugees. What we need is more funding, places and, crucially, alternative housing options. I am concerned that the pressures on the system are now causing real injustices and I suspect this case is one of them. The woman has been asked to quit by Monday. I will be raising her case in every way I can in the days ahead.

Deputy Seán Canney: I welcome the opportunity to speak on this important subject that is close to my heart. I thank the Labour Party for bringing forward the Bill. Last October, the Regional Group reintroduced a Bill that had been brought through the Seanad by former Sena-

tor James Reilly. It was parked to allow the Government time to put in place the necessary measures.

Autism is not a health issue; it is a human rights issue. It is very important that we look at it in that way. The whole issue of autism is being treated on a haphazard basis. All the frameworks and working groups and so on are beginning to take shape but, as has been repeated here all morning, what is missing is that services are not being provided on the ground to the people who need them. The families are suffering.

The European Commission approved the charter of rights for persons with autism in 1996. That charter states that autistic people should have the same rights as those enjoyed by all EU citizens and these rights should be enforced by legislation. That has yet to happen in Ireland. We need to understand why that is the case. Why has what is required not been put in place? I sit on the Oireachtas Joint Committee on Disability Matters. Witnesses, including family members of autistic people, have appeared before the committee to speak about their experiences. Those families are under awful pressure. I welcome the people in the Public Gallery who are listening to the debate.

It is important to state that we need action on the ground. We need more than talk, strategies and working groups. We need to see the effect of this on the ground. I know that other speakers are passionate about this issue. We have to get to the stage where the money and resources are put where they are needed. It is important that we do not treat autism as though it is a disability. It is actually a gift that some people have and we have to make sure they get every right to enjoy life and have an equal part in society.

People with autism and their families suffered hugely during Covid because they were isolated and in strange environments. What has happened since then? That went on for the past two years. I will take the example of my constituency and that of the Minister of State, Deputy Rabbitte. In Loughrea, for instance, there is very little in the way of ASD facilities in any of the national schools in the area. A group representing 100 families in the area is trying to get education facilities for their children. Two weeks ago, I came across a case in my neck of the woods involving a boy who cannot go to the local school with his sister because it does not have an ASD unit. He has to go another school. That is isolation and segregation. All the members of a family should have the right to go to school together.

I do not wish to criticise anybody because this issue has been ongoing since 1969. We have to cut away the crap, as I would call it, and get to the basis of this, which is to support the families that need it. We need to do that now. We can have strategies and everything else one likes and we will waste a lot of money convening all these groups and doing whatever else but the families in the Public Gallery, along with those in my constituency and elsewhere in the country, will not be able to get the support they need. That is what is wrong. It is the creation of this mirage of bureaucracy, red tape and whatever else. A letter I received from Ability West this week highlights that what is going on in the services in general is frightening. We need to cut to the chase, put the money where it is needed and cut out the middleman, the upper man and whatever else and get the money to the families who really need it.

Deputy Verona Murphy: The Bill refers to the autism strategy, service delivery and all the various aims of the strategy. There is no doubt that education must form a central part of such a strategy. Two weeks ago, I had the opportunity to speak on special needs education. We are falling short in many areas in that regard. In that speech, I highlighted a discussion I

had recently with a parent of a child with special educational needs. She highlighted to me the constant battle for provision and resources that she has had to endure. The absence of long-term support plans means that too many parents are left anxiously waiting each summer to discover whether their child will have the resources he or she needs for the next school year. That includes children with autism. We must never underestimate the importance of the support given to those who need it most, and create long-term sustainable plans.

Should a template be required, Kilrane National School in south County Wexford stands out as a prime example of exactly what can be provided in terms of special educational needs and inclusivity in rural Ireland. The school has a top-class additional needs unit with a reputation for catering for every child in the community, regardless of ability. I take this opportunity to commend the school principal, Eoin Ó Donnagáin, or Máistir Eoin as he is best known locally in Rosslare, all his school staff and the school community on the inclusive ethos of the school, which is widely praised in education circles. Máistir Eoin will retire in August. A day of celebrations will take place in the school today - obviously, I cannot be there - in recognition of the immeasurable service he has given. Eoin has been bold, progressive, forward-thinking and dynamic in his position as school principal and that has resulted in a school that is all-inclusive in every sense of the word. I commend him on an accomplished career and wish him a healthy and relaxed retirement.

I will get back to the Bill. Those with special educational needs require constant support. The model of making parents and schools reapply and reassess every year needs to be replaced with a longer term approach. The needs do not disappear. It should be a system of ongoing provision. To illustrate what that means, I will refer to an email I received from a principal. She stated:

We appealed our Special Education allocation of hours. We were increased only by 1 hour. We have 60 hours which means 2 full time teachers and 10 hours shared with 'another school'. We have great need in our school. We actively went after an ASD class in 2018 and opened a second one two years ago which we feel is an incredible step considering some schools now have to be compelled [under section 37] to open them.

We must resource and support the current system to ensure educational needs are delivered, and delivered in a manner that will sustain those with special needs as they potentially move towards full-time employment, living alone and so on. Acting now is a stitch in time to ensure adequate provision of services. I am tired of hearing from people who are having to fight for their needs. This is the case for everybody on the autism spectrum, right across the country, as the Minister of State has heard today. It seems to me that the only people who do not know what is happening are those in the Department. The Minister of State is new to the Department and to ministerial office. I know she is doing her best. She has made inroads and I hope that continues. We badly need a system and a strategy that work. We need a system that shows we know what is going on and that when a child starts in junior infants, there is a plan for his or her second level education and he or she will not just fall out of the system.

Deputy Michael Collins: I am sharing time with Deputy Danny Healy-Rae. This Bill would oblige the Government to produce a cross-departmental autism strategy and require all relevant Ministers and public bodies to co-operate with its implementation. The strategy would outline how the needs of people with autism, including access to education, other public services, employment and social inclusion, can be met by public service providers. It would detail how the needs of families and carers can be met by setting out a roadmap of actions for the de-

velopment and improvement of family support services. The Bill would make the Minister for Education responsible for monitoring the implementation of the strategy. It would make other Ministers and public bodies accountable, as each relevant Minister and public body would be required to publish a progress report on a three-yearly basis, giving updates on the implementation of the strategy.

It is remarkable that such a strategy does not already exist, especially given that the Government knows we will need school places for young people with autism into the future. The data we have make that requirement completely predictable. It is immoral that the State would allow the scandal to persist whereby hundreds of young people with autism do not know in June whether they will have a school place in September, not to mention the 15,500 young people who have to leave their catchment area to access a school place. There are large numbers of these children in west Cork. While the Bill will not address many of the prevailing issues impacting people with autism, we are happy to support its aim of achieving a legislative underpinning of rights.

It is truly shocking that in 2022, there is still not equality for people with disabilities. There is an ocean of window dressing by the State when it comes to inclusivity but the truth is that hundreds of thousands of citizens are excluded from life in this country every single day of the week. Yesterday, while we were discussing the arrangements for this week on the Order of Business, there were calls for the Taoiseach to give proper time for debate on the Government Bill and not just squeeze it in on Friday in an effort to push it through. This area needs proper debate because there are a lot of issues associated with it. It is an area that has been neglected for many years.

The Minister of State might smile but it certainly is not a smiling matter for the people who are suffering. The Government did its best to close the early intervention unit in Kilbrittain until I intervened and kicked up hell over it in west Cork. The Government eventually backed off and allowed it to stay open for one more year. The unit is delivering hugely for the people of west Cork and it needs to be allowed to continue that work.

Deputy Danny Healy-Rae: I thank the Labour Party for bringing forward this important Bill. We all know young couples for whom it is a very tough cross to bear when they find out their child has a problem. It certainly places strain on them because they want the best for their child or, in some cases, children. The situation is no different in Kerry. We have our share of families that include children with autism. Parents are looking for assessments and placements and they see their child is being neglected.

The first point to make is that we should try to determine, as I have asked before of the Government, what is causing the increasing levels of autism in children. The numbers affected seems to be ever increasing. We are told that one in every 65 children presents with autism. I feel the number is much higher than that from the level of representations my office is getting daily. More than 4,000 children are on waiting lists for autism assessment. That is dreadful. I am not blaming anyone in particular for this. The problem was there under previous Governments but it is increasing now and we must deal with it. It is truly shocking that in 2022, children with disabilities are not being looked after properly.

The current waiting time for an autism assessment is between two and three years. Many parents are worried this will leave it too late for their child to be assessed and get the interventions that are needed. An incidence rate of one in 65 surely says there should be a special needs

assistant in more schools, including one- and two-teacher schools. Many families have to go down the route of private assessment. We know how much stress families are under with the cost of everything today, including the cost of fuel to go to work. Parents often have to pay anything from €950 to €1,500 for a private assessment. It is safe to say that parents who can afford such an assessment have access to services sooner and, therefore, obtain better outcomes for their children. What about the parents who do not have €950 to €1,500? They feel their child is being denied the right to fair play.

I welcome the Bill and this debate. We need to see a sea change in how autism services are delivered and we need to see tangible results. We have our share of families in this situation in Kerry. An enormous number of parents are presenting who feel their child has autism. The first thing they are not getting is an assessment, which is taking two to three years to access. I know the Minister of State is listening. It is hard to stand up here when one only has a couple of minutes and can see the Minister is not listening. I see she is listening and I appreciate that. I hope she will take all our words back to the Cabinet table and make sure something positive comes out of this debate. That is what we are asking. We are depending on her. It is her time to act, as Minister of State with responsibility for this area, alongside the Minister of State, Deputy Butler. We appreciate that. Will she please do something for these children? It is their time as well and they only get one cut at it. We need to help them at the earliest possible stage in their development and ensure they get the assistance they require from the State and the education system.

Deputy Joan Collins: I welcome all the families and campaigners who are in the Gallery today. It is a shame they have to come in here again after all their years of campaigning. However, there is a need for their presence. I see the Minister of State is nodding. I hope this will spur her on to push for action more so than long-term strategies. We know what we need. We must fill the children's disability network teams, CDNTs. This was supposed to be the new and positive step forward in moving children out of individual community healthcare organisations, CHOs, such as CHO 7 and all the other areas. The CDNTs were going to solve all the problems in this regard, but we have seen what has happened, with more than 10,000 families having not received assessments. There are vacancies all over the place and families cannot access the resources they need. This is the crux of the issue. Equally, my feedback from families is that those who assess the CDNTs find it is all paperwork. It is not a case of a therapist sitting down with the families and assessing the needs of the child.

The report of the Ombudsman for Children is a dire assessment of where we are when we consider that the National Council for Special Education, NCSE, was set up in 2003, which is now nearly 20 years ago, to support the educational needs of children with disabilities and autism. According to the report of the ombudsman, Dr. Muldoon, the Department of Education is failing children with special needs who do not have school places for next September. More than 100 children still do not have placements and other families are still chasing placements outside their local areas. The report states:

For children who live in provision 'black spots', most notably Dublin and Cork, the system can fail in its response. That such failings occur is not acceptable.

I agree 100% with that. It is just not acceptable. The report estimates that as many as 15,500 children have to travel outside their local school catchment area every day to access school places. The pressure this puts on families is unbelievable, on top of not having the resources they need.

Meanwhile, nearly 1,500 students are receiving home tuition, which the report recommends should only be used temporarily as a last resort. Dr. Muldoon also stated in the report “that approximately 4,000 children were awaiting a diagnostic assessment in order to qualify for a school place” initially. These children must be given “access to a psychologist via the ... [State services] to establish whether [they need] a special class ... [or] school place” in the short term. The report also raised the concern that too much onus is being placed on the shoulders of parents to get the system to respond to their children’s needs. The ombudsman also stated the “decentralised nature of our education system” means it is largely up to individual schools to decide whether they will provide school places for children with special needs. Additionally, the ombudsman stated there must be a recalibration of the balance between “Government oversight of education and schools’ autonomy”.

Twenty years on, this is a bad indictment of where we are now and of the situation that families and children are facing. On top of that report, we had the reply to the question posed by Deputy Cullinane, the spokesperson on health for Sinn Féin. The HSE said there are significant challenges in this regard. Out of just over 2,000 roles, some 732 posts were for professionals to provide services for children with disabilities. Many of those posts in the HSE are vacant. The response continued by stating, according to the HSE, that vacant posts equate to 480,000 hours not being provided to children on the waiting list for services. These 480,000 hours reflect the reality of the situation. The unfilled posts are across the HSE and other organisations funded by the State. This includes the NCSE, which stated yesterday it has vacancies in its speech and language therapist, roles and disability management posts. Some 52,000 children are waiting for initial assessment and therapy. The biggest part of waiting list for services is for speech and language therapy, with more than 30,000 children waiting. Nearly 8,000 are waiting for physiotherapy, while more than 13,000 are waiting for occupational therapy. There are 9,500 children on waiting lists for further speech and language therapy appointments.

Last Monday week, the Dublin 12 campaign for autism units organised an event where parents were invited to meet their local Deputies and explain exactly where they stood. It was devastating to listen to the stories, as the Minister of State knows, because she has heard them before. This has to stop. There must stop being a need for these families to have to continually meet councillors, Deputies, Ministers and Ministers of State to explain their situations when they have done that time and again. About eight to ten families were present at that meeting, but I did not get to speak to all of them. The main issues, however, concerned a lack of access to the assessment of need, AON, process, as well as to speech and language therapy, physiotherapy and occupational therapy services. Many of those families had been waiting for four or five years for those services. What really struck me was the number of parents who had to go private for the AON and the other therapies, such as speech and language, as well as for assessment for education to get children into school.

I am not saying we should stop speaking about it, because we must speak about this situation, shout about it and provide a voice for those families affected by this situation, but it is now up to the Minister of State and her Department to get the finger out. I heard the Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, is creating more places for people to study to qualify as therapists. We must, though, think outside the box here. I say that because what we are finding is that while therapists are coming into services, they are then leaving quickly. They are going to private providers because better pay and resources are available. We must try to think outside the box in addressing this issue. Why are we not saying the State will encourage young people to go to college to study for these roles

and pay for their courses if those students commit to staying in the HSE's services for at least eight to ten years? If people might wish to pay for their own course, that would be their own initiative. We must find a way that will enable us to keep these therapists, including nurses etc., in the services they are entering.

I support this Bill. The Government is wrong not to support it or to take its provisions on board and work with the Labour Party on it because this would give legislative rights to families and children. A strategy is not as strong as legislation. I ask the Minister of State for her opinion in this regard and why she is not considering this Bill as an important part of addressing the services being provided to children and parents. I ask that based on other countries having done this. It is not a pie-in-the-sky approach.

My last point concerns Kerina Cullen-Tuite, who said, during a report by RTÉ on the report of the ombudsman, that in the five years since her son Paddy was diagnosed, he had received 18 hours of therapy, of which 12 were for speech and language and six for occupational therapy. The report she got on the AON stated her son needed psychological and educational assessments. She has had none of those. Ms Cullen-Tuite said her son, along with all the other children, is not reaching his full potential.

Minister of State at the Department of Health (Deputy Anne Rabbitte): I thank Deputy Ó Ríordáin and the Labour Party for bringing this Bill to the House. Along with my colleague, the Minister, Deputy O'Gorman, I support the Government's decision not to oppose this Private Members' Bill at this stage of the process. I would like to bring the House through my thought process in this regard.

I read through this proposed legislation intensely. By any manner or means, this is not a million miles from the autism innovation strategy I have got up and that I am trying to pull together. This Bill refers to all the pillars within the strategy, such as housing, education, post-primary education, higher education and employment. Deputy Nash spoke very clearly about that aspect. I hope the legislative piece in respect of moving from 3% to 6% will be addressed when the Assisted Decision-Making (Capacity)(Amendment) Bill comes to pass, that is included as part and parcel of it. What has been said by the Deputies referred exactly to all the pieces that explain why I found myself developing an autism innovation strategy.

We must remember that while many people and many Governments might have talked about it, this Government is actually doing it. The reason I am doing this is because I can see in all the different Departments where we are failing families and children with autism, from the very early years to the transition into higher education and then out into employment and to accessing housing. I have taken this approach to ensure we can have the consultation aspect, where the persons in the autism community, whether those are the advocates or the individuals themselves, shape the strategy. It is not the legislators. It is not us. I want this to be led by the people most impacted. I will address why I have done it this way.

All of us in this House know the Department of Education has been failing. We also know the Department of Health is failing. Why is that Department failing? It is because it is needs based and the Department of Education says it needs to have a diagnosis. The Department of Social Protection also says it needs a diagnosis, and if a person does not have a diagnosis, it cannot support him or her. It is to try to break down those barriers and ask how we can make a functioning system work. How can cross-Government, cross-Department and cross-State bodies work to ensure there is better delivery? We will see on Friday what is going to happen, but

we already know the process is too long. Twenty-one steps and 18 months are not a functioning part of it. Bringing it back to eight weeks will perhaps make it. Perhaps it will ensure more within the Department of Education will also step up to the plate. No longer should parents and advocacy groups have to beg continually.

I acknowledge and complement everyone in the Gallery from Involve Autism, AsIAM, Families Unite for Services and Support, and Inclusion Ireland. I appreciate all the work they are doing, but it is wrong they should have to do it continually. That is why I believe in this strategy and that there should be various pillars. The Deputy and I agree, as I believe everyone else in this House does, where we need to have the pillars and that level of cross-Government understanding of what autism is about and what is required in the Departments. There is a complete lack of understanding, awareness, empathy and implementation, and that is what the strategy is about. By the end of this year, when it goes out for its second round of consultation, I will invite the Deputy to feed into that process. I would love the Labour Party, and all parties, to feed into it. These are not weightless words. That is where Deputies will see their input being part and parcel of the process.

As I have gone through the Bill, and the Deputies will see all the tick marks I have made, I agree completely with everything that is in the Bill, but I am asking the Labour Party to give me the opportunity to see if the strategy works. That speaks to Deputy Joan Collins's asking of me why I am not supporting the Labour Party. The reason is I want to see first if the strategy works. I am not opposed to legislation. I want to see if I can make the system work and use my position as a Minister of State within the Department with responsibility for equality and inclusion to make other Departments work together and to put the children and their families at the centre when it comes to education, health, housing, employment and transitional planning.

Where I have seen the system work in recent weeks is with the Minister, Deputy Harris, on higher education. He launched a plan amounting to €3 million every year for the next five years for accommodation for children with autism and needs transitioning into higher education. That is how the system should work, whereby there is communication with the system and having that inclusive piece within it. We now need to go back to the start, to the early years piece. We know the AIM process works in the early years. That should be the transition piece that brings us into primary and post-primary education, taking the learning from there.

I speak again to what Deputy Collins said about the CDNTs. I cannot leave the Chamber without acknowledging, because the Deputy has met with the parents, that one of the biggest barriers for accessing many of the services is the health aspect of it. In recent weeks, I have written and put it to the HSE that therapists, occupational therapists, physiotherapists, and speech and language therapists should be added to the critical skills list. They were not on the list; they will be included now. Training behavioural therapists in NUI Galway and not having a behavioural therapist pay scale within the HSE is wrong. I have asked the HSE to add behavioural therapist to the pay scale. We are about autism and behavioural therapy must be part and parcel - a core piece - of it.

We know the figures that have come out and there was no new news on that for me last week as to how many therapists we do not have. The reason the parliamentary question was asked was because people could not believe it when I said it an Oireachtas committee that I was being open and honest about it. The parliamentary question went in and the answer came out. We need to pause the IFS piece. We need to deliver on the intervention. Therapist teams delivering 66% of their time on a desktop exercise and not delivering an intervention is wrong. It is

wrong until such a time as the teams are fully populated. Until the teams are fully populated to 90%, I cannot include student therapists in third or fourth year to be part of the assessments for the simple reasons of clinical governance and clinical oversight. Therefore, we need to bulk up the teams.

The final piece on CDNTs and what needs to happen here is, every CHO up to this had only €25,000 for assistance with purchasing private assessments. Some €25,000 annually would not buy five therapy interventions. It is not enough. They have to go to the European level of public procurement so that we will have intervention and assessment on a twin, parallel approach. It cannot be either-or. It must be both until such time as there are enough therapists, and I go back again to the Minister, Deputy Harris, adding an extra 1,056 college places for therapists this week. A portion of those places will be held for occupational therapists, physiotherapists, speech and language therapists and psychologists. By the time those therapists come on board, perhaps we will have the capacity for in-house assessments and doing them ourselves, but until such time, we cannot leave families waiting four or five years.

The preliminary team assessment stoppage was a direction that came from my Department to pause it. The court made its decision. Let us stop faffing around. Let us pause it and find another agile way to approach it. Of the 10,000 who are there at present, 4,500 of them are in critical need of an assessment. There is a plan being devised as we speak for that.

To the Labour Party I say that, while I might not have given the response that was wanted, that is not to say I am totally opposed to legislation. I want to see if I can deliver in making a whole-of-government approach work. I like to think we could. We have seen how it happened in the cancer care strategy. Why can we not do it within autism? It is important to say I have found a willingness on the part of colleagues within Government to work with me, and that is awfully important. What I need now is officials to buy into the contributions that have been made by the families and persons directly impacted. While I might not often agree, if at all, with Deputy Barry, housing is a big part of this and we need to understand accessing housing. Even diagnosis, for the purpose of housing persons with autism, is not on some county councils' radar at all. That is what I am trying to do.

I welcome the debate. I normally do not get a chance to express my knowledge of this area. I also acknowledge the work Deputy Ó Ríordáin and his party have done and for giving me the platform to share this with the House. I do want to work with the Deputy on this issue.

Deputy Brendan Howlin: Like others, I welcome everyone in the Gallery. It reinforces that we are not talking in a vacuum. We are actually listening and, I hope, reflecting the views of people who are affected by this issue. It is one that is understood by most people and all contributors across the House. I also commend my colleague, Deputy Ó Ríordáin, not alone on his work in preparing and introducing this important legislation but also on his ongoing campaign to highlight and, much more importantly, to address the many issues faced by people with autism and their families.

None of us are surprised by the passion of the Minister of State; she gets it. The problem is the rest of the Government does not seem to get it. We are trying to assist and provide her with the legislative means. I know, having worked in various Departments, the reality is everybody is in his or her own silo. Unless people are required by law to act and report, these things do not happen. That is why I hope the Minister of State will embrace this legislation as a legal underpinning of the clear ideas and understandings she has articulated in the Chamber. This is not a

stand-alone Bill for debate. It is just another step in seeking to support the growing number of children and adults facing real and practical difficulties in the myriad of ways Members have outlined and we have heard directly.

12 o'clock

No Member of this House has not had the most difficult and heart-wrenching conversations with mothers, fathers and families of children with autism seeking basic supports for their families - from the start, a basic assessment. The notion they have to wait three years for a formal assessment of need before being able to access any service is just not acceptable. It is just shocking. That is to get on the first step of the ladder. I know how difficult it is to get professional supports, as the Minister of State has instanced in her commentary, and to reinforce the number of people needed, including the professionals in these support teams, because they are being recruited in the private sector. The problem is we are all talking to the ones who remain and they are under so much extra pressure trying to cover for absences that they are now on the verge of leaving too. It is a crisis that is unfolding and we need a solution. It is no use saying we can solve these problems by having new places and new training. We need a way of holding people by paying them decently and reflecting what the private sector pays if we want them to stay in the public sector.

The response of the State to date can be described as inadequate, and that is a very mild way to say it. What is required is clearly a national strategy that is underpinned by law, that has all the multifaceted approaches to which everybody here has referred and that has a significant education component, because we need to plan from birth to graduation. People have to argue for their rights at every stage as if they will disappear after primary school or after secondary school. I commend the work of the Minister, Deputy Harris, on beginning a process, but we need the type of joined-up thinking for which everybody has argued but put on a statutory basis in order that the Minister of State is not the only one who gets it but that all her colleagues are required to get it and to report it.

I do not have time to go into the Ombudsman for Children's report but it makes for very salutary reading.

We all know the individual requirements because the families know them and they tell us what they are. This is a human rights issue, not an education issue, a health issue or an employment issue. Eleanor Roosevelt asked where, after all, universal human rights stand. She said they stand in small places close to home and that, unless those rights have meaning in those small places close to home, there are no international human rights at all.

Deputy Alan Kelly: I listened very carefully to the Minister of State. I felt her passion. It was very believable. Unfortunately, the Minister, Deputy O'Gorman, basically insulted the House and, I believe, insulted all the people who are here to witness this legislation. It is tokenistic and absolutely wrong of the Government to say it will allow this to pass Second Stage but that it will not do anything with it and cannot support it. The arguments that have been put forward are garbage. They are rubbish. We need legislation here because everything else has not worked. My colleagues have outlined all the various issues.

When I started off in politics and doing clinics, I might have one in 20 people come to me to discuss this. Three or four weeks ago, I had 20 appointments in Nenagh, 11 of which had to do with families who had issues with their children with autism and education, early interven-

tion and so on. I have been speaking about this for years. I am very passionate about it. I am delighted my colleague, Deputy Ó Ríordáin, has brought this forward. When it comes to early intervention, you are fighting. When it comes to assessments of need, you are fighting. When it comes to primary school - fighting; secondary school - fighting, not to mention third level, where support is non-existent to a point. When it comes to actually being able to live within your community, something that is often missed, you are fighting. That is why I and colleagues in Nenagh set up Make Nenagh an Autism Friendly Town, trying to replicate what is going on in Clonakilty. Then when it comes to work, you are fighting again.

The disability awareness strategy, DAS, to get people into employment is again tokenistic. I am working with a number of people to try to help them get into employment because of the stigma they feel every time they notify potential employers of their autism. For the Government to say it needs more time and that it will not start off with this legislation, which we are not saying is perfect, to have a whole-of-government approach shows that, despite the Minister of State's passion, from an holistic Government point of view, either the Government just does not get it or it just does not want to prioritise it. Both are equally bad.

There is no way we can say in a Republic we will continue to treat people like this. It is totally and utterly unacceptable and totally wrong. It needs a whole-of-government approach. A Republic is about more than the four green fields. It is about treating people with respect. It is about equality. It is about ensuring everybody has equal access. That is not happening.

The Government says it will continue for another while and then look at other legislation or other strategies. That will not work because we will be here in a couple of years' time, the same people advocating will be up in the Gallery, and we will not have moved much further, despite all best intentions. This needs legislation because legislation makes Departments act, makes people work and makes targets. It ensures priorities. Without that, we will never get to the stage where, as a Republic, we can ensure the people we need to serve, the people who have been let down by the services of this State across the whole spectrum of issues we in the Labour Party have outlined, will get what they deserve.

Question put and agreed to.

Visit of Japanese Delegation

An Leas-Cheann Comhairle: Sula mbogfaimid ar aghaidh, cuirim, ar mo shon féin agus ar son Bhaill na Dála, céad míle fáilte roimh ambasadóir na Seapáine atá anseo agus roimh an triúr taidhleoirí atá in éindí leis.

Before proceeding with the next item of business, I offer, on my own behalf and on behalf of the Members of Dáil Éireann, a céad míle fáilte, a most sincere welcome, to the Japanese ambassador, H.E. Mr. Mitsuru Kitano, who is accompanied by three diplomats. They are all very welcome to Dáil Éireann. I hope they find their visit useful and enlightening.

Ceisteanna ó Cheannairí - Leaders' Questions

An Leas-Cheann Comhairle: We are a little behind time, so I ask for Members' full cooperation.

Deputy Mary Lou McDonald: Last night Sinn Féin brought forward a motion calling on the Government to introduce an emergency budget to ease the enormous pressure on struggling households. I impressed upon the Taoiseach yesterday - at least, I tried - how this crisis is worsening for so many. Last night, however, even though families throughout the country are at breaking point, Ministers stood up one after the other in this Chamber and opposed an emergency budget. I listened to the Minister for Public Expenditure and Reform's partner and political twin, the Minister, Deputy Donohoe, on the radio this morning. He says that he appreciates the challenge that households are facing. In the next breath he says that he is not going to do anything about it. Tonight, it seems, Ministers and Members of the Government benches will line up and vote against the introduction of measures to help families and workers. The message from Government to households on the brink is to strap yourselves in because you are on your own.

We have only three weeks left in the Dáil term and Government will then clock off for the summer. Its Members will then walk away telling people to wait for budget 2023. Why? Because it does not have a plan in the here and now.

Minister, October is too late for so many families. There are people watching in today who are literally only one bill and rent payment away from going over the edge and going under. These are people who work very long hours and cannot afford the basics. This is the hard reality of people's lives. Despite everything that the Minister might say, clearly his Government does not get it. In fact, it is incredible to hear the Government congratulate itself over and over for having done so much when, clearly, so much more needs to be done.

Children, as the Minister knows, head back to school in late August and early September, not October. Those families face astronomical costs now. Energy companies are not going to give customers a break between now and October. Rip-off electricity bills will keep coming through the summer months. People go to fill their cars every week between now and October and, by the way, they are paying more than €2 a litre today. This is all happening now.

Asking people to wait until October for help is asking them to wait for disaster. An emergency budget is a sensible and necessary response at this time. Action to cut rents, emergency cash payments for low and middle income earners and increases in social welfare rates to protect the most vulnerable are reasonable and necessary measures and yet the Taoiseach and the Minister, Deputy Donohoe, tell us that they are not for turning. This demonstrates very dramatically the priorities of this Government as I suspect, as many others do, that if it was those at the top who needed a bailout, Fianna Fáil and Fine Gael would be in like a flash.

Deputy Donnchadh Ó Laoghaire: Hear, hear.

Deputy Mary Lou McDonald: In fact, the Government has demonstrated before that when it is those at the top, the Government is in like a flash but when it is ordinary people who need a bailout package, its message is tough luck. Tá sé doghlactha go vótálfaidh an Rialtas in aghaidh buiséad éigeandála anocht. A Aire, teastaíonn cúnamh ó dhaoine anois. Beidh sé tubaisteach dóibh iarraidh orthu fanacht ceithre mhí.

Tonight's vote then is a test for every Deputy in this House who sees their constituents suffering. One can either vote for them or vote against them; it is actually as plain and simple as that. This is a state of emergency for households. They need an emergency budget now.

Minister for Public Expenditure and Reform (Deputy Michael McGrath): We in gov-

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ernment accept that many people and businesses are under pressure. We represent ordinary people too. We are elected by ordinary people and we meet them every day in our day-to-day lives as well. The reality is that the inflation that is being experienced is at a 40-year high and is primarily driven by international factors. I think Deputy McDonald also accepts that. It is exceptional in nature. That is why we have brought in a series of exceptional measures outside of the normal budgetary cycle because we accept that these are not normal times and a normal approach is not justified.

We have to continue to fund a number of the measures which we have already introduced, including the reduction in excise on fuel, petrol and diesel and indeed the reduction in VAT on gas and electricity also.

We will publish the summer economic statement next week and we will also, at that point, have the mid-year Exchequer position. That will help provide clarity on the resources that are available to the Government and to the country in the context of budget 2023. It is quite possibly the case that we as a country may face a prolonged period of high inflation. We believe it will peak in the short number of months ahead but we cannot be certain of that. Monetary policy is changing internationally also and the global economic outlook is deteriorating. We need to use the limited resources we have wisely and we have to time our further interventions to have maximum impact. It is our view that people will most need further help come the autumn and into the winter period. We will need at that time a set of measures that can have an impact quickly. This will, in particular, be targeted at those who most need the help in respect of one-off measures, temporary measures and so on.

In the budget we will also need to see the building on measures we have already taken across a range of areas to address further the day-to-day costs that people are facing be that in childcare, transport, in education and in health. We have made moves and significant investments in a number of those areas.

Of course, there will be need for a significant welfare package as well as providing a reduction in tax by way of ensuring that people do not continue to climb into the higher rate of tax as they receive an income increase.

In addition, we will have to invest in housing, in healthcare, in education and in disability services, and we have just listened to the debate there. We will have to fund the mica scheme, to ensure that we have the resources for the mother and baby homes payments scheme and, of course, the cost of supporting the refugees who are coming to our country after having fled war. There will be many demands on taxpayers' money and, of course, Deputy McDonald will be calling for more to be done on all of those issues over the months ahead.

The good news is that Ireland is in a relatively strong position going into this period. Unemployment now is less than 5%. We have labour shortages across a whole range of sectors in the economy and we have a broadly balanced budget. We have one of the fastest-growing economies in the European Union and are continuing to win a large share of international investments. We have some capacity but we have that capacity because we have managed the public finances well and the economy has rebounded very significantly.

Next week is an important milestone in the budgetary process. The Minister, Deputy Donohoe, and I will engage with the Oireachtas and will appear before the Committee on Budgetary Oversight to discuss with the Deputy's colleagues the choices we face as a country.

I am sure that the irony is not lost on Deputy McDonald that if we had followed her approach, had taken her advice to spend €3.5 billion more in the previous budget, had taken this advice to do more every time we made an intervention over the past number of months, that we would not have the headroom and capacity which the Deputy now calls on us to use in order to do more. We have to try to meet all of these competing demands. There will be a significant intervention in the autumn by the Government and it will be focused on the cost of living that people are experiencing.

Deputy Mary Lou McDonald: The good news is even better than the Minister alludes to because not alone are we in a relatively strong position as an economy, as he brags, but in fact it is projected that the Government will take in €5.6 billion more in tax revenues than projected on budget day. The Minister talked about clarity but I ask him to allow me to give him clarity as he brags about the economic position and how well he has managed the public finances. As we meet today, in households across this country, getting a child back to school in September is now a household crisis. How is that Minister? These are the facts on the ground. School books lists started to arrive today in many households. The outlook for those families who work very hard is not relatively positive. In fact, for many of them, it is terrifying. I am asking the Minister, very simply, that in his position as a Minister of this Government how he will respond now, react now and support those families now and not in October. That is the net point.

An Leas-Cheann Comhairle: We are over time.

Deputy Mary Lou McDonald: If I may say, a Leas-Cheann Comhairle, it is very galling to hear on the one hand the bragging of Government on the wonderful job it is doing, how wonderfully rosy the economic outlook is and, while families suffer, the Minister sits on his hands. Nero fiddles and Rome burns.

Deputy Donnchadh Ó Laoghaire: Hear, hear.

Deputy Pearse Doherty: Hear, hear.

Deputy Michael McGrath: I thank the Leas-Cheann Comhairle. There is nobody bragging and there is no need to drag down the tone of the political debate on what is a very important issue which affects ordinary people and businesses all over the country. I can legitimately make the point about following Deputy McDonald's advice and spending €3.5 billion more in the budget last year on expenditure and spending more every time we made an intervention earlier this year when she said it only scratched the surface. Anyone looking at the Deputy's website will see all of the promises and commitments that her party is making which add up to billions of euro - those press releases that have not yet been deleted from her party's website. I can legitimately make the case that we have the resources to do more as a Government because the public finances are in a reasonably strong position. We have already made interventions. I have given a commitment that we are prepared to go further. It is our assessment that the best time to do this is in the autumn. If we come to the House with a package now, the Deputy would first say it was not enough and then it would mean we would have less money to make a difference in the autumn when we think people will need it most. We understand the pressures people are facing. The Government is committed to a budget that is focused on the cost of living as well as measures in the autumn that will have as close to an immediate impact as we can practically deliver.

Deputy Catherine Murphy: Since the Department of Public Expenditure and Reform

pulled the plug on Benefacts, a name that will not be familiar to many of the public but that provided a valuable public service, I have been trying to figure out exactly what the Department has against open, transparent and comprehensive data. Benefacts was set up in 2014 at the request of the Department to provide transparency on the financial affairs of Ireland's mammoth €14 billion not-for-profit sector. For the first time, detailed audited financial and governance information on 34,000 non-profit organisations, which have 165,000 employees, was collected and collated in one place. Best of all, the website was open to the public and free to use.

An aspect of the work Benefacts did was to provide detailed information to the CSO that enabled it to fulfil important statistical reporting required under EU legislation. Ireland had availed of a derogation when it came to supplying detailed information about the not-for-profit sector to EUROSTAT until September 2017 when we ran out of road and the derogation ended. Benefacts was then able to step into the breach and spare the country's blushes by providing the CSO with quarterly reports at no charge with comprehensive data that was gleaned, amalgamated and digitised.

We all know there is a huge number of voluntary organisations, some of which provide health and social care services. Many of them receive substantial funding. For the first time Benefacts enabled the CSO to identify all 779 such entities and their various sources of funding. This allowed the CSO to capture all of the non-HSE income and expenditure for inclusion in the health accounts system. This ensured the Estimates on health expenditure in Ireland were comprehensive and accurate. In short, Benefacts allowed the people who used it to follow the money.

Now, without warning, the Department has pulled the plug and spent €250,000 shutting it down, having spent €6 million of public money establishing it. Its funding has been scrapped, the not-for-profit company has been wound up, its employees have been made redundant and the website is no longer available. This is despite a report commissioned by the Department from Indecon stating the benefits of Benefacts exceeded its costs. It also said that scrapping the service would reduce information needed for effective governance. Whose interests does this serve? We have a huge not-for-profit sector worth €14 billion. Does the Minister agree that it is a no-brainer to have detailed transparent financial information available? It is not too late to reinstate this. There are costs associated with duplicating the service and not providing EUROSTAT with the information it requires.

Deputy Michael McGrath: I thank the Deputy for raising the issue of Benefacts. It is important to put on the public record that Benefacts was not a public service body so it was not in the public sector family. While the State provided funding for the organisation for a number of years, it was not running the organisation. It was an external third-party body, which delivered a good service during its lifetime and there is no question whatsoever about that.

As the Minister for Public Expenditure and Reform, I had a clear recommendation from within the Department following an examination that Benefacts did not constitute value for money and that the business case for its continued public funding did not stand up, and it was a matter for Benefacts to identify and source other potential revenue sources to ensure it could continue in existence. The Department consulted other Departments that we thought might have a use for the service provided by Benefacts, or a use for the information that it collated and presented on its website. We did not find any other public service body or Department in a position to take on the relationship to fund Benefacts because, in essence, they did not see value in it.

The Deputy would be first to call the Accounting Officer of the Department of Public Expenditure and Reform before the Committee of Public Accounts if he ignored a recommendation to close down over a period public funding for the body. As I said, we consulted with a range of organisations, including the Department of Rural and Community Development, which has a key role in this area. As the Deputy knows, there has been significant investment in the Charities Regulator. Much more information is collated and presented by the Charities Regulator and the CSO.

As Minister, I received a recommendation that public funding for this third-party body no longer constituted value for money and, therefore, should be discontinued. This was the essence of it. I very much believe in open government. I am the Minister currently undertaking a comprehensive review of the freedom of information legislation. I believe it will result in legislation coming before the House in the months ahead that is not about narrowing its scope or restricting its operation in any way but will broaden it out and ensure it operates much more efficiently and meets the needs of service users who want to access public information held by the Government or other public service bodies.

Deputy Catherine Murphy: We had the Secretary General of the Department before the Committee of Public Accounts and I took the opportunity to speak to him about this. I raised the issue of the report the Department commissioned from Indecon. Before he closed it down, I asked him whether he had read the report and he told me he had not, which I thought that was quite extraordinary. He said he had got a briefing on it. It is not a particularly long report. Having read it, it would not suggest the cost outweighed the benefits; in actual fact, it is the opposite. This is a report commissioned by the Department that cautioned against shutting down something for which there was no replacement. Money is being spent by the Department of Rural and Community Development, which is an early stage in creating an alternative system that would be more limited. The Minister's predecessor at the Department was glowing about it several years ago. It is on the record. I find it extraordinary that a valuable resource has been dispensed with that provided very comprehensive and transparent information.

Deputy Michael McGrath: I did not come to the debate with a fixed view. I received a clear recommendation based on an assessment of value for money and the business case. The recommendation made to me as Minister was that we could no longer stand over spending public money on a service that was matched by other public bodies. We reached out to other public bodies, some of which the Deputy has mentioned, including the Department of Rural and Community Development, to see whether they had a requirement for the information being provided by Benefacts. We must bear in mind that Department is the key line Department with overall responsibility for the not-for-profit voluntary charity sector. It did not see a value in the State continuing to extend resources to a third-party body in this respect. It felt it was doing something similar. My preference is always that this type of work and service should be provided from within the public sector. This was the thrust of the recommendation I received. I read all the supporting documentation, I supported the conclusion and, therefore, I made the decision.

Deputy Peter Fitzpatrick: The people of Ireland are bleeding and need help now. I welcome the €2.4 billion allocated to cost-of-living measures and the reduction of VAT on gas and electricity bills from 13.5% to 9%. I will not say the Government has done nothing but I will say that it needs to do more. In my constituency office in Dundalk I hear from my constituents what is happening on the ground. People cannot afford to put food on the table, heat their homes, put fuel in their cars or shoes on their children. They are afraid to turn on the cooker or the washing machine. They are panicking that they will not be able to buy books or uniforms

for their children. The Minister should not forget that the kids have only gotten their holidays and their parents are thinking six weeks ahead. Pensioners living in old houses are unable to heat them. People with a disability are unable to access services. Families are unable to find rental accommodation. They tell me about all the buildings around the town lying empty and there seems to be no urgency in bringing them back in order that they can have the homes they badly need.

A number of people have come in to my constituency office lately telling me that they would be better off on social welfare. A young married man with two young children came into my office last Friday, crying. He cannot afford to look after his family. He goes to work in Dublin five days per week. His fuel bills have doubled and he cannot cope anymore. The words he used were “enormous pressure”. He was told by his landlord that he must vacate the property he is leasing at present. He went to look for new accommodation, which is impossible to find. Although he found some, he could not afford the €1,800 asking price. He did considerable research lately and found out that he would be better off if he left his job and went on social welfare. He would then be able to get €1,150 through the housing assistance payment towards his rent. He would not have to drive to Dublin to work. He would get all the benefits to which he is entitled, such as a medical card. He does not want to go down this road but he has no option. The Minister’s Government can help him.

The cost of living in Ireland for a family of our four is estimated at a monthly loss of €3,072.72, without rent. If rent is added to this, it is more than €4,500 per month or €54,000 per year, before someone pays taxes. It shocked me during the week when I heard the Free Legal Advice Centres, FLAC, state that families could not afford clothes or food for their children. The shoes they are wearing are open-toed. That is a very low level.

Families have come to their breaking point. Inflation has soared to its highest levels since the 1980s. It was at 8.3% in May. Our President, Michael D. Higgins, has slammed the Government’s housing challenges as a “great, great failure”, stating that, “it is not a crisis ... [but] a disaster”. Why will this Government not react now? It has the resources to help these families, pensioners, students and front-line staff. The money is there for the Minister’s Government to help the people in Ireland who have built this great country over the years. They deserve to be looked after now, not later.

Deputy Michael McGrath: I thank the Deputy for raising the issue. He has articulated the real-world experience of many people at this point in time. Not everyone but, certainly, a share of the population is very much feeling the effects of what is a 40-year high level of inflation. The Deputy has acknowledged, to be fair, that the Government has made a range of interventions in different areas to address cost of living. We have had some universal measures, including the electricity credit, the reduction in transport costs and, most recently, the elimination of hospital charges for children under the age of 16, but we have also had a number of targeted measures, in particular with the fuel allowance through the two bullet payments, for example, and the increase in the rate of fuel allowance that took effect on budget night last year. Doing it that way was an exceptional measure.

We have reduced the drugs payment scheme threshold to €80 per month and put caps on school transport fees. We have cut the annual public service obligation, PSO, levy. We have launched a major national retrofitting scheme and we have already touched on the reduction in VAT on gas and electricity and in excise on fuel. It is important that it always pays to work. The overwhelming majority, who are able to, want to work. The evidence is that they are working.

We have an unemployment rate below 5% and we have now exceeded the pre-pandemic level of employment in Ireland. It is more than 2.5 million people, which is approximately 150,000 more than were employed pre-Covid. That is a remarkable turnaround and is testament to the resilience of the Irish people and indeed, the Irish economy.

That is why it is important that, as well as addressing cost-of-living measures through expenditure, we have a tax package in the budget. We have a programme for Government commitment that we will honour because we do not want a situation in which the constituent that the Deputy highlighted ends up getting a pay rise or does some overtime and pays half of that in tax because he has crept into the marginal rate of income tax. A static tax system at a time of rising incomes is equivalent to an increase in tax. It seems to be only on this side of the House that there is support for a reduction in income tax for people who are earning quite modest levels of incomes - in the mid-€30,000s.

I have acknowledged we will make an intervention in the autumn in the normal annual budget, but we will also be focused on a set of measures that can kick in as quickly as possible and will be temporary and one-off in nature. The advice that we have received from all the main bodies is to target resources, insofar as we can, to those who need them most. Work is actively under way on preparing that. We will have the summer economic statement next week, which will clarify exactly the envelope of money we have for next year's budget.

Deputy Peter Fitzpatrick: I am a sportsperson. Morale is very important when one is involved in sport. It is also important for society. Morale in this country is very low. Families are suffering and the people of Ireland built this country to what it is today. The Minister and I know that this country is highly respected throughout the world for the amount of work that it does. All I am trying to say is that the people of Ireland want a bit of help. There is no point in waiting for the rainy day funds. If my family was suffering and I had the money to help them out, I would do so. The Minister's family, which is the country, is asking this Government for help. We are looking for help now. We are not just waiting for a rainy day fund. I am not making this a political football. The Government has helped so far. Some €2.4 billion is a considerable amount to have given so far, but we have this extra money just lying there. Now is the right time to react. We need to keep this country building for our children's future and everything else. This country has a very old population and will need more and more money. To make money, money has to be invest. I am pleading with the Minister to have a look at the situation and invest in Ireland.

Deputy Michael McGrath: We have sought to help to date. We will do more and we will help people who most need it, in particular. We are working on finalising the summer economic statement, and the preparations for the budget are now under way. We are looking at all of the options that are open to Government with a view to making a real impact. It is our assessment that the autumn, coming into the winter, is when people will need help most. We know there are people who need help now. We are criticised every time we highlight that there is an additional needs payment, but we should all highlight the fact that there has been a change in a rule in order that people working full time can now access that payment. If people need assistance with a fuel bill, with repairing a boiler or for clothes and food, they should approach their community welfare officer. I believe they will find him or her supportive. We have to, as a Government, acknowledge the fact that global economic conditions are changing. They are deteriorating. At some point that will impact on Ireland. The cost of borrowing for us as a country, as well as for individuals, is rising. We have to take all of that into account, but work is well under way on the package the Deputy touched on.

Deputy Danny Healy-Rae: I am glad to get the opportunity to raise the issue of the cost of fuel, which is impacting on everyone on the road, whether it is the man going to work in the car, the mother taking children to school or the man filling up his lorry to transport goods or filling a construction work vehicle. Kerry is far away from everywhere and is impacted more than many other places. The increase in the cost of fuel is massive. The pumps along the road tell the story, with prices at €2.15 or €2.20 a litre. People are at their wits' end trying to stay on the road.

Work is slowing. People building new houses and even those building one-off houses are pausing and wondering what they will do. Farmers are paying €1.60 or €1.70 a litre for green diesel. Bus operators are tied into contracts. There is a problem with taxis at night; they are just not operating because it is not worth their while. We see where trawlers are parking up. One transport company, close to the Minister in Cork, is parked up this week.

The Government is taking almost double in tax now from fuel than it did 12 months ago. Surely it is time to give back some of the extra tax it has taken to the people on the road? They need it to stay going and October is too far away. There is talk of mini-budgets and emergency budgets but the Minister has said the normal budget time is when it will be dealt with. These are not normal times. People are paying to try to stay on the road and fill their cars or other vehicles. They are not paying normal prices now.

The Government must keep work going and this is the time to intervene. We recognise that the Government gave back 15 cent or 20 cent per litre on fuel a couple of months ago but that is not enough now. Fuel prices have gone way up again and it is now time to intervene and ensure that work stays going. The Government will reap the dividends if work continues anyway but if it stops, the Government will not even get core taxes because people will not be on the road. They cannot stay going and that is the honest truth.

The Government is not aware of how serious the matter is and how people are suffering. People must travel on long journeys to work from Kerry and they are paying massively to fill their cars and try to stay going. These are not normal times and in rural Kerry people cannot travel without a car or some type of vehicle. They are paying more and suffering more. I am asking the Minister to act now and give them back a sizeable amount of the extra tax the Government has taken.

Deputy Michael McGrath: The Deputy makes a valid point that rising fuel prices have an impact across the board. They affect private citizens in households, of course, but also private enterprise such as contractors, farmers and the delivery of public works contracts. We have made a number of interventions as a Government and we have already spoken about the reduction in excise, which comes at significant cost. Initially it was €320 million until the end of August and it was extended to budget day so the total cost now is well over €400 million. That is the reduction in excise on petrol and diesel.

To ensure school transport services continued up to the end of the year, we provided extra resources and extra money was paid to school transport providers. We were concerned that for many of them it was simply no longer viable to continue providing what is an essential service. We introduced a special scheme of support for hauliers with which I know the Deputy is very familiar.

With private contractors doing public works, I introduced an inflation co-operation frame-

work not just in respect of materials pricing but also in respect of energy and fuel. The State will step in and carry 70% of the extra cost above and beyond normal levels of inflation, back-dating that to 1 January. It is a little early to say what is the impact of that but there are some indications that we are seeing a greater willingness among private contractors to take up public works contracts. There was an issue, given the level of inflation and uncertainty and the fact that the contract up to that point provided for no price variation whatever, so the contractor had to carry all the risk. I recognised that was an issue and a change would have to be made.

On the price of fuels at the pump, the levers open to the Government are limited. We could reduce VAT, which is set at 23%, but we would have to do that on everything. Almost half of economic activity is levied at the 23% rate of VAT. A 1% reduction amounts to €500 million per year. That is the truth when it comes to VAT. We have already made a reduction in excise, and with diesel it is the case that when the excise reduction is combined with the diesel rebate scheme, we are at the minimum allowed under the minimum tax directive in the European Union.

We do not have that many options when it comes to reducing the price at the forecourts, which is primarily determined by wholesale prices. The exchange rate is unfavourable currently in respect of the strength of the dollar relative to the euro. There are challenges but the Government will examine all the matters in the period leading up to the autumn.

Deputy Danny Healy-Rae: I thank the Minister for his reply but he has not given much comfort to people who are struggling out there today. I accept and acknowledge what the Government has provided already but it is just not enough. The Minister must admit that the Exchequer has taken in a massive increase in taxation. In the past two weeks alone, fuel prices have increased by 20%. That is coming out of people's pockets. They are on the road and trying to pay for the fuel. I recognise what the Minister said about hauliers but to qualify for that scheme, one must have a haulage licence. Hauliers who are just supplying goods for themselves do not have a haulage licence and they are not benefiting.

Again I say there are people travelling long distances going to work, putting petrol and diesel in their cars, and the Government will have to do more for them. They cannot wait until the budget. The Minister only gave farmers 2 cent off the price of green diesel. God almighty, it is €1.60 and €1.70 per litre today. They are trying to keep going and provide fodder and food for people all over the country. The Government must do something for them. The Minister talks about addressing this in the budget but it must address the kernel of the problem now, which is the extra tax being taken by the Government. There is wriggle room to do something for these people. I am begging the Minister to do something for those people.

Deputy Michael McGrath: The Deputy started his contribution by correctly saying these are not normal times, and I agree with him on that. In normal times a Government would not come out in March and say it would reduce excise by 20 cent and 15 cent. It was an exceptional intervention because of the costs that people face. It happened to coincide with a time when wholesale prices were rising and people felt they did not see any benefit but if the Government had not made the intervention, the prices on forecourts would be 20 cent and 15 cent higher than they currently are.

I have explained that the options open to the Government on fuel are very limited. We could reduce VAT but at a massive cost because it cannot be done for diesel and petrol alone. It would have to be done on half the activity across the entire Irish economy at a cost of approximately

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€500 million per year for every 1% reduction. It is a massive cost for a measure that is not very targeted. In the budget context, the Government is examining all the options we have to see how we could help. The Deputy has raised a range of different sectors, including contractors, farmers, people delivering public works and, of course, private motorists. We acknowledge those pressures and we will very much take that into account.

Deputy Danny Healy-Rae: Give them vouchers. Do something for them.

Ceisteanna ar Pholasáí nó ar Reachtaíocht - Questions on Policy or Legislation

Deputy Mary Lou McDonald: Last month I raised with the Minister the shocking increase in the rate of homelessness and he described the position as disappointing, regrettable and concerning. The words “shocking”, “shameful” and “unacceptable” are more appropriate because the latest report on homelessness is a damning indictment of Government housing policy. More than 10,000 people are now homeless and for the first time, single person homelessness has hit 5,000. There are more than 3,000 children homeless and growing up in hotels and bed and breakfasts, robbed of a secure childhood. This is happening when there are nearly 170,000 vacant homes in the State.

The Government should be scandalised by this crisis but it is clearly not. It is the same old story. The Minister for Housing, Local Government and Heritage, Deputy Darragh O’Brien, has failed and is failing; his position is increasingly untenable. What emergency measures will the Government put in place to urgently address the homelessness crisis?

Minister for Public Expenditure and Reform (Deputy Michael McGrath): The Deputy will not hear anybody on this side of the House defending any level of homelessness and certainly not the level we are currently experiencing in our country. As a Government, we are responding with the largest investment ever in the history of the State and we will deliver approximately 10,500 public and social homes this year, of which 9,000 will be new builds. As the Deputy knows, we are rolling out for the first time cost-rental homes as well and it is great to see that happening. We will have new affordable housing options coming on stream in July in the form of the first home shared equity scheme as well. It is a very challenging picture that we face. There is significant inbound migration with people seeking international protection separate from the whole issue of Ukrainian refugees coming to Ireland. That is placing pressure on the system. The answer ultimately is to build more homes and increase supply and that is what we are doing.

Deputy Ivana Bacik: Yesterday I raised a constituent’s story with the Taoiseach. While searching for a rented home, my constituent was invited to participate in what he described as a bidding war. The landlord was asking prospective tenants to indicate how much they were willing to pay per month in rent. I am not suggesting that is representative of all landlords by any means but this shocking example is a consequence of a broken housing system, a housing disaster as our President recently described it. My offices and those of my Labour Party colleagues are inundated with people looking for help with housing who cannot afford to get a home, who are languishing on the housing list, people facing eviction and rent increases, older people who are very frustrated because their adult children in their 20s and 30s cannot afford to move out of the parental home. Yesterday during Leaders’ Questions, the Taoiseach invited me to provide suggestions from the Opposition. I am happy to give some. Will the Government incorporate our renters’ rights Bill into Government legislation and will it adopt a rent-to-buy scheme?

Deputy Michael McGrath: I thank the Deputy. Any example of a landlord asking prospective tenants to become involved in a bidding war and say how much they are willing to pay to outbid each other is completely unacceptable. It is not something the Government believes should be happening in the market. We are in a situation where, increasingly, small landlords with one, two or three properties are leaving the market. We have to examine the reason they are leaving the market when rents are so high. There are some reasons for that and the Government is going to have to seek to address them. The Minister, Deputy Darragh O'Brien, has already brought forward several Bills on the rental market and I know he is planning further measures.

Deputy Holly Cairns: The Minister will be aware of the pressing need to develop the existing Bandon relief road. The town has been waiting years for this improvement but at the current pace, it will be years before the project is completed. It is a historic walled town with a strong community of businesses and local infrastructure. Outdoor spaces have really enhanced the area recently. However, large numbers of heavy goods vehicles and other large vehicles are being forced through the town because of the inadequacy of the relief road. That has a serious impact. The planning and design phase of the new road is due to be finished by late 2024. How much longer will it take for it to be completed? The current plans do not address the two river crossings where the traffic bottlenecks or the dangerous junction at Baxter's Bridge and the Dunmanway Road. This project is being funded under Project Ireland 2040, which is increasingly looking like the completion date. Can the Minister reassure us that is not the case?

Deputy Michael McGrath: I am, of course, very familiar with Bandon and this particular project. It seems like there have been works ongoing in Bandon for a long time with the drainage works and flood relief works. Everyone is anxious to see further progress on the relief road. What I can say is that there is a budget of €30 billion for the Department of Transport in respect of the national development plan out to 2030. There will be significant funding opportunities to advance a whole range of projects. I will make an inquiry in respect of the Bandon relief road the Deputy has raised.

Deputy Richard Boyd Barrett: Newsflash - Dún Laoghaire-Rathdown County Council just confirmed to me in the last few minutes that there are no family placements for people who are in need of emergency accommodation anywhere in Dublin. It is the first time this has ever happened. For Niamh and Anthony, a working couple both of whom are working, and their two children who are just finishing up school this week, this is a real problem, as it is for many others. Yesterday, through no fault of their own, they were evicted by their landlord on grounds of sale. They have nowhere - and I mean nowhere - to go. What should they do? I just want to know, very simply, what the Government is going to do for them and the many others. I have 12 other cases involving people who are due to be evicted in the next few weeks, in my office alone. We need an emergency plan now to provide family accommodation for people who are homeless.

An Leas-Cheann Comhairle: Thank you, Deputy. We are over time.

Deputy Richard Boyd Barrett: Please do not interrupt me.

An Leas-Cheann Comhairle: I ask the Minister to respond.

Deputy Michael McGrath: Emergency accommodation will be found for people who are in such dire need. I ask the Deputy to please provide the details of that case and the other cases

to the Minister, Deputy Darragh O'Brien, who will take up the issue with the local authority and indeed the Dublin Regional Homeless Executive. Emergency accommodation will be found.

Deputy Seán Canney: We have heard talk this morning about the housing crisis and what the President said about it. I ask the Government to consider the introduction of a VAT refund scheme for first-time buyers of new or second-hand houses. More than half the cost of building a house is indirect and much of it goes back to the State. It includes 13.5% VAT along with all the other stamp duties, fees, planning and development levies and all of that. I ask that this be introduced in addition to the help-to-buy scheme, which I hope will be retained. The important thing here is to bring in a VAT refund scheme like the one we had in previous years where the money goes back into the hands of first-time homeowners and they can pay it back over a number of years. This would help them with their mortgage.

Deputy Michael McGrath: It is important that we have policy certainty in this area. We want to see the supply of new homes continue to increase. We had about 20,000 units built in each of the last two years. It will be probably around 25,000 this year. We need the figure to grow further. I am not going to add to any speculation as to what the Government may or may not do by way of further interventions in the market. Clearly all matters relating to taxation are considered in the context of the budget.

Deputy Michael Collins: On Monday last, at a meeting of Cork County Council meeting, the order of business was suspended to discuss another Irish fishing industry crisis in the term of this Government. Fishing boats in Castletownbere, Union Hall and other piers in County Cork are staying tied to the pier as fishermen cannot afford to fuel their trawlers and boats. One councillor stated that he was told by a fisherman that to go out for his catch for the week would cost him €42,000 in fuel. It just did not pay. They watch French and Spanish fishermen fish in Irish waters and their governments have subsidised their fuel by 30 cent per litre through this crisis. Many fishermen have accepted that there is no future in the fishing industry. The Government promised a decommissioning fund but it has been kicked down the road continuously. Can the Minister tell me the exact date the decommissioning fund will be available to struggling fishermen?

Minister for Agriculture, Food and the Marine (Deputy Charlie McConalogue): I thank Deputy Michael Collins for the question. I am taken by his change of approach to the decommissioning fund. He constantly opposed it in the House previously. I note he is seeking for it to be----

Deputy Michael Collins: That is where the Government has led them. It is ruining their future.

Deputy Charlie McConalogue: I see the Deputy is supporting the fund now and seeking an early date.

Deputy Michael Collins: The Minister might answer the question. I am not supporting it.

Deputy Charlie McConalogue: We are engaged with the European Commission in terms of getting approval for the scheme. I hope to have approval soon and to have the scheme up and running as quickly as possible. There is a challenging situation at the moment for fuel and the cost is impacting on fishermen. I am meeting all fisheries representative organisations next week to discuss this issue. I have been in close contact with them. The Deputy will be aware that at their request, I have introduced two three-month tie-up schemes, which have been

welcomed by them, to provide income support to fisheries at a very difficult time and against the backdrop of the fuel situation. Excise duty does not apply to marine fuel and VAT can be reclaimed by fishermen. It is very much tied specifically to the price of a barrel of oil. It is challenging situation. I will be meeting fisheries representatives next week to discuss it in detail.

Deputy Michael McNamara: There is a large discrepancy in what childcare providers are paid per child between large and very small childcare providers. Large providers are paid more per child. Usually the opposite is the case, for example, in Department of Education capitation fees, because the more children there are in a school, the cheaper it is to heat the school, provide additional staff supports per child and so on. This significant difference has created a real risk of either corporatisation of childcare in Ireland or, at the very least, small-scale providers not being able to continue. Will that be addressed? I appreciate the matter does not fall under the Minister's Department *per se* but as the Minister for Public Expenditure and Reform, he has an overview of public spending on matters like this. Will it be addressed?

Deputy Michael McGrath: I assume the Deputy is referring to the early years sector in particular. The Minister for Children, Equality, Disability, Integration and Youth, Deputy O'Gorman, is engaging directly with that sector.

1 o'clock

As a Government, we made a step change in investment in the last budget, which will kick in in the autumn. I want to make sure that funding is used effectively for the purpose for which it is intended, which is to improve affordability for parents and to make sure there is a good career pathway for the workers in the sector. Like the Deputy, I got the feedback from the small providers as well. I have spoken to the Minister, Deputy O'Gorman, who is very much aware of it. He is engaging with the sector and we look forward to seeing the outcome of that.

Deputy Cathal Crowe: The pharmaceutical company Vertex is manufacturing what is seen as a game-changer drug for people with cystic fibrosis, namely, Kafrio. Unfortunately, due to a price squabble between the HSE and Vertex at the moment, there are 35 children with the F508 mutation who are omitted from that. They come in the age category of six to 11 years. This is a life or death matter. One of the families I met had a cousin who died last year and they are looking at their own son now this year waiting for this treatment. I understand that last week Vertex moved beyond the impasse of its price argument. We now need to hear something from Government that it too can meet halfway, this can be agreed and this game-changer drug can be given to these youngsters. Can the Minister offer us some words of encouragement or hope?

Deputy Michael McGrath: I thank the Deputy for raising this issue which is so important for many people. I just want to reassure him that the HSE continues to engage in commercial discussions with Vertex. The Minister for Health advises that the matter is being expedited at speed and is receiving all necessary attention. Those discussions are commercial in nature, but the need to bring them hopefully to a successful conclusion is accepted and recognised by Government. I thank the Deputy for raising this.

Deputy Jennifer Carroll MacNeill: I wanted to raise again the zero-tolerance strategy published by the Government yesterday, which is the third strategy against domestic, sexual and gender-based violence. In particular, I wish to ask the Minister about the family law reform Bill and the family courts work which I hope is about to be published either before the Dáil recess or in the very early weeks of the next term. It is crucial that we stop the family court

system being used by perpetrators to continue to exert coercive control over their former partners and, as Free Legal Advice Centres, FLAC, highlighted yesterday, that people have access to legal support and advice to help them deal with coercive behaviour that follows them through the court system. Can the Minister provide an update on the publication of the Bill?

Deputy Michael McGrath: I can confirm that the Government approved the drafting of a family court Bill along the lines of the general scheme in September 2020 which has been published and the drafting of the Bill is ongoing. It is quite an intensive amount of work ongoing in respect of that with a view to publishing it as soon as possible. The family court Bill will make provision for the establishment of a family court as divisions within the existing court structures, that is, providing for a family high court, a circuit family court and a district family court, each dealing with family law matters as appropriate to its jurisdiction. It is a priority for Government and we expect to make progress shortly.

Deputy Matt Carthy: As the Minister is the Minister for Public Expenditure and Reform, I have to ask him if he is aware of the misuse of public transport funding that is discriminating against regions in this country? The N2 road alongside the A5 has been considered in several Government documents and plans to be a crucial artery and economic driver for both the central, Border and the north-western regions of the country. However, unilaterally, the funding for the next phase of the Clontibret to the Border section of that scheme was withdrawn this year. Transport Infrastructure Ireland, TII, has confirmed that will be revisited at the direction of the Government. However, it seems that nobody in government is willing to make a case. I need to know if the Minister has been examining how this money is allocated and the fact it discriminates against key regions and is actually undermining other agreed Government policy.

Deputy Michael McGrath: I thank the Deputy for raising the issue. As I said earlier, the Department of Transport has a funding commitment of €30 billion out to 2030 in the national development plan, NDP. We have a provision within the programme for Government for a 2:1 ratio in terms of new investment in favour of public transport infrastructure-----

Deputy Matt Carthy: There is no public transport in the region I am talking about.

Deputy Michael McGrath: -----relative to new road infrastructure. That still provides very significant funding for investment in new road infrastructure, including upgrades of existing primary and secondary national roads. I will look into the issue the Deputy raised and ask the Minister to respond to him.

Deputy Emer Higgins: This morning, new parents in Lucan were informed by letter that the public health nurse service will not be providing developmental check-ups for newborns and infants. Three-month, nine- to 11-month, 21- to 24-month and 46- to 48-month check-ups are all cancelled. The reason given is that the public health nurse service is so understaffed that other areas are being prioritised. Parents in Lucan are furious and I am absolutely furious too. This is such an important issue. Developmental check-ups are vital when it comes to picking up potential issues. It is also very important for peace of mind for new parents. Cancelling these services is totally unacceptable. It is simply not good enough. We need to resolve it as soon as possible. Can the Minister ensure that funding is put in place to make sure that if this is a resourcing issue, resources are provided to deliver these very important services to my constituents?

Deputy Michael McGrath: I thank the Deputy for raising this. I absolutely recognise the

value of developmental check-ups for children. As the Deputy said, it provides peace of mind in the vast majority of instances, but also, where there is an issue, early detection and warning is vital when it comes to intervening and making a difference. I do not know the detail of the area and the case the Deputy raised. I assume it is related to recruitment. I will ask the Minister, Deputy Donnelly, to look into this and revert to the Deputy. Certainly, I am not aware of any national policy change, so I can only assume that it is a shortage of staff because of an inability to recruit. We will look into it and come back to the Deputy.

Deputy Jennifer Murnane O'Connor: We have recently seen that the census data has been collected and reviewed this year. The population has increased, towns have grown bigger and our communities have expanded. I want to ask the Minister about An Garda Síochána numbers. Over the weekend, I met with residents in Tullow, County Carlow, who told me previously they had three sergeants and 21 gardaí. Now, there is now only one sergeant and 12 gardaí, despite the increase in Tullow's population. This is unacceptable. I will provide another example. Comparing the constituency of Carlow-Kilkenny and the constituency of Waterford, for every three gardaí in Waterford, there are only two in Carlow-Kilkenny, even though Carlow-Kilkenny has a higher population. Again, this is unacceptable. Carlow has grown so much, but the Garda manpower is not there. When will we have more recruitment and when will it take place?

Deputy Michael McGrath: I recognise the value in having a visible Garda presence in communities. I am sure that is something that the Deputy and her constituents are seeking in Carlow as well. In the last budget, we provided funding for the recruitment of 800 additional gardaí. There is a recruitment campaign currently under way. The allocation of Garda resources is a matter for the Garda Commissioner, but it is absolutely the Deputy's right to make the case to the Commissioner as to why Carlow should be getting a greater allocation of gardaí, and in particular, gardaí who are graduating from Templemore.

Deputy Ruairí Ó Murchú: We all know we are dealing with disastrously high rates in relation to rentals, particularly in towns such as Drogheda and Dundalk. It will hardly be a big shock that since news of the increase in the housing assistance payment, HAP, discretion level to 35% was first talked about that the local authority, namely, Louth County Council, has been inundated with calls. Can we get an actual date? We are being told it is next month, but is that the first of the month? If it is not, we need to get that information as soon as possible. I also put on the record once again that we need people in HAP tenancies to be able to go into payment plans if there is a case of arrears, because it is leading to instances of homelessness in my constituency.

Deputy Michael McGrath: I do not have a date to hand, but I will ask the Minister, Deputy Darragh O'Brien, to confirm that date. I am sure his Department will be in touch with local authorities about operationalising that decision, which was a very positive one. It reflects the market reality that is present at this time.

Deputy Carol Nolan: I want to ask the Minister about the carer's allowance. Will he commit to an urgent review of the carer's allowance with a view to abolishing the means test element of it? In the meantime, will the Minister and Government commit to increasing the weekly rate of carer's allowance to €325? Our carers are really struggling, as they have been for some time. The fact they save this State €20 billion needs to be taken into consideration. If our carers are not supported, then the burden is going to come back onto the Government. We need to do this review and increase their allowance to €325 per week. Will the Minister agree

to this?

Deputy Michael McGrath: I fully agree with the Deputy about the incredible role our carers play. We can never properly recognise the work they do. In the previous budget, we did make the first changes in the means test in about 14 years, which was a step forward. All of this will be considered in the lead-up to the budget. Of course, there are issues arising from the Pensions Commission that are directly relevant to carers, and that matter is also under active consideration at the moment. It is an issue that is close to my own heart and we are anxious to make progress on it.

Deputy David Stanton: After a very long process, the Cork County Council development plan 2022-2028 was recently adopted by the elected members. The Office of the Planning Regulator has now stepped in and recommended changes to housing density in the Carrigtwohill area. It wants very high density in a rural area. The Minister has issued draft directions to the county council and there is a process going through at the moment. Is the Minister bound at the end of the day or has he the flexibility to adhere to the recommendations made by the members in the plan? Does he have to go ahead with these very high density apartment blocks in a rural area, which in my view are unviable?

Deputy Michael McGrath: My understanding is the planning regulator makes recommendations to the Minister, who considers those recommendations and makes a determination. It is fair to say the views of the Office of the Planning Regulator would be a very important consideration for the Minister in making the final decision but, as I understand it, it is a final decision for the Minister.

Deputy Brendan Smith: I presume the Minister's Department will be reviewing imminently the mid-year public capital expenditure profile. The Minister will recall that, last year, at my request, he engaged with the Fianna Fáil councillors in Cavan and Monaghan on the need to provide additional funding for the non-national road network. I would strongly urge again this year, in the event of an underspend in Departments or statutory agencies resulting in a reallocation of funding, that priority be attached to further much-needed investment in regional and local roads and laneways. A reallocation to local authorities during the summer can bring benefits to many communities and households. As the Minister knows, these roads are of the utmost importance, especially in rural Ireland. The local authorities will have the construction capacity to spend more money once they are notified in good time, and such taxpayers' funding can be put to good use in the best interests of many communities in every county.

Deputy Michael McGrath: I acknowledge this is an issue Deputy Smith has consistently raised, and I recall our meeting with local authority members for the Cavan-Monaghan area last year. It is also the case that, given the current cost of resurfacing works and with bitumen, an oil-based product, being particularly expensive, the work we did in reforming the public works contract, including in respect of energy, will be important to make sure we have a comprehensive road resurfacing and maintenance programme over the course of the summer. I recognise the importance of the non-national road network. The Deputy has made the case for improved funding for local improvement scheme, LIS, projects in the past, as well as other local and regional schemes. I will engage with the Minister, Deputy Ryan, in regard to funding.

Deputy Denis Naughten: I refer to Private Members' motion No. 152 on the Order Paper, which seeks the direct intervention of the Government to address a humanitarian crisis faced by eight families in the Ballagh and Liphelim area of south Roscommon due to the increasing

water level in Lough Funshinagh, a situation that is deteriorating daily due to the current heavy rainfall. The motion seeks the establishment of a cross-departmental task force to address emergency climate adaptation measures to protect homes nationwide by reforming the present legislation, without which the only option that may be open to families facing the threat of flooding, where works impact on a designated habitat, is to have the homes demolished and the families relocated. In the middle of a housing emergency, the very last thing we should be doing is demolishing homes. Will the Government commit to bringing all State players together to address the present legal impasse to flood alleviation works?

Deputy Michael McGrath: I thank Deputy Naughten for raising this issue, which I know has quite a history to it. I assure him of the work that is ongoing within the Government to make progress on this. As many of the issues fall within the remit of the Minister for Housing, Local Government and Heritage, the Minister of State, Deputy O'Donovan, who has responsibility for the Office of Public Works, OPW, has referred these matters to the Minister, Deputy O'Brien, for his early consideration and has highlighted that OPW officials are available to discuss these matters with his Department and with other key stakeholders.

Under the direction of the Minister of State, Deputy O'Donovan, senior officials from the OPW met with the CEO of Roscommon County Council and the senior engineer on Monday, 20 June, just last week. The meeting focused on identifying possible approaches to a viable solution to manage the flood risk at Lough Funshinagh, and further meetings are being scheduled to follow up on the points discussed. The Minister of State, Deputy O'Donovan, has assured the council of his and the OPW's continued support for the council as it works to find a solution to manage the flood risk at Lough Funshinagh.

Deputy Marc MacSharry: As the Minister well knows, a national review of specialist cardiac services has been going on the never-never since 2019. I have in my hand a confidential briefing provided by Professor Philip Nolan and his group to others, dated 8 March 2022, which leaves a gaping wound in the north west of the country, where there is no recommendation for the provision of a cardiac catheterisation laboratory facility. To do that, in line with international best practice, when somebody has a serious incident, that person should have percutaneous coronary intervention within 90 minutes to survive. That is a physical impossibility in the north west. It used to be Fianna Fáil policy, when I was there, for the provision of a cardiac cath lab. I want to know if the Government's position will be that of Professor Philip Nolan and his review group, who seem to think people should either move closer or die, or if the Government will commit to funding immediately the provision of a cardiac catheterisation laboratory facility at Sligo University Hospital.

Deputy Michael McGrath: I will ask the Minister, Deputy Donnelly, to revert to Deputy MacSharry directly on this issue. We all acknowledge that when it comes to responding to a cardiac incident, time is paramount, but so too is the quality of the service. I have heard what the Deputy had to say in regard to a cardiac cath lab and the requirements at Sligo. I will ask the Minister to come back to the Deputy directly on that.

Deputy Martin Kenny: On the same issue, during the week Deputy Harkin and I had a Topical Issue matter on the issue of a cath lab for Sligo. I know all of the Deputies in the constituency are extremely annoyed and frustrated with this situation. A private company, InHealth, was providing a two days a week mobile service, but that will be withdrawn as of tomorrow. The whole people of the north west will have no cardiac service in the region, which is a disgrace. We also have a copy of this review from Professor Philip Nolan, with the map

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showing where Sligo and Donegal are but with everything heading towards Galway. It simply is not possible for people in the north west who have a heart attack or a serious problem to access a service that is only in Galway or Dublin. It is unacceptable and that point needs to be clearly made to the Minister for Health. The Deputies from the area wrote to the Minister for Health seeking a meeting about this and we have not had a response yet.

Deputy Michael McGrath: As I said to Deputy MacSharry, I appreciate the importance of this issue. I will ask the Minister, Deputy Donnelly, to respond as a matter of urgency, given the latest developments on this issue.

Cuireadh an Dáil ar fionraí ar 1.19 p.m. agus cuireadh tús leis arís ar 2.20 p.m.

Sitting suspended at 1.19 p.m. and resumed at 2.20 p.m.

Offences against the State (Amendment) Act 1998: Motion

Minister for Justice (Deputy Helen McEntee): I move:

That Dáil Éireann resolves that sections 2 to 4, 6 to 12, 14 and 17 of the Offences against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023.

The motions before Deputies today seek the continuation in force of important provisions in law aimed at combating terrorism and organised crime. As Minister for Justice I am required to lay reports before the Oireachtas on the use of the relevant provisions in the two Acts covering the past 12 months up to 31 May 2022. Those reports were placed before the House on 7 June 2022.

These provisions of the criminal law provide strong legislative powers to ensure the Garda and the courts are in a position to meet the challenge laid down by those opponents of peace. Section 18 of the 1998 Act provides that sections 2 to 4, 6 to 12, 14 and 17 must be renewed by the Oireachtas at least annually if they are to remain in force. The report laid before this House includes information provided by the Garda Commissioner on the use of the provisions in question over the past 12 months and a table setting out reported usage figures for each of the years since the Act came into operation. It is notable that eight of the 12 provisions to be renewed, sections 2, 3, 6, 8, 10, 11, 12 and 17, have not been utilised during the reporting period. Of course, the fact a provision is not used in a particular year does not mean it is redundant or unnecessary, because the usage of different sections can vary from year to year.

The report also provides a brief assessment of the security situation. I should caution, however, that there are clear constraints on the detail of what is and can be reported to ensure there is no danger of prejudice to the investigation or prosecution of crime or the security of the State. The Garda assessment remains that the primary security threat in the State remains that from republican paramilitary groups, the so-called dissident groups, which have their origins in the Provisional IRA and the INLA. As Deputies know, these groups are steadfast in their opposition to peace and democracy and, regrettably, they remain wedded to brutality and criminality. It is imperative our laws and our authorities are properly equipped to deal with the threat. Let no one be under any illusion these groups do not represent a threat to this State as well as to

Northern Ireland. It is clearly established these groups operate hand in hand with organised criminals, and their behaviour is indistinguishable from such elements.

North-South co-operation in this area is crucial. The benefits of that co-operation are obvious from successful joint operations between An Garda Síochána and the PSNI, such as the cross-Border investigation targeting organised crime connected to the INLA. There is a long shared history between the two jurisdictions in counteracting terrorism on the island. This strong co-operation continues post Brexit and it is vital we continue to preserve and build on this co-operation.

As Minister for Justice I pay tribute to the members of An Garda Síochána and the PSNI who continue to work tirelessly to preserve life and to counter all threats from terrorism. Paramilitaries have consistently demonstrated that they are ruthless, reckless and cowardly. They continue with their attempts to murder and maim PSNI officers, and despite the recent lowering of the threat level in Northern Ireland, the State cannot be complacent in this regard. We must be clear in our determination that they will not succeed. It is my firm view the provisions I am seeking renewal of today are important in supporting An Garda Síochána in its efforts to investigate, disrupt and dismantle the activities of terrorists.

Of course, while the 1998 Act was a response to a domestic threat, as an open democracy it is very important we do not lose sight of the threat from international terrorism. We are not immune from this threat. Many provisions of the Offences against the State Act form part of the response to that threat, and it is significant its provisions have been utilised in the context of an unlawful organisation outside the State. We continue to work closely with our EU and international partners in remaining vigilant against such threats.

The House will be aware that in February last year, I established an independent expert review group under the chairmanship of Mr. Justice Michael Peart to examine all aspects of the Offences against the State Act, taking into account the current threat posed by domestic and international terrorism and organised crime, and the duty to deliver a fair and effective criminal justice system to ensure the protection of communities and the security of the State and Ireland's obligations in relation to constitutional, European Convention on Human Rights and international law. The chair of the review group has recently reported to me that the group has had significant engagement with relevant stakeholders, statutory agencies and civil society organisations. I expect to have the group's final report in the autumn of this year. I thank Mr. Justice Peart and the members of the review group for undertaking what is a very significant and complex task, and I look forward to engaging with any of the recommendations they might have for this important legislation. In the meantime, the report laid before this House notes the clear view of the Garda authorities that the Act continues to be one of the most important tools in ongoing efforts in the fight against terrorism. In the circumstances, I must conclude that these provisions continue to be required and that they should again be renewed for a further 12 months.

Section 8 of the Criminal Justice (Amendment) Act 2009, is also the subject of a motion before this House. It refers to a small number of serious, organised crime offences that are set out in Part 7 of the Criminal Justice Act 2006. Section 8 of the 2009 Act makes those offences scheduled offences for the purpose of Part V of the Offences against the State Act 1939, that is to say, trials for these offences are to be heard in the Special Criminal Court subject to the power of the Director of Public Prosecutions to direct that the offences be tried in the ordinary courts. The purpose of this provision is to guard against the possibility of interference with jury

trials by ruthless criminal gangs. It was enacted as a response to a number of difficulties where the justice system was considered to be under serious threat from organised crime. Organised crime gangs had shown a particular ruthlessness in their activities, including attacks on witnesses and intimidation of jurors. It was imperative that the criminal justice system was robust enough to withstand the assault launched upon it through intimidation and violence. That imperative remains.

The report on this section that I have laid before the House in accordance with section 8 covers the period from 1 June 2021 to 31 May 2022. It includes information provided by the Garda Commissioner on the use over the past 12 months of the provisions in question and details of the particular offences in question. The report outlines that in the past year, 16 individuals have been convicted in the Special Criminal Court in respect of offences to which section 8 of the Criminal Justice (Amendment) Act applies. Of course, it is the case that the jury trial should be preserved to the greatest extent possible. However, we cannot ignore the threat posed to the criminal process by terrorist groups and organised criminal groups which seek to intimidate jurors or potential jurors. The Special Criminal Court continues to play a necessary and important role in the State's criminal justice architecture in dealing with terrorism and the most serious organised crime cases.

Every member of this House is aware of the lengths to which these criminal gangs are prepared to go to thwart the justice system and to maintain a climate of fear and intimidation in our communities. They have no regard for the damage their activities cause for families throughout the country. They have no regard for the rule of law and will stop at nothing in pursuit of their own criminal gain.

Supporting the great work of An Garda Síochána in tackling organised crime remains a priority for the Government. I assure the House the Government is fully committed to giving An Garda Síochána the necessary resources to continue the work of combating those involved in organised crime. As Minister for Justice I acknowledge that work. An Garda Síochána continues to make significant seizures of drugs and firearms, to bring organised criminals to justice and, importantly, to prevent further loss of life. The view of An Garda Síochána is set out clearly in the report, which is that the continued operation of this provision is still required. As Minister for Justice I must have full regard for the views of the Garda Commissioner. It is my view, therefore, that section 8 should continue in operation for a further 12 months.

As set out in the two reports I have laid before the House, it is clear, in the view of An Garda Síochána, that the provisions in the 1998 Act and the 2009 Act combined continue to be necessary and effective in ongoing efforts in the fight against terrorism and the fight against serious organised crime. On the basis of the information set out in the report and on the advice of the Garda authorities, I propose that the House should approve the continued operation of these relevant provisions of the 1998 Act and the 2009 Act for a further 12 months commencing on 30 June.

Deputy Martin Kenny: There can be no doubt there is a significant problem with organised crime here in Ireland. Over the past 20 years, gangland feuds and other organised criminal activity have been the scourge of urban communities and have even reached into rural communities throughout the State. Only last week we saw an organised crime related shooting occur in broad daylight here in Dublin city, the third such attack on the same individual in a matter of months. As spokesperson on justice and with the support of my party colleagues, I have been steadfast in my approach towards ending organised crime. As one of Sinn Féin's representa-

tives on the justice committee I have sought to, and succeeded in, working collaboratively with the Minister, her Department officials, colleagues in these Houses and stakeholders. That spirit of collaboration was nowhere more evident than in the recent passage of the emergency legislation allowing Garda presenters to continue their important work in the courts system, at least for the time being.

Any proposal or policy brought forward by Sinn Féin on crime prevention has been advanced with the ultimate goal of strengthening the criminal justice system and the protection of the communities right across this State who are living with the scourge of unscrupulous criminal gangs. All of us in this Chamber are aware An Garda Síochána needs adequate resourcing as it stands on the front line to separate these dangerous individuals from the decent, hardworking public. We also know that sentencing and the courts will play a key role in that regard. Today the Minister presented the report that relates to this particular Act. It is worth noting the small number of times in the past 12 months the Offences against the State Act has been used. That is welcome. It is good that it has not been used as often as it has been in the past and I think we all recognise that. However, I am sure the Minister will agree reform of the current Special Criminal Court and the Offences against the State Act is also required.

I, and many of my colleagues on both sides of the floor, welcomed the review of the Offences against the State Act now under way by Mr. Justice Michael Peart. This legislation is decades old and is an emergency provision. Emergency legislation by its very nature should only be enacted over a short period of time, yet this Act has been repeatedly passed by successive governments since the 1960s. Whatever argument may have existed in the last century to have such legislation as a consequence of the conflict in the North clearly no longer applies. It is not appropriate that emergency laws to deal with organised crime would need to be renewed on an annual basis as emergency legislation. Time and again we have seen the huge difficulties presented by this Act. I think of the Sallins train robbery case. Osgur Breatnach, Nicky Kelly, and other innocent men were charged and convicted using this Act. These men were subsequently exonerated. They fell foul of each and every failure within this legislation. The lives of these men and those of their families and loved ones were permanently damaged by the Act.

The opposition of Sinn Féin to the Offences against the State Act was never just for the sake of opposition. We have repeatedly echoed many of the issues raised by the UN Commission on Human Rights and Amnesty International. Among the many issues with the Act highlighted by those human rights organisations are the difficulties around the lack of judicial oversight and the overdependence on non-jury courts. It is completely out of step with judicial best practice that the prosecutor, in this case the Director of Public Prosecutions, DPP, would decide what cases would go before what is, in effect, a non-jury court by virtue of the category of the offence, and do so without any right to appeal that decision before a court. Each case should be decided on its merits and objective grounds must be given for the decision made on which court to hold a trial in in order to comply with basic international human rights standards.

When the review of the Offences against the State Act was announced I spoke with the Minister's predecessor, Deputy Flanagan. It was very much about recognising that in 2020, we were 20 years on from the last review, we had moved a long way on since the Good Friday Agreement and things had progressed. In fairness to the then Minister, he recognised there had been an election and that election had brought many new Teachtaí Dála into this Chamber and many of them from Sinn Féin, Independent groupings, the Green Party and the Social Democrats had difficulties with this legislation. The then Minister recognised that and in that spirit recognised there needed to be a new review and that is progressing.

A section of the Good Friday Agreement deals with the transition to a peaceful society, which we are well on the way to achieving. It specifically references the use of emergency legislation like this and the need to review it. The responsibility for the Government in this regard is quite clear. The agreement states:

The Irish Government will initiate a wide-ranging review of the Offences Against the State Acts 1939-85 with a view to both reform and dispensing with those elements no longer required as circumstances permit.

In 2002 we had the Hederman review. While some of us felt its recommendations did not go far enough, practically none of its recommendations was ever implemented. The consequence of the Good Friday Agreement and the development of the peace process clearly mean the circumstances that first gave rise to the introduction of this emergency legislation do not still apply to Ireland. In this regard, in 2020 we sought and secured a new review which is ongoing. Sinn Féin also made a submission to the review group. Many Deputies in this House continually attack our stance on this Act. I would be curious to know how many of them took the time to make a submission to the review group.

Reform of this Act is clearly required. There are many reforms that successive Governments have had ample time to introduce, but have, for whatever reason, failed to prioritise. Recommendations on the operation of the Act from the Hederman review and the Law Reform Commission report on jury service have not been implemented by any Government. Successive governments have also failed to implement a modern, fit-for-purpose legislative framework that will provide legal certainty to ensure jurors are adequately protected and the criminal justice system operates within established human rights norms.

There has also been a lack of investment in resources to tackle modern organised crime and, in fact, there had been significant cuts to policing services over the years.

We hope the review group will make its recommendations before this winter. I am hopeful these recommendations will move towards the development of a 21st-century criminal justice infrastructure to tackle 21st-century crime. All people want is to have their communities safeguarded from criminality. One of the most fundamental ways to achieve this is by ensuring we have safe convictions, that are overseen by the judiciary and legal professionals and compliant with international legal norms. This year, we are disappointed the review has not made more progress. I have maintained contact with the secretariat of the review group, understand its work is continuing and that the final report will be concluded shortly. In that context, we will not oppose this legislation on the basis the report will be published and that reform of this law will be an obligation of the Minister to be delivered in the coming year.

Deputy Brendan Howlin: There is a certain feeling of *déjà vu* about this particular annual process when you could really print out last year's scripts and recycle them into the record of the House. That is never a good situation.

Let us start from first principles and ask what we have been asked to do today. We have been asked to continue in force certain provisions of the Offences against the State (Amendment) Act 1998 and the Criminal Justice (Amendment) Act 2009. Those are the two motions before us. First, those enactments created new offences. Second, the provisions of the ordinary courts were deemed as inadequate to try these offences and they should therefore be tried before the Special Criminal Court. I think the approach of most of us to this now is these were needed

provisions in their time. However, even though in the emergency it was inserted into the legislation that an annual renewal would be required, meaning that annually we can pull the plug on this, this has gone on for decades.

As Deputy Martin Kenny rightly pointed out, there have been reviews in the past of this and it is almost as if we can continue doing nothing because somebody somewhere is reviewing. It seems to me the consensus in the House, certainly last year, was if there is a compelling case for particular criminal acts to be treated in a particular way, that should be a permanent feature of our law, that we should have that law introduced here, debate it, take evidence on it and determine by the will of the Houses of the Oireachtas whether that should be part of our permanent law. Instead we do it annually, on an *ad hoc* basis and, as I described last year in some detail, because we can act according to the law - *de réir an dlí* - as opposed to setting out the criteria for determining these matters in the statute directly themselves.

That brings me back to the review. Mr. Justice Peart was asked to chair it. We were told when we were reviewing this 12 months ago the interim report was imminent. I think few of us debating last year believed we would be at this point 12 months on, in other words, that we would not have a set of proposals before us by now. We were led to believe the interim report was imminent but 12 months on, the specifics are not before us. Rather than motions for renewal, what most of us had expected would be debated at this stage were specific legal changes that would set aside emergency provisions for good and all and set in long-term permanent criminal justice legislation the matters that are determined should be a feature of our permanent law and setting out if there is a case to be made for the establishment of non-jury trials. Such trials may be necessary due to intimidation and so on. Let us set that out in permanent law as well, rather than having a recurring motion before the House for debate on the pretext that, every so often, somebody somewhere will review it and that might impinge upon it. A majority of the House probably believes this matter should be continued but I think there that a clear majority of the House also believes this should be the last time this *pro forma* presentation is made to us in this way, with the simple expectation that the House will nod through these annual motions and, if you like, read the recurring annual script without amendment.

The criminal justice system is one of the most important bulwarks of our democracy and it is constantly changing. The threats to our well-being from the criminal community and subversives are constantly changing and evolving. We have to be as agile in our legal framework, consistent with our human rights and international treaty obligations. I hope the Minister in her concluding remarks will indicate this will be the last time these motions are presented and that, between now and next year, when this resolution will elapse, we will have robust new law debated.

Acting Chairman (Deputy Kathleen Funchion): We now move back to the Government side. I call Deputy Cathal Crowe.

Deputy Cathal Crowe: I thank the Acting Chairman. I must not have kept a proper eye on the roster. I thought I had a few minutes left. I was still drafting important lines I wanted to include in my remarks.

This is important legislation. I take on board the point made by the previous speaker. It probably is a bit of a Groundhog Day when we have to revisit this every year. I hope that, this year, there will not be a walkout before the vote takes place. This is key legislation.

I represent Clare and live in the south of the county, only a few miles from Limerick city. I recall how gangland warfare ravaged Limerick city when I was in my late teens and early 20s. It was only the instruments that are provided for within this legislation that really took that to task. I recall a person I knew very well having a road traffic accident coming up to a roundabout in Limerick city. He or she would not even file an insurance claim because he or she was afraid of the individual who crashed into the car. That is the level of fear that was present. Kids had trouble going into school. People in every walk of life feared that if they took on certain individuals, the ramifications would be colossal. Some people, such as Roy Collins and others, paid the greatest price of all. Lives were lost in the feud and the actions that took place. This is important legislation that has brought about a feeling of safety and a sense that the Garda is in control. In this country, we have only one police force, thankfully, and only one Army. It is very important that when it comes to the safety and the policing of the State, one entity that has the power in that regard. Frustrating as it might be for the Houses of the Oireachtas to have to renew this legislation and roll it over year in, year out, it is important that is done. There should not be too much opposition to the motions. I hope there will be no walkout this year.

In the context of the justice brief, there was a report in the media at the beginning of the week that is of significant concern to us in County Clare. The county has the lowest number of Garda vehicles in the country. It is a rural county, yet along the spine of the county we have the M18 motorway and Shannon Airport. There is a lot going on in the county. All present have seen videos on TikTok, Twitter and Instagram showing cars speeding on motorways and gardaí struggling to keep up with them because their vehicles are too old. Not only have we in County Clare vehicles that cannot keep up with the pace, in some places we do not have vehicles at all. I know of a Garda station where a car occasionally has to be shared with counterparts over the border in Limerick city. That kind of practice cannot continue. If it is to truly get on top of crime in rural and urban settings, and also to properly police Shannon Airport, which is in our back yard, it is important that the Clare Garda division is appropriately resourced. Since the realigning of the Garda organisation, much of the command structure that governs County Clare and the other counties in north Munster comes from Cork. There is pressure among the higher echelons of An Garda Síochána to slim down the force to bring about efficiency. “Efficiency” seems to be the buzzword in almost all organisations these days. To the higher echelons, “efficiency” might mean a leaner organisation that functions better but, from a community point of view, it often means that Garda personnel are not available when they are needed. I am currently dealing with many issues in my constituency. There was a report on the front page of the *Sunday World* last week in respect of feuding factions, but there are also a lot of bogus tradesmen doing the rounds in the county. There are many fly-by criminals who shoot up and down the motorway. They are not domiciled in County Clare; they take off to other parts of the country. The exits and entrances to the motorway, however, make it very easy for them to hit our county, commit a crime and get out quickly. We are going to need a fleet of Garda cars but, moreover, we will need better resourcing into counties such as Clare.

The final issue I wish to raise is that of the suspended members of An Garda Síochána in the Limerick division. That division encompasses a significant area of County Clare, including my home patch which has a population of 12,000 people. Several people have now been suspended, some of them for more than two years. An investigation is under way. This all stems back to the squaring of road traffic offences. When an individual is pulled over by a Garda car for speeding, the Garda officer has the entitlement, dating back to their training and the century for which An Garda Síochána has been in existence, to exercise discretion. The person pulled over may be going to a maternity hospital or to visit a sick relative or rushing somewhere for

important reasons. It might not be ideal but if the speeding is explainable and the Garda officer decides the reason for it is plausible and legitimate, he or she can decide to square the offence and the matter will go no further. That is how it is supposed to operate - policing by consent and gardaí having authority in their community but also the respect of their community. At the moment, however, it seems a sledgehammer approach is being taken. Anyone who exercised that power of discretion in Limerick in recent years has come under a net of suspicion.

Careers have been ruined by this. Eight members have been fully suspended - with pay, may I add. They are probably at home watching "Judge Judy" this afternoon when they could be out bringing real criminals before the courts system. They are at home, being paid, when they should be on the beat. They could, at least, be put on administrative duty but that is not what has been done. Rather, they are at home and being paid for it. They did not enter the force and train up in Templemore to sit in an armchair at home when they could be out providing active service to the country. Not only were eight people suspended, up to 100 people have been brought into a net of suspicion, with mobile phones and laptops having been confiscated and personal communications between Garda officers being under investigation. That has been crippling. I do not know the rights or wrongs of the situation because I am not the investigative body. The only thing on which I am repeatedly trying to shine a light is that the matter has been before the Garda National Bureau of Criminal Investigation in recent years and it is moving very slowly, from what I can tell. It is not going anywhere significant.

I do not believe the Minister operationally has a say in this but it is her line Department. Commissioner Harris has to step up to the plate and ensure a determination is made. If people are guilty, that is fine; if they are not guilty, let them get back to work. The investigation must be moved on, however. In any other realm or walk of life, things would not take this long and people would not be strung out for this long. It has been devastating to the morale of the force. I am friends with several gardaí and there are others I know as acquaintances. Morale has never been lower. Yes, gardaí are getting new uniforms and there is policy after policy coming down from Garda headquarters in the Phoenix Park but, as a force, they feel operationally underwhelmed. Some members are miserable. This investigation and the net of suspicion hanging over people is very detrimental. Some of the gardaí tied up in that net of suspicion had only just come out of the Garda College at Templemore. One can imagine that when a Garda passes out in Templemore and takes part in the fabulous parade in the parade yard, his or her first hope is to don the stripes of An Garda Síochána, wear the blue shirt and get out on the beat. Many of them, however, were straight into an investigation. Their careers were stifled. They cannot move back to stations close to their homeplace. It has often been said that there is no smoke without fire. That might not be how the courts system operates but within An Garda Síochána a question mark hangs over these young men or women who have entered the force and it will linger until their names are cleared. For better or for worse, I ask the Minister to, please, through Commissioner Drew Harris, expedite and end this process and put these gardaí back on the street.

It is useful to quantify that. Eight gardaí in one district might not sound like a lot but I understand that currently more than 100 gardaí nationally are suspended with pay. That is not good enough for a force that is not massive to begin with. The Garda station in my locality has three gardaí, which means there are three times as many gardaí suspended in the division as there are stationed there. That quantifies how big the problem is and it acutely explains the need to expedite this matter. I thank the Acting Chairman for her forbearance.

Deputy Pa Daly: It is 20 years since the previous review of the Offences against the State

Act and the special powers it sets out, some of which predate the Second World War. As several speakers have noted, an annual review is not satisfactory. Three years ago, we called for a review of the system, which was granted. We need 21st century laws to tackle 21st century criminals. That encompasses everything, including increased Garda visibility on the streets and more resources and protection for those who are giving evidence against dangerous gangs. The powers granted under the Act are a departure from historic common law norms but we must ensure the Garda and the courts have the powers they need to take on organised crime.

The former Minister, Deputy Flanagan, agreed to a review of the legislation and it is good news that the current Minister, Deputy McEntee, has established it. The purpose of the review is to take into account the current threat posed by terrorism. The Minister noted in her speech that an international terrorist threat is unlikely. The review seeks to deliver a criminal justice system that is both effective and fair. It will take into account our constitutional obligations and those arising out of decisions of the European Court of Human Rights. The chairman of the review group, Mr. Justice Peart, recently reported that the public consultation has concluded. I note the extremely low usage rate of the Offences against the State Act in the past year. There has been a total of some eight offences altogether this year, whereas, back in 2002, 115 cases were taken under section 9 alone.

It is simply not right, as noted in a court case last year, that a civil servant should have the power to refer cases unchallenged to the Special Criminal Court without any reason or explanation. In one instance, a prosecution was tried in the ordinary courts and, when a retrial occurred, it was dealt with in the Special Criminal Court. There have been a lot of difficulties with the court over the past year. In that particular case, I understand there was no evidence of any jury intimidation. However, the DPP was able to make the decision to have it prosecuted in the Special Criminal Court.

The review group is highly respected. I hope it will have brought forward proposals for improvement by this time next year and that the Government will then introduce legislation. We want to work with the Government to bring about necessary change and improvement. There is no doubt we can improve on what is there, which it is the job of legislators to do. I do not see how laws that were crafted nearly 100 years ago, in the 1930s, can possibly be fit for purpose in the 21st century. Considering the cyberattack on the HSE last year and the rise of international criminal groups, which have become more sophisticated as they have consolidated, it is obvious our laws need to be improved. We all want the same thing, which is to ensure we have safer, vibrant communities. Our job as legislators is to put the tools in the hands of the Garda and the courts to make that happen.

Deputy Catherine Murphy: I move amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“— resolves that sections 2 to 4, 6 to 12 and 17 of the Offences against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023; and

— in the absence of any specific information being presented which points to the inadequacy of the ordinary courts in the administration of justice in Ireland with specific regard to offences listed under sections 6 to 9 and 12 of that Act, and acknowledging the views of multiple national and international human rights agencies that have raised seri-

ous concerns regarding the operation of the Special Criminal Court, resolves to proactively and progressively implement societal and justice reform measures which, within a specified period of time being no later than 2025, ensure that section 14 of that Act should not continue in operation after that date.”

Every year, this legislation is put before us and the debate seems to be become more perfunctory and sometimes politicised. We do not properly engage with the impact of the special powers set out in the legislation and the legal and human rights issues inherent within them. The juryless Special Criminal Court will continue to operate, with no regard for the vocal opposition from international human rights organisations. Deputy Howlin referred to a review that is imminent. I would have expected the review to have been completed this year, in which case we would be having a very different debate. I often think we need a thesaurus to guide us on the meaning of words such as “imminent”. I seem to have a very different vision of what it means from what it apparently means to others, which is very frustrating.

The Special Criminal Court was an emergency measure that has been in place for more than 50 years. It was needed 50 years ago and has been needed since then, which I acknowledge. Unfortunately, there is an issue with gangland crime. However, the State needs to enact alternative provision for juries, as is done in other jurisdictions. We also need a proactive policing model. I recall people in Drogheda and Limerick saying the dogs in the street knew there were issues in those places. Those types of issues get to a point where they are out of control and then, all of a sudden, there is a crisis. The proactive policing model is essential if we are to deal with that. It is not just about looking at one element of our response; we need a multifaceted approach.

I question whether, if the Special Criminal Court were not in place, we would seek now to put it in place and what the circumstances would be that necessitated its establishment. That is a debate we may need to have when the review is completed. The sole basis for the establishment of the court was to deal with organised crime and paramilitary activity. That basis has been used to justify its continuing operation even though the circumstances, in some cases, have changed. We have not done what has been done in other jurisdictions, which is to consider alternatives such as anonymous juries. I do not accept that the level of organised crime here is more extreme than it is elsewhere. I acknowledge it is a serious problem and threat but I do not accept it is worse in this country than in other jurisdictions that can exist without a comparable court. We must ask how other jurisdictions deal with these issues and protect juries and witnesses. Clearly, they are able to do so. I tabled a parliamentary question some time ago about what is being put in place to make the courts system safe for juries and witnesses. The response did not fill me with confidence that there is a proactive approach in this regard. We need to look at that.

The Special Criminal Court has a range of special powers that would not be accepted in normal courts, including the use of belief evidence, negative inferences from silence and evidence being withheld from the accused and his or her defence. The DPP is not obliged to provide a reason for referring an individual to a court where his or her rights are in question. It is one thing to make an argument that the Special Criminal Court is necessary on the basis of jury intimidation, but on what possible basis is it legitimate to reduce the standard of evidence? We want secure convictions where convictions occur. There have been cases in the past, including the case that was referenced concerning the Sallins mail train robbery, where convictions were subsequently overturned. There was a reduced standard of evidence in that particular case. The Irish Council for Civil Liberties, ICCL, Amnesty International and the Irish Human Rights and

Equality Commission, IHREC, have all stated that the Special Criminal Court denies individuals the right to a fair trial and the right to be considered innocent until proven guilty. The UN Human Rights Committee has identified the court as being in violation of Ireland's obligations under international human rights treaties, has expressed concern regarding the expansion of its remit and has called for its abolition. We need to make comparisons with what is being done in other jurisdictions.

I hope my amendment will be accepted. I hope we will have a very different debate next year. It is not acceptable that we go from year to year without dealing with this issue in a much more substantial way.

Deputy Jim O'Callaghan: Although this annual debate can be repetitive, it is important. Unfortunately, it sometimes becomes completely focused on the Special Criminal Court. As Members will be aware, there is more to these resolutions than simply matters to do with that court.

3 o'clock

Under the 1998 Act introduced in the aftermath of the horrific Omagh bombing, 12 new sections were introduced that were required to be renewed annually by the Houses of the Oireachtas. That 1998 legislation established five new offences. Those offences have been very effective in assisting the Garda in prosecuting terrorist offences.

Of course, we are not only debating and renewing the Offences against the State Act 1998. We are also renewing and extending the Criminal Justice (Amendment) Act 2009. That established four new offences. It has been extremely effective in combating gangland violence. It has been used before the courts and many criminals have been convicted as a result of the operation of those provisions. My view is that the motion is required. I am happy that the Government and Fianna Fáil are supporting it. Regrettably, the Special Criminal Court and the extension of these offences are necessary.

When we look at the whole principle of the Special Criminal Court, which will be, I suppose, the dominant part of the debate when we come to the motions, people should take into account what is in our Constitution and in the European Convention on Human Rights, ECHR. Article 38 of the Constitution deals with trials for offences and it sets out the mechanism by which people are to be prosecuted in accordance with law. It sets out what the law is. It states first that for minor offences people can be prosecuted summarily. People are prosecuted every day of the week without a jury for minor offences. Then it refers to the fact that if people are working for the military, they will be subject to the military courts. That happens. Third, it states that where the "ordinary courts are inadequate to secure the effective administration of justice" special courts can be established. That is what the Special Criminal Court is and I will return to this point presently. There is then the general clause, which is contained at the end of Article 38, which states that no one shall be tried for a criminal offence without a jury, save in accordance with what precedes it, referring to the three examples I have given.

The Special Criminal Court is, therefore, a court that is constitutionally provided for. It is set out in our Constitution that a special criminal court can be established when ordinary courts are ineffective to secure the effective administration of justice. Sometimes that is forgotten. Just in case people think there is something exceptional or lacking in the protection of human rights regarding the Irish Constitution, let us look at the ECHR. In Article 6, that convention

sets out that everyone tried for a criminal offence deserves to be given a fair trial in accordance with law. Again, there is no mention of a jury in that article. Just so that people are aware, many countries in Europe do not have any juries when it comes to the trial of serious criminal offences.

I think the system we have is preferable. One of the good things we inherited from the British is a system of justice that provides for a jury. Let us recall, however, that what we have is a system of justice we inherited from the British. Other countries on the Continent do not have this type of system. They do not have juries of 12 men and women selected at random from the electoral register. From speaking to lawyers on the Continent, I know they sometimes look at the system of juries and say it is extraordinary that juries do not have to give reasons or an explanation as to why people are found to be guilty or not guilty. I know that may sound extraordinary to us, but we should be aware that there is nothing exceptional about serious criminal trials taking place in the absence of a jury. It happens in other countries throughout Europe.

I want to see juries used in Ireland as much as possible. I want to see trials for most serious criminal offences having the benefit of juries being attached to them. It provides a greater system of protection. Juries bring objectivity to the assessment of the guilt or innocence of an accused person.

We must then look to see what we have learned about the Special Criminal Court from history. I missed the earlier part of the debate, but I think someone must have referred to the Sallins robbery. That was an example of a miscarriage of justice by the Special Criminal Court, but it is the only one I can really think of. If we look at the legislation we are considering here from 1998 and 2009, I am unaware of any campaigns that exist that claim people convicted by the Special Criminal Court have been wrongly convicted. I am unaware of having any such miscarriages of justice that have taken place before the Special Criminal Court brought to my attention. I do not hear people advocating for such cases. People get acquitted by the Special Criminal Court.

Let us be clear about the reason we have the Special Criminal Court. It is to protect ordinary men and women from being exposed to intimidation and threats, which I believe would arise if jurors had to adjudicate on gangland criminal trials or criminal trials for terrorist offences. We have seen that happen in the past. Gangs in this country have murdered children and journalists. From recent trials, we also know they have intimidated witnesses. If people are going to try to intimidate somebody to nobble a trial, probably the easiest person to nobble or intimidate is a member of a jury. People talk about how we should try to have anonymous juries or juries that are protected but for a trial to be fair, it must be ensured that the jury is in the same room as the people giving evidence. The jury must also be in the same room as the judge to allow him or her to assess the jury members and ensure they are paying attention. Therefore, regarding all the examples given in the context of trying to protect the identity of jury members, it may be possible to shield them, as cases have happened where witnesses have been shielded from the public, so it might be possible to shield the jury members from view by other people in court, but then at 4 p.m. or 4.30 p.m., no matter where they are, the jury members have to go home. It is not that difficult to identify who the people are on a jury. If they are identified, it is an easy way of trying to ensure it will be possible for someone to engage in the ancient crime of embracery.

When we have these motions before us, we must also reflect on the fact that a review is coming up. I welcome that. Fundamentally, though, the people on that review panel will have

to consider whether they are going to declare that we no longer need a Special Criminal Court. I would have thought it would be the preference of the Director of Public Prosecutions, DPP, to ensure that juries are used in cases. That is what I think a prosecutor would want. I respect that there are certain cases, which the DPP probably understands intimately, where it would be dangerous to put jurors in charge of adjudicating on a particular criminal charge. The review panel should complete its work promptly and be clear in respect of the review. No matter what that review panel states, it cannot deviate from the fact that the Constitution states that special courts are permitted when the “ordinary courts are inadequate to secure the effective administration of justice”. Unfortunately, that situation still exists here and it is why I will be voting for the motions.

Deputy Paul Murphy: Just before Deputy Jim O’Callaghan leaves, he said that the only miscarriage of justice he was aware of in the Special Criminal Court is the Sallins case. A quick Google search on my phone presented a case from 2021 where a man spent 14 months in prison for IRA membership and the Special Criminal Court subsequently found that to be a miscarriage of justice. The point is that the majority of miscarriages of justice are never identified. It is the tip of the iceberg that we see. If we have circumstances where we have no jury, where people can be convicted based on the word of a senior Garda and on inferences and secret information contained in documents not disclosed to the public and where great power is given to the DPP to try people without a jury, then we are creating a situation with the potential for miscarriages of justice. I also do not agree with the idea that a jury must be in the same room as a judge. I do not see the logic of that. It is better to have a jury that is remotely located and with video access and so on, so they can see without being identified, rather than to have all the problems associated with having no jury at all.

In November, the Irish Council for Civil Liberties, ICCL, stated that a “Special Criminal Court presents an insuperable obstacle to the right to a fair trial”. It further stated:

... the continuing existence of a special non-jury court in Ireland is an intolerable interference with constitutional fair trial rights. It cannot be justified on practical or legal grounds. As other legal systems have shown, any problems with jury or witness intimidation can be addressed through other means.

The UN Human Rights Committee, Amnesty International and Mary Robinson have made very similar points. These extraordinary powers allow people to be locked up without the right to a trial by jury, without actual evidence being presented against them and just on the opinion of a garda.

It is very disappointing that the Green Party, having gone into government, has now dropped its opposition to this legislation, previously held on civil liberty grounds. Similarly, Sinn Féin, in preparation for going into government and trying to indicate to the establishment that it will be a safe pair of hands, has also dropped its long-standing correct opposition to the Special Criminal Court. I understand that about one third of Sinn Féin party members voted against this decision at the party’s Ard-Fheis. I hope its position will be overturned at the next Ard-Fheis. Unfortunately, it will make people who look to Sinn Féin for radical change question whether Sinn Féin in government would deliver on the radical change they are looking for when the party is so committed to demonstrating it can be a safe pair of hands for the establishment, even at the expense of completely undermining very basic civil liberties.

We are never given any proof that jury intimidation is a significant problem in our criminal

justice system. As I mentioned, there are plenty of alternatives if it is a significant problem, but the evidence has never been presented to justify taking away such a basic civil liberty.

Deputy Mick Barry: I am opposed to extending the powers of the Offences against the State Act. I agree with the Irish Council for Civil Liberties, the Irish Human Rights and Equality Commission, Amnesty International and the United Nations Human Rights Committee that the Special Criminal Court should be abolished. The Irish Council for Civil Liberties has stated:

There is no jury at the Special Criminal Court and it accepts secret evidence from gardaí. This is in violation of our right to a fair trial, our right to trial by jury and our right to equality before the law.

The Government likes to portray itself, as does the State, as modern, liberal, and democratic. However, here we have a major contradiction in that the State has a parallel legal system without the democratic norms one would expect.

This issue is a litmus test for Sinn Féin as it prepares for government. Sinn Féin portrays itself as defenders of the rights of the people. Does that party stand by principle or does it, like the Green Party before it, bow to establishment pressure on this issue and insist on allowing the maintenance of the *status quo*? Sinn Féin has abstained on this issue in recent years citing an independent review in the pipeline. However, the review is clearly headed towards maintaining the system, by and large. Deputies who abstain today will do so in the full knowledge that they are failing to challenge a system of non-jury courts and a parallel legal system with inferior rights.

Minister of State at the Department of Justice (Deputy James Browne): I thank my colleague, the Minister for Justice, Deputy McEntee, on her statement on the renewal of the provisions in the Offences against the State (Amendment) Act 1998 and the Criminal Justice (Amendment) Act 2009, and I add my full support to the motion.

We know the provisions in the Offences against the State (Amendment) Act 1998 were introduced as a response to the Omagh bombing in 1998. We will never forget this appalling and ruthless event, a bombing that resulted in the murder of 29 innocent victims and untold suffering for their families and loved ones. While the security situation has improved, according to a security assessment by An Garda Síochána, the threat of terrorist atrocities from dissident republican paramilitaries against our communities and against peace remains. It also indicates that these robust provisions continue to be needed. It is a sobering reminder to contemplate the nature of dissident republicans who, despite being rejected by the people of Ireland and after they committed atrocities such as the Omagh bombing, remain committed to violence. The hard work of An Garda Síochána to disrupt terrorist activities prevents dissident republicans from inflicting further misery and suffering on our island. Its work must be underpinned with appropriate legislative powers. For this reason, I fully support the renewal of the provisions of the Offences against the State (Amendment) Act.

The Criminal Justice (Amendment) Act 2009 provides for a trial in the Special Criminal Court for a small number of serious organised crime offences. The purpose of this provision is to guard against the possibility of interference with jury trial with ruthless criminal groups. In these most serious organised crime cases, as in terrorism cases, the Special Criminal Court has played, and continues to play, a key role. I am sure all of us in the Chamber know of the devastation that organised criminal gangs have brought to communities throughout the State,

with drugs, violence, intimidation, and murder. Organised criminal gangs are ruthless and remorseless. Let us be in no doubt that they would exploit any weakness in the criminal justice system if given the opportunity. The ability to try them in the Special Criminal Court helps to protect the rule of law and the administration of justice. I support the Minister's renewal of the provisions of the Criminal Justice (Amendment) Act.

I also acknowledge the work of the independent review group, chaired by Mr. Justice Michael Peart, which is reviewing the Offences against the State Act. The detailed review of the Act is welcome and I await the review group's final report, which is expected later this year. By renewing these important provisions, the House is affirming the position that we will not tolerate the activities of terrorists and organised crime groups and we are committed to seeing them defeated.

Deputy Cathal Berry: I am grateful for the opportunity to contribute to this important debate on the Offences against the State Act and the Criminal Justice Act. I also welcome that we have to renew these special powers at least every 12 months; it is a prudent and sensible way to do business.

We would all prefer if the Special Criminal Court did not exist and if there was no need for it. However, the court has served the State well since its establishment, particularly in the early years when everything hung in the balance. I note the findings of An Garda Síochána and its intelligence assessment of the threats posed by dissident republicans in the North as well as in this jurisdiction. I have taken on board its professional security assessment that the Special Criminal Court should continue for at least 12 months. I commend the Garda on the excellent it is doing. The work gardaí do in preparation for these cases goes unseen. I urge the Government to continue to provide the Garda with the resources it needs to deal with the work at hand.

We are always mindful that the Special Criminal Court hands down severe and significant sentences for crimes committed. We should not lose sight of the fact that it is a good deterrent. It is the only court in this country that serious criminals respect and fear. That is very important from the perspective of deterrence and we should not lose sight of that.

Some Deputies mentioned the concerns of the human rights community, both globally and domestically, in particular the Irish Council for Civil Liberties, the United Nations and Amnesty International. They are right to point to the imperfections in this court system. They are correct that it is not appropriate to have a non-jury trial with just three judges. That is not in the normal course of business for trying ordinary criminals. However, I note, as did Deputy Jim O'Callaghan, that the Constitution gives specific powers to this House to establish special courts where it deems necessary. Based on the security assessment of An Garda Síochána, I also deem it necessary under these circumstances.

I welcome the Minister's update on the ongoing review by Mr. Justice Peart, which is a good thing. We have been talking about this for the past 18 months so I welcome that he intends to submit the report in autumn of this year. I have two quick questions for the Minister. If she does not have the information to hand, we can follow up on the matter. Does the Minister expect to publish Mr. Justice Peart's report once it is submitted or will a number of months be required prior to publication? Will the report be published this side of Christmas or afterwards? Is the Minister aware of any other similar court in the European Union? Does any other European Union country have a special criminal court system? I appreciate that other European countries may not have the same indigenous terrorist threat but they face a greater international terrorist

threat. It would be useful in this debate to know if another EU country has set a precedent in this regard.

In summary, I am happy to support the motion. I recognise the importance of maintaining these powers for at least another 12 months. I look forward to the publication of Mr. Justice Peart's report. Perhaps we will have a different discussion on the powers of the Special Criminal Court this time next year.

Deputy Michael McNamara: I doubt it.

Deputy Michael Collins: The Rural Independent Group supports the motion, as we have done on each previous occasion on which it has been before us. On the whole, the Special Criminal Court has been an effective tool against subversive elements and, in recent years, organised criminal gangs, and for that reason it is worth retaining. The case for its retention, however, is far from unanswerable. We need to be clear that the ultimate aim of the Oireachtas is for there to be a time when the shutters can be brought down on the Special Criminal Court. To believe that it should exist permanently would be to admit that jury courts are incapable of operating effectively and that would be completely wrong. We do not buy into the absolutist position of many in Fianna Fáil and Fine Gael, for example. Many will acknowledge that many in the Fianna Fáil Party have a more absolutist position in favour of the Special Criminal Court and seem to view its existence as some kind of essential for a society that values law and order, as if the court were a thin blue line standing between us and chaos and disorder. In their eyes, any criticism of the court's existence is seen as being somehow soft on crime, criminal gangs and subversive organisations, which is simply not the case. There are many legitimate criticisms to be made of the existence of special criminal courts. The right to trial by jury of one's peers has existed since ancient Greek and Roman times and should not lightly be cast aside without acknowledging just how serious a step that always is.

Deputy Michael McNamara: I am slightly perplexed that we are here having the same debate we have year in, year out. Reviews of the Special Criminal Court have been carried out. In 2002 the committee to review the Special Criminal Court, headed by former Supreme Court judge and former Attorney General, Mr. Justice Hederman, reported. The majority in that found that the Special Criminal Court violated the normal rules of evidence, in particular with the opinion evidence of a chief justice being effectively unchallengeable. The whole idea of courts is that everything is tested and tried and that nobody has a monopoly on wisdom and nobody, not even a chief superintendent, is absolutely correct. The biggest problem I have with the Special Criminal Court is the fact that a trial cannot be challenged and that the DPP just directs that a trial be held before the Special Criminal Court. That has been resoundingly criticised internationally. I note that Deputy Jim O'Callaghan said that many countries do not have trial by jury and that is indeed the case. Nevertheless, once decisions that affect somebody's rights are made, people can challenge them in almost every country in the world. In Ireland, however, people cannot challenge decisions of the DPP to direct that they be tried before the Special Criminal Court. That was criticised in 2000 by the UN Human Rights Committee, a committee that oversees criminal justice systems, some of which do not have trial by jury. That is the essential difference.

I was very surprised that Lisa Smith was tried in the Special Criminal Court. The idea that Islamic State could subvert a trial in Ireland I find either farcical or deeply worrying - take your pick. Neither is a vindication of the current system. Is Islamic State so prevalent in Ireland that the Garda cannot counter the threat it poses, or is it simply farcical to suggest that Islamic State

could subvert a trial in this State? I think it is the latter. Of course, it is non-challengeable.

Deputy Thomas Pringle: I am grateful for the opportunity yet again to contribute to and to oppose this motion. I wish to comment on some of what has been said by previous speakers, particularly the Fianna Fáil Members who outlined the crimes committed and the role of the Special Criminal Court and whether they would be happening. The fact is that the Special Criminal Court has been here for 50 years and these crimes are still ongoing so, obviously, the court is not a deterrent if that happens. Deputy Jim O’Callaghan said he was aware of only one miscarriage of justice. Deputy Paul Murphy outlined a further one and I will give Deputy O’Callaghan another: the case of my father. He was convicted in the Special Criminal Court and his conviction was overturned by the Court of Appeal, on foot of which he was released. There are loads of instances and many people who have been convicted in the Special Criminal Court who should never have been convicted in the first place and who have gone through the benefit of getting a conviction overturned.

It is a farce that we are forced to debate and to extend these Acts year after year. It completely undermines the House and completely undermines our justice system to keep working off emergency legislation permanently. The continued operation of the Special Criminal Court has been widely condemned. The Irish Human Rights and Equality Commission has recommended the abolition of the Special Criminal Court due to the significant human rights and equality concerns associated with it and the Offences against the State Act. The commission believes that the ordinary courts are adequate to secure the effective administration of justice. The Irish Council for Civil Liberties also outlined human rights issues as well as constitutional issues with the Offences against the State Act and the operation of the Special Criminal Court: “The right to trial by jury is ... [a] fundamental right of every accused person ... as guaranteed by Article 38.1 of the Constitution.” The Special Criminal Court, however, operates without a jury and is instead composed solely of three judges. That is clearly unconstitutional and creates inequality before the law. I will go further than that because I know for a fact that lawyers do not actually bother putting the law to the court because they know that there is no point in doing so and that the court is set up only to guarantee convictions. That is the reality of the situation, no matter what Government members say or how they look at one another in the Chamber. Everyone should have the right to trial by jury. There is no reason people who are tried in the Special Criminal Court could not be convicted in ordinary courts.

The most recent report by the Minister for Justice states: “The primary security threat in the State remains the threat from republican paramilitary groups.” It further states that these groups continue to focus their efforts primarily on targeting members of the security forces in Northern Ireland. Earlier this year, however, the Secretary of State for Northern Ireland himself announced that the Northern Ireland-related terrorism threat level in the North had been lowered. Why, then, is it necessary to continue extending this legislation year after year?

There are many ways in which we could properly reform our criminal justice system. Unfortunately, in my time as a Deputy and a member of the justice committee, I have seen no real push for or commitment to the type of reform needed in this country. We need comprehensive reform of our justice system and court system.

We had a justice committee meeting on Monday on the communications (retention of data) (amendment) Bill, one aspect of which is the definition of security of the State. Interestingly, there is no actual explanation in the Bill as to what the security of the State is. The reason given for that was that, because it is in the Offences against the State Act and there is no explanation

there, the Government will not put an explanation in the communications Bill. Therefore, the security of the State can mean whatever we want at the time, so anybody can be brought before the Special Criminal Court and be guaranteed conviction. That is the only reason it is there.

Acting Chairman (Deputy Kathleen Funchion): I will allow Deputy Danny Healy-Rae in briefly because he narrowly missed his slot. I will give him just two minutes.

Deputy Danny Healy-Rae: Thank you, Chair. I am very grateful.

Regarding the Special Criminal Court, I would much prefer we had trial by jury but I will not be the one to compromise the Garda if it wants to bring to justice druglords and criminal gangs. If the only way to deal with them is the Special Criminal Court, so be it. They have to be dealt with because our towns and villages are ravaged by drugs. The usual story now is that someone will walk up to you, not knowing you at all, and ask you if you want a bit of stuff. That is what is going on in all our towns and villages, even in the most rural parts of Kerry. They must be rooted out and the issue must be dealt with because our youth are being destroyed.

I wish to raise another, more local issue, a new Circuit Court house for Tralee. We need to agree a site. Urgent discussions should take place now between all the interested parties: the Department of Justice, solicitors, businesspeople, members of the community and whoever else. There are different sites, including Ballymullen Barracks, that need to be considered. It must be ensured that this courthouse is included in the imminent investment programme for public buildings. Otherwise, another opportunity may not arise for years, which in effect would mean, as is happening at the moment, that the Circuit Court would be lost to Tralee forever and finish up in Limerick or elsewhere. That is not good enough for the massive county of Kerry. We need our Circuit Court operating in a proper building with modern infrastructure and to ensure it is in place for all those who need to use it.

Another request has been asked of me and I will ask it very briefly. Two Kerry men have died, one in Garda custody. One was from Fenit, Shane Lynch, who died in Limerick, and the other, whose name was John O'Driscoll, died in Wexford. This happened weeks ago and their families are asking for clarity as to what happened. I know an investigation is taking place and we all want fair play but these families just want clarification as to what happened to these two Kerry men in other counties.

Minister for Justice (Deputy Helen McEntee): I am grateful to the House for the contributions to this important motion. I thank all the Deputies, in particular those who support this motion.

As I said at the outset, the threat from terrorist activity remains, particularly from the dissident paramilitary groups, which warrants the continuation in force of the provisions of the Offences against the State (Amendment) Act 1998. I accept it is emergency legislation and is only in place as long as it is needed. As Deputies will have seen from both reports, this is still needed. It is significant to note that for the first time this provision has also been utilised in the context of an unlawful organisation outside of the State. We are not immune from that threat. While we do not have the same kind of risk as other countries, we are certainly not immune from that threat.

Likewise, the renewal of section 8 of the 2009 Act is an important contribution to the overall framework of measures aimed at tackling organised crime. Every Deputy in this House knows the appalling damage that is caused by organised crime, especially those involved in the drugs

trade, to individuals, families and communities. We have invested more funding than ever before in An Garda Síochána, with more than €2 billion of a budget, much of which is involved in targeting criminals and organised crime. Garda visibility and resources can be increased but that will not deal with the intimidation and threats many jurors have faced in the past. I do not believe any of us would like to be, or like our family members to be, in that position. Retaining these measures in respect of the most serious crimes associated with terrorism and organised crime ensures justice can be served and is free from any attempts to thwart the criminal justice process.

I have given a clear commitment, as I did at the very outset and on my very first day as Minister for Justice, to engage with any recommendations provided by Mr. Justice Peart, who chaired the group. Members of that committee are representative of many views on this issue and are engaging on the many issues I outlined at the beginning. I have been given a commitment that I will have the final draft in the autumn. As to when I will publish it, obviously it will have to go through a process to identify, working with the Attorney General, what elements can or cannot be proceeded with. I hope to publish it as soon as possible.

On other jurisdictions, juries are commonplace, particularly in common law jurisdictions. As Deputy Jim O'Callaghan referred to, we have inherited that common law system. However, looking to France, Sweden or Norway, there are many jurisdictions that do not have jury trials. Specifically on that point, there is a suggestion this is simply a judge, a member of An Garda Síochána and that is it. The Special Criminal Court, while it operates without a jury, has three judges rather than one. The rules of evidence that apply in proceedings before the Special Criminal Court are exactly the same as are applicable to trials in the Central Criminal Court. Anyone tried before this court has the full range of procedural protections available to him or her, which means he or she can appeal to the Court of Appeal and, indeed, to the Supreme Court.

On the contention that a person cannot challenge the Director of Public Prosecutions, if she decides to bring a case before the Special Criminal Court, in any of the countries I have mentioned, if one of their prosecutors decided to take a case based on the evidence provided, the defendant would have to defend themselves in the normal way and would have the same appeals process, so it is open to them to do so.

Deputy Michael McNamara: We do not have an appeals process here.

Deputy Helen McEntee: Any person who comes before the Special Criminal Court can appeal to the Court of Appeal and to the Supreme Court.

Deputy Michael McNamara: No, they cannot. They certainly cannot.

Acting Chairman (Deputy Kathleen Funchion): Deputy McNamara, let the Minister speak.

Deputy Helen McEntee: Yes, they can, Deputy.

Deputy Michael McNamara: They certainly can not.

Deputy Martin Kenny: They can appeal the conviction but they cannot appeal which court they go to.

Deputy Michael McNamara: They cannot appeal the decision to direct a trial in the Special Criminal Court. That is the point I am making.

Deputy Helen McEntee: The point I am making is that in other jurisdictions where there is no jury, if their prosecutor, based on the evidence, decides to prosecute a person, that person does not have an option as to whether he or she is prosecuted.

Deputy Michael McNamara: I have no problem with that; it is to try them in a different court.

Deputy Helen McEntee: I am simply responding to the fact that in other jurisdictions-----

Deputy Michael McNamara: The Minister is talking nonsense, with the greatest respect.

Acting Chairman (Deputy Kathleen Funchion): The Deputy has had an opportunity already to contribute to the debate. This is the Minister concluding now. There will be a vote later.

Deputy Michael McNamara: Accuracy is the very least we can expect from the Department.

Deputy Helen McEntee: I believe I am being misinterpreted in what I am saying.

Deputy Michael McNamara: You are not.

Deputy Helen McEntee: Deputy Berry has asked if there are other jurisdictions where there are non-jury courts. There are many other jurisdictions where there are non-jury courts. In those instances, if someone is being tried, they have a right to appeal once they have gone through that process. It is the same here. That is simply all that I was saying.

If we look at all of this and at the Offences against the State (Amendment) Act, it has been an absolutely vital component in our response to an anti-democratic and criminal force that has sought to undermine the integrity of State through violence and intimidation. That is what this is about. I appreciate that renewing this yearly is not ideal but this is emergency legislation. It is still needed and that is very clear from the reports we have set out. I accept a review is necessary at this stage after 20 years, and I have given a very clear commitment to make sure the recommendations in that review will be considered by me and by my team, and I will debate it with Members in this House once that happens.

Amendment put.

Deputy Paul Murphy: Vótáil.

Acting Chairman (Deputy Kathleen Funchion): The vote is postponed until this evening's voting block.

Criminal Justice (Amendment) Act 2009: Motion

Minister for Justice (Deputy Helen McEntee): I move:

That Dáil Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023.

Question put.

Deputy Mick Barry: Vótáil.

Acting Chairman (Deputy Kathleen Funchion): The vote is postponed until this evening's voting block.

European Council Decision: Motion

Minister of State at the Department of Justice (Deputy James Browne): I move:

That Dáil Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the Treaty on the Functioning of the European Union,

a copy of which was laid before Dáil Éireann on 20th June, 2022.

I thank the House for facilitating the taking of this motion today. On 21 June, the Government approved the request of the Minister for Justice, Deputy McEntee, to seek the approval of the two Houses of the Oireachtas to opt in to this European Commission proposal which relates to the violation of EU restrictive measures, more commonly known as sanctions. At present, different EU member states have different ways of dealing with sanctions breaches. In Ireland and many other member states, sanctions violations are a criminal offence, but in some member states this is dealt with administratively. The Commission is seeking to develop a common approach at EU level to sanctions breaches, and the adoption of a decision to extend the list of EU crimes would be a first step to creating the legal basis necessary for this. While Russian aggression towards Ukraine is ongoing, it is paramount that EU restrictive measures are fully and consistently implemented. There must be consequences for the violation of EU sanctions. The ongoing situation in Ukraine makes this proposal an urgent one.

Currently, the list of EU crimes covers terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime, and organised crime. In response to developments related to crime, the Council may adopt a decision identifying other areas of criminality that meet the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union, the TFEU. The test under Article 83 asks whether the matter is a particularly serious crime and whether a cross-border dimension results from the nature or impact of these offences or from a special need to combat them on a common basis. The Commission deems that the violation of restrictive measures meets the criteria for an EU crime set out in this Article. This is already a crime in a majority of member states. It is also an especially serious crime since it may perpetuate threats to international peace and security and has a clear cross-border context that requires a uniform response at EU level and global level.

The legal basis of this proposal is Article 85 of the TFEU. The views of the Office of the

Attorney General were sought and the legal advice received has confirmed that as this is a measure under Title V of the treaty, Protocol No. 21 applies and Oireachtas approval under Article 29.4.7° of the Constitution is required for Ireland to opt into the measure. The Office of the Attorney General has advised that opting in to the proposed decision does not create any constitutional or legal issue for the State. Bringing the proposal to the Houses within weeks of its publication is a more expedited process than usual in terms of the speed of adoption under Protocol No. 21. However, I am sure colleagues will agree it is important Ireland stands alongside all other member states in supporting the Union's enhancement of its sanctions regime in the current climate.

It is important to state this proposal is not concerned with the substance of the sanctions themselves. It is concerned with the violation of sanctions and with enabling a directive to harmonise penalties for breaches, which will be brought forward separately. The House will also wish to note that departmental officials are considering a separate but somewhat related EU proposal regarding a new directive on asset recovery and confiscation. This new directive will include measures to strengthen enforcement in relation to EU sanctions.

Once sanctions violation is made an EU crime, the Commission will be able to propose a directive on it that would harmonise how it is defined and penalised in criminal law throughout EU member states. The criminal offences to be approximated by the directive would include precise definitions of various criminal offences related to violations of Union restrictive measures. These offences could include making funds available directly or indirectly to, or for the benefit of, a designated person or entity, failing to freeze funds or economic resources belonging to, owned, held or controlled by a designated person or entity, and engaging in prohibited financial activities, trade, commercial or other activities. They could also include breaching applicable conditions under authorisations granted by competent authorities or a failure to comply with any obligation to provide information to the authorities. The offences could also include engaging in activities that seek to circumvent directly or indirectly the restrictive measures with knowledge and intent, including by being involved in schemes designed to conceal the assets or involvement of designated persons or entities by assisting the targets or restrictive measures to evade their impact. They could also include providing misleading information to authorities and not reporting a violation of restrictive measures or activities that seek to circumvent them in violation of a specific obligation to report.

Opting into this proposal to make sanctions violations an EU crime does not bind Ireland to participate in the eventual directive to harmonise how sanctions breaches are dealt with. There will be a separate opt-in process for that proposal. It will be analysed and negotiated in detail when the time comes. Making sanctions violations an EU crime is simply the first step in the process.

Of course, this is not the only action under way at EU level to strengthen the EU's response to Russian aggression towards Ukraine. The EU has imposed the most significant sanctions in its history in response to the situation in Ukraine. These have taken the form of six packages from 23 February 2022 to date. The six sanctions packages are made up of individual measures targeting persons and entities and sectoral measures targeting specific economic sectors or industries. Individual sanctions now apply to a total of 1,158 individuals and 98 entities in Russia and Belarus. Sectoral sanctions target the financial, energy, technology, defence and transport sectors and Russian media involved in propaganda. The sale of EU luxury goods to Russia is prohibited, as is the import from Russia and Belarus of certain products. Restrictions have also been introduced on economic relations between the EU and the breakaway regions of

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Donetsk and Luhansk. These sanctions aim to incentivise a change in behaviour in Moscow. They impose clear economic and political costs on the individuals and entities responsible for the invasion or benefiting from it. They also deprive Russia of the means and capabilities to wage this unjust war.

In designing its successive sanctions packages, the EU has recognised the need to ensure specific measures have a greater impact on Russia than on EU member states and are sustainable. There is broad support at EU level to continue to examine options for further sanctions measures. Ireland has been consistent in advocating for a maximalist approach to sanctions since the start of the war. Ireland will support the widest possible measures, including sanctions on Russian gas, building on the ban on oil introduced in the sixth package.

I am proud that Ireland is playing its strong part in the EU-wide response to Russia's actions. Supporting this proposal is another demonstration that Ireland stands in solidarity with our EU colleagues in putting in place measures that robustly respond to such aggression. The Government has no hesitation in commending the motion to the House.

Debate adjourned.

Messages from Select Committees

Acting Chairman (Deputy Kathleen Funchion): The Select Committee on Education, Further and Higher Education, Research, Innovation and Science has completed its consideration of the Education (Admission to Schools) Bill 2020 and has made no amendment thereto.

The Select Committee on Justice has completed its consideration of the Garda Síochána (Compensation) Bill 2021 and has made no amendment thereto.

European Council Decision: Motion (Resumed)

Debate resumed on the following motion:

That Dáil Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the Treaty on the Functioning of the European Union,

a copy of which was laid before Dáil Éireann on 20th June, 2022.

- Minister of State at the Department of Justice

Deputy Martin Kenny: We support the proposal. I understand what it is trying to do. We all recognise the aggression of Russia against Ukraine and many of its neighbours in recent times is something we in a civilised world have to stand firmly against and ensure we are very

strong in this regard. One of the measures the European Union is using against all of this is sanctions. They are a key tool being used by the European Union against the regime in Moscow, and it is quite appropriate. We all understand the logic behind what the sanctions are trying to do. We also understand we have to have measures to deal with those who would be in breach of the sanctions and find a way that all of the countries in the European Union can be in unison in how we deal with it. As we know, here in Ireland we have large financial services centres. They can be enabling bodies as they trade in stocks, shares or commodities. Some of the proceeds may in the past have moved through the financial services centre in Dublin. We need to keep a very close eye on all of this.

Something that always strikes me when it comes to sanctions and statements that we will not buy Russian oil, gas or this, that and the other because of what it is doing in Ukraine is that most countries in Europe will look around to see where else they can buy them from. Often the alternatives are equally as bad and in some cases even worse than Russia. We can look at the history of what has been going on in Yemen and the role of the Saudis there. We need to be conscious that the option to do one thing can create a situation where alternatives may not be much better than what we start out with. It poses a moral dilemma but there needs to be recognition that when all is said and done, first and foremost we in Europe need to look at how we can work collectively to come up with alternatives that guarantee and protect the human rights of people everywhere and not just in Ukraine.

The actions of Putin and the regime in Russia reflect a particular type of corporate fascism that has developed in Russia since the fall of the Berlin Wall and all of the changes that happened when the USSR broke up. What came to power and established since then has been very dangerous and certainly has no place in the modern world. Basically, we have a regime that is based on oligarchs and very wealthy individuals having considerable influence on the government of that country. We see that in other countries as well. The impact of that goes beyond what is happening in Ukraine, from the point of view that there is a military invasion there which is very clear for everyone to see. The impacts of the activities of some of these very wealthy individuals who are closely connected to the Russian regime or to other despots in other parts of the world is on the economic markets and in how they can influence trade and commerce and have a very detrimental influence on human rights for many people and places throughout the world.

The reality is that we all, of course, stand with Ukraine and hope Russia can be pushed back and defeated, but we have a bigger choice to make and a bigger job at work, which is to choose a better way forward and try to build democracy. I know there is a move to ensure Ukraine can join the European Union and for other countries in the former eastern bloc also to have that opportunity. We have sets of rules and guidelines as to how they have progressed from the point of view of democracy. Levels of corruption in those countries have been and continue to be a serious issue. Unfortunately, Ukraine is not immune to that either. We need to have our eyes wide open when we go into these situations. That said, the future can be very positive if we get over this, but we have to work on making it positive.

Part of that is to ensure all the countries in Europe can have strict and uniform laws around how to protect our democracies and ensure there would be a means of adequately punishing those who would be in breach of the sanctions put in place. The most adequate way of punishing those people is to go after and take their assets because, up to now, we have not had laws strong enough to be able to do so here or in any other part of the European Union.

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That is one of the flaws in much of this. We were told Europe was about the free movement of trade and people, but what was never said was that it was also about the free movement of capital. That is the big issue. The free movement of capital has caused an awful lot of our problems and we need to be able to put in place measures in order that we can control that. That is the key issue in respect of all of this, because those who control that capital are very often unscrupulous individuals who are very closely connected to despots, not just in Russia, but in other parts of the world.

Deputy Brendan Howlin: I support this motion on behalf of the Labour Party. Russia's action in Ukraine is not just a gross violation of human rights but also an ongoing assault on the territory and people of Ukraine. It is also much more than that. It threatens the peace and stability of our Continent and, ultimately, all of our well-being. We are focused on human rights violations across the globe, but there is no particular violator right now that threatens our security, peace and prosperity in this nation as directly as Putin and his incredible, illegal, immoral and unacceptable assault on the people of Ukraine.

We are required to take robust action. We are a neutral nation that is not part of any military alliance. In fact, we do not have any great military capacity, as our debates on our own requirements in the recent analysis shows. Therefore, there is almost a greater responsibility on us to act in a robust way with regard to taking economic sanctions against Russia and in terms of our humanitarian response in welcoming Ukrainians fleeing from the horrors of war to our land. That is why the adding of violation of EU sanctions to the list of EU crimes that includes terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug and arms trafficking, money laundering, corruption, counterfeiting, computer crime, organised crime, hate crime and hate speech, is a positive and important measure.

I will use the very short time I have in speaking to this motion to speak to a Bill in my name that we debated at the Committee on Justice last week, namely, the Proceeds of Crime (Gross Human Rights Abuses) Bill 2020. The committee has given it the green light and waived pre-legislative scrutiny. The committee wants the Bill to advance, but it cannot advance unless it gets a money message from the Government. Will the Minister of State go back to his colleagues in Government and allow that measure, which goes well beyond the list of sanctions in that it would be a permanent feature of our law that gross violators of human rights, anywhere in the world, could not stash their ill-gotten gains with impunity in this country? That is a very important principal.

The Government has argued that the Bill would be impractical or difficult to implement. That is not a reason for not enacting it. We had early debates on the Criminal Assets Bureau and we often have a debate with regard to our robust legislation with regard to domestic violence. All of these matters are difficult to prosecute, but that should not stop us from effectively establishing a law. I am sorry the Minister has had to leave when she was here for the previous debate, but I ask the Minister of State to ensure a money message is received and that we can have a complete debate on the Proceeds of Crime (Gross Human Rights Abuses) Bill 2020. I and, I am sure, the committee would be delighted to support any amendments the Government sees fit, to change the terminology or to strengthen it in any way.

It is important for the reasons that have already been instanced. We are now a financial hub in which there is lots of money. I see that two of the bonds that were defaulted upon by Russia yesterday were initiated in Dublin. We are a financial hub. We need to be very clear that we do not welcome, will not tolerate and have robust legislation to ensure against our being a conduit

for money generated by gross human rights abuses and be very clear that we will take a very firm stand, including to the point of seizure of those assets, where we can prove they are related to the abuse of human rights anywhere on the planet.

Deputy Catherine Murphy: The Social Democrats will support this motion. On Monday, we saw Russian forces launching a missile strike on a crowded shopping centre. It was an horrific and a blatant attack on innocent civilians. Nineteen people were confirmed killed and many more were injured or unaccounted for. It is important for us to reiterate that Ireland and the European Union stand united with Ukraine and the Ukrainian people against this callous barbarism and depravity. Putin, his regime, and his cronies who profit from all of this must be held accountable. We cannot say that often enough.

Ireland is a neutral country but, as we have said before, we are not neutral on the invasion nor does it mean we cannot act. We have seen an unprecedented array of co-ordinated international sanctions unleashed to combat Putin's regime and destroy his ability to fund his murderous war. However, it is clear we must go further. All of us in the European Union must ensure that if we impose sanctions, they have to be absolutely copper-fastened. We do not want to look back in retrospect and see there were loopholes and ways around these sanctions.

At present the rules on evading sanctions differ greatly across the EU.

4 o'clock

It is a criminal offence in 12 countries, either an administrative or criminal offence in 13 countries and an administrative offence only in Slovakia and Estonia. Many EU countries lack sufficiently robust legal frameworks to seize criminal assets, making it easier for criminals to hide their resources and benefit from illegal actions. We must work cohesively across the EU on those sanctions or else those efficacy will be undermined. The proposal will go a long way to ensuring a consistency of approach in the EU. Those on the sanctions list are incredibly well resourced and if there is a weakness in the EU's application of sanctions, it will be found. These people have money and power in the form of lawyers, and they will make every effort to wriggle their way out of the consequences of sanctions.

Violations of sanctions have a cross-border nature, which makes a strong argument for a common EU approach. When considering companies and individuals with extreme wealth, it is unlikely all their financial dealings will occur in a single state. Differences in approach between member states make prosecution of cross-border crimes very difficult. A 2021 European network report found that in practice very few individuals responsible for the violation of sanctions are held responsible. Often when the EU implements sanctions, it gives effect to United Nations sanctions because all EU member states are also members of the UN. The combination of the UN, EU and US sanctions are synchronised to maximise the impact on the target country or individual.

With the invasion of Ukraine, the EU and UN have differing objectives. It makes a mockery of the UN Security Council when a small number of countries, including Russia, can hold a veto. Essentially, Russia has not been challenged over that veto and it amounts to significant undermining of the United Nations.

I will also speak to the kind of legislation we can enact. I spent a year trying to put together a Magnitsky Bill, going back and forth with the Office of Parliamentary Legal Advisers and Mr. Bill Browder. It was very obvious that a money message was required, and Deputy Howlin has

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run into the same difficulties. I have sent my file to the Department in trying to be helpful and I do not see why we cannot collectively work on something that does not have to be polarising. We could all work on something that can produce the desired result to affect a very small number of individuals, with proper safeguards applied. We require the Government to accept that a money message is required because it prevents us from working on this in the Opposition. That is despite the cross-party support for doing something significant in this way. I appeal to the Government to facilitate that work.

Deputy Paul Murphy: The purpose of this motion is to strengthen sanctions against Russia and we are opposed to it for that reason because we are against sanctions on Russia. It is not because People Before Profit or the genuine socialist left is in any way soft on Putin, his gangster regime or his crimes being committed against Ukrainian people. In fact, we are the people who have been consistent on this. When Chechens were being massacred and Grozny was being razed, it was the socialist left that spoke out against it while British Prime Minister Tony Blair welcomed Putin with a red carpet and our former Taoiseach, Mr. Bertie Ahern, shook his hand. At the start of this year, who spoke out about Russian forces in Kazakhstan, there to intimidate a workers' uprising? It was the socialist left and there was nothing from the Government on that.

Who was on the streets today in Russia protesting against the war? To quote one of Putin's allies in the Duma, he described anti-war protestors as "leftist and Trotskyist scum". In other words, they are the comrades of the socialist left. Of course, there are much more than just those from the organised left on the streets. We have been consistent in defending the democratic rights of ordinary people in Russia and opposing the disgusting and dictatorial regime of Putin. We have also been consistent in condemning and opposing the imperialist invasion by Russia of Ukraine and standing on the side of the Ukrainian people.

We do not close our eyes to the expansionism of NATO or the 800 km eastward expansion since the collapse of the Berlin wall. We do not close our eyes to the fact that the number of troops under direct NATO control in eastern Europe has gone from 4,000 in October last year to more than 40,000 now. We do not close our eyes to the tens of billions of dollars being poured in now not to protect the interests of ordinary Ukrainians but the interest of western capital.

The truth is that sanctions are an instrument, to quote the French finance minister, of total economic and financial war. The people who are hurt by sanctions are not Putin or the coterie of oligarchs around him but ordinary people. It is estimated that the poverty rate in Russia is doubling or trebling as a consequence of this action. These are not the people responsible for the war and they have had no act or part in the war but they are being punished. It is people in this country who are being punished through the cost-of-living crisis we are suffering, partly as a consequence of these sanctions.

We have now had these unprecedented sanctions for months but have they worked? There are polls from independent polling companies in Russia such as Levada, which has been declared a foreign agent in Russia. A report from that company indicates the confrontation with the West has "consolidated" people and those people believe "everyone is against" them. They say Putin defends them, believing "otherwise we would be eaten alive". Putin's ratings have increased but why? He is able to use the sanctions to say the world is against the Russians. He argues the anti-war protestors in Russia, with whom we stand, are fifth column agents of the West and so on. Even in their own terms, the sanctions have not been successful.

Why do we not do things that would make a difference for Ukrainian people? We could in-

crease the amount of humanitarian aid and lead the way in calling for the dropping of Ukrainian debt, which will take up 12% of total state expenditure. The Government has never committed to that. Why do we not shut down the shadow banking system used by the Russian and American oligarchs, among others, in this country and hit them where it hurts?

Right now the Taoiseach is on the way or is in Madrid at a NATO conference to attend a dinner. What on Earth is the Taoiseach of a supposedly neutral country doing attending a NATO conference? The truth is the Irish establishment is looking to use this conflict to sidle Ireland up even closer to NATO and undermine what is left of neutrality.

If people want to see the reality of what is NATO, they should look at the trilateral memorandum signed by Turkey, Sweden and Finland yesterday as the price of entry. Those countries must get rid of an arms embargo against Turkey and, already, they are handing over ten Kurdish activists today to the Turkish authorities. They may well be tortured and they will be imprisoned without trial, probably for a very long time. They must agree not to give any support whatever to the YPG, the heroic women fighters who fought against Islamic State. That is the price of entry to NATO, and it should tell us something. NATO is not a force for democracy, human rights or good in the world. It is a force for people like Turkish President Erdoğan, another authoritarian ruler. It is a force in the interests of US imperialism in particular.

Deputy Catherine Connolly: I share similar concerns with the previous speaker about our participation in this with a view to having a directive in future. I have the most serious concerns.

From day one I have condemned the illegal invasion of Russia and I stood with sanctions. However, I have come to the point where I am seriously considering their efficacy, what is happening with those sanctions and who they are affecting the most. As an active neutral country that is respected in the world, the least we might do is question. When questioning becomes dangerous, as it has in this Dáil, because I heard the Taoiseach reply to those on the left as being supporters of Putin and reducing the argument to that, it is frightening. I will not waste my few minutes by putting on record once again my abhorrence of what Russia has done. I am seriously worried about what Europe is becoming. I am seriously worried that more and more we are going into a consensus mentality as the best boys and girls in the class. No other type of view is tolerated; no other type of question. Those who dare are demonised as Putin supporters. These are people who never in their lives supported Putin and who always questioned the system when the establishment was doing everything possible to play up to him. I have the most serious concerns about NATO and what is happening. It is not acceptable that our Taoiseach is in Spain at the moment, or on his way there, to take part in meetings organised by NATO. It is sort of nuanced in that he is not taking part in all of the meetings, just some of them. What type of meetings? Will we have the records of those meetings? Will we have the minutes? Do we know what he is saying on our behalf?

We have a Europe that is building up its fortress more and more. The International Organization for Migration reports that up to 600 people attempting to reach Europe by sea went missing in the first three months of 2022. The updated figure is 900 people that we know about have gone missing, the highest figure since 2014. What is Europe doing about that? Deputies are looking at me as if they do not know how I could come up with this. Surely there is an obligation on us and a moral duty to question what Europe is becoming that is allowing for this type of death and destruction in the Mediterranean Sea while people still swim and go on holidays there. As of 27 June, 900 people have gone missing trying to reach the borders.

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I have not had a chance to look in detail at the deal that has been done between Turkey, Sweden and Finland in respect of the Turkish people there. A deal was done with Turkey on helping to build up Fortress Europe in 2015. Turkey was paid what I would call dirty money to deal with the refugee and asylum problem, outsourcing at every level. There is a report from Amnesty International, which I have only had a chance to look at briefly but I will go back to it. It is about Lithuania's behaviour, a proud member of the EU. Colleagues around me might look at what the Amnesty report has said about Lithuania. The report is entitled, "Lithuania: Forced out or locked up – Refugees and migrants abused and abandoned", and was published this week. It catalogues the treatment suffered by refugees and migrants who crossed from Belarus in 2021 and 2022 at the hands of the Lithuanian border guards, the public security service, detention centre staff, lawyers and so on. The human rights violations documented by Amnesty include violent pushbacks, torture and other ill-treatment, including sexual violence and humiliation. That is in Lithuania, a member state of the EU.

We have an Amnesty report on Israel and the Government doing nothing about that. The Amnesty report clearly states that Israel is operating an apartheid system. Months later the Government is still considering its response. We have a war in Yemen that none of us is raising anymore. There are 300,000 to 400,000 dead in a war backed by Saudi Arabia, which is backed by the powers-that-be, including our country.

What am I saying with all of this? Is Russia right? Absolutely not. What is our role as a small, neutral country? What does our experience tell us? It tells us that we need to take our courage in our hands and stand up and show that there is a different way and that sanctions need to be questioned at some point to see if they are affecting what they are supposed to be affecting. I refer to what was said about Cuba in 1963 when President Kennedy brought in sanctions that are still in place. The assistant Secretary of State, Lester D. Mallory, had written that, "every possible means should be undertaken promptly to weaken the economic life of Cuba ... to bring about hunger, desperation and overthrow of government." The obvious question is how making Cuba poorer, sicker and more isolated supports the people of Cuba. Of course, the people of Cuba have persisted. That is just one specific example of sanctions at this point.

Instead of joining the boys' club we should use our voice to question----

Deputy Brendan Howlin: And the girls, too.

Deputy Catherine Connolly: And the girls' club, absolutely, certainly in respect of the deplorable comments of Ursula von der Leyen. It is time to ask questions and not make doing so an offence.

Minister of State at the Department of Justice (Deputy James Browne): I thank the Deputies for their contributions. Deputy Martin Kenny referred to the logic of sanctions and measures to deal with breaches that are necessary and the need to strengthen our laws. I note those comments. I am not sure I agree with his suggestions around controlling capital within the European Union. That is one of the key four pillars of the Union and something that needs to be maintained.

Deputy Howlin rightly argued that Russia's actions in Ukraine are not only a gross violation of human rights and an assault on the people but they threaten the peace and stability of Europe. We have heard a lot from the attorney general in the UK about imminent peril and the definitions around it in respect of the protocol and the false justifications for the legislation they

brought in. However, peace and stability within the Continent of Europe is in a state of imminent peril with what is happening in Ukraine and if Russia continues on its way.

On the Proceeds of Crime (Gross Human Rights Abuses) Bill 2020 and the need for a money message, which Deputy Catherine Murphy also raised, I will bring those comments to the Minister, Deputy McEntee. I note Deputy Catherine Murphy's consistent opposition to sanctions against Russia and Deputy Connolly's comments also. I thank the House for facilitating the motion today. I thank those colleagues who have supported the motion for their support.

As I mentioned in my opening remarks, with Russian aggression against Ukraine ongoing it is paramount that EU restrictive measures are fully and consistently implemented. I gave an overview of the measures included in the six packages of EU sanctions that have been agreed since 23 February, the most significant sanctions in the EU's history. Since the start of the war, Ireland has been consistent in advocating for a maximalist approach to sanctions. These sanctions are unprecedented but they are only effective insofar as they are properly implemented. Ireland along with EU partners is working to ensure that EU sanctions are fully implemented and enforced, including through the effective implementation of asset freezes.

Officials across government have been actively participating in the European Commission's freeze and seize task force to ensure the co-ordinated and effective cross-EU implementation of the sanctions adopted against Russian and Belarusian individuals and entities. Four subgroups of the task force have been created to focus on specific issues. The first focuses on identifying and freezing sanctioned assets and reporting on these freezes, the second on criminal investigations and confiscations, the third on the creation of a common European fund to reconstruct Ukraine using confiscated assets, and the fourth and most recently established subgroup looks at tax enforcement.

In view of the gravity of the situation we are currently witnessing, it is vitally important that all necessary measures are taken to ensure those who attempt to violate sanctions are dealt with robustly and consistently across the Union. The addition of the violation of restrictive measures to the list of EU crimes is a necessary first step in fortifying the sanctions regime. Ireland opting in now under an Article 3 opt-in will ensure that we are at the table with our European partners and can be involved in the detailed discussions and in progressing these measures as swiftly as possible to allow progress to take place at EU level without delay. Once this step is complete and violations of sanctions has been added to the list of EU crimes, a new directive will be brought forward to harmonise how the violation of sanctions is defined and penalised in criminal law across member states. I commend the motion to the House.

Question put.

An Leas-Cheann Comhairle: In accordance with Standing Order 80(2), the division is postponed until the weekly division time tonight.

Cuireadh an Dáil ar fionraí ar 4.19 p.m. agus cuireadh tús leis arís ar 4.49 p.m.

Sitting suspended at 4.19 p.m. and resumed at 4.49 p.m.

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EirGrid, Electricity and Turf (Amendment) Bill 2022: Committee and Remaining Stages

Section 1 agreed to.

SECTION 2

Question proposed: “That section 2 stand part of the Bill.”

Deputy Denis Naughten: On expenses, what is the overall capital envelope that is being set aside by the Department of Public Expenditure and Reform in relation to this? Can the Minister give us an indication of the type of cost we are looking at?

Second, has an assessment been carried out of the potential for using energy efficiency measures to reduce overall demand? What sort of an impact would that have on the overall load on the grid?

Deputy Darren O’Rourke: I think there has been an accounting mechanism for moving moneys from communications, as I understand it, to energy. Will the Minister outline the detail of that? How much will it be and how will it be progressed? Will it be through a Supplementary Estimate perhaps?

In addition, we hear the PSO reduction on residential bills will be in the region of €75. Has the Minister estimated the impact of the cost of the full suite of these proposals? What will be the impact of the additional generation capacity on the deficit side for residential bills?

Deputy Jennifer Whitmore: I would also like to have that information. The Commission for Regulation of Utilities, CRU, has estimated that as a result of the measure of providing 450 MW of energy, the actual cost on domestic bills will be €40 per bill. Yesterday in the Chamber I asked the Minister to indicate whether that 450 MW was the total of what will be supplied. What is the potential full cost that could be added to domestic bills? It appears that while the Government may be reducing the PSO levy and saying it is making savings - according to the statements yesterday, these savings will be applied to domestic bills – it will also be incurring this additional charge. There needs to be full transparency on exactly how much of that will land in people’s domestic bills. The fact that we are debating Committee and Remaining Stages and Deputies still do not have this information is completely unacceptable given that we are talking about public expenditure amounting to hundreds of millions of euro.

Minister for the Environment, Climate and Communications (Deputy Eamon Ryan): I apologise for being inadvertently late.

5 o’clock

To answer Deputy Naughten and others, we have estimated that a €350 million charge from our Department’s Vote to EirGrid this year is the likely expenditure. There may be some further cost but we will not know that until all the contractual arrangements are in place. We cannot be specific because contract negotiations are ongoing as we speak. As he is a former Minister, Deputy Naughten will know we do not want to undermine the State’s ability to get the best value for money.

We also have to remember that, in many ways, these 450 MW are providing what we would have provided had our auction process in recent years delivered a very similar quantity, in a sense, and that process would have borne a similar cost. I do not believe it is providing a sig-

nificant additional cost on the public because this is equipment we knew we needed. We were just unfortunate in the auction process. We wanted to deliver similar open cycle, fast reaction, derivative-type generators. These were bid for and we succeeded in the auction process, but they were subsequently not delivered for a variety of reasons, including delays in the planning system and suppliers and power generator manufacturers not being able to meet the commitments they had made - there were a number of different reasons. To a certain extent, this cost could have been borne two years earlier, preferably, and we would have much preferred had the auction process delivered what we had expected it to deliver.

With regard to the cost on the household at a particular time, that will depend on the final contract price with the operators, and a number of operators are potential providers of this equipment. As I said, we have to have a contract with the purchaser of the equipment but also with the generators and developers, so we will know the full final cost only at that stage. However, the estimate we have today is less than the one mentioned by Deputy Whitmore. It is a smaller number and is, in effect, a fraction of the €75 per household we estimate households will benefit from the PSO, which had not been expected. It is one of the few benefits or upsides from the high price of electricity we are experiencing at the present.

Deputy Darren O'Rourke: I want to come back to the question of which Vote the funding is coming from and under what heading. I understand the Minister will present before the Committee on Transport and Communications for this reason. Is this for the full €350 million that is estimated? What impact will that have in regard to the communications budget and from where is this money coming? Are there projects that would otherwise have been delivered that will now be underfunded? Will the Minister clarify those points?

Deputy Jennifer Whitmore: On that point on the €40, I asked the Minister of State yesterday and it would appear the CRU has also undertaken to procure an additional 200 MW, which it has already done. Two questions arise. Will that 200 MW equate to approximately €20 on each domestic bill as well? How was that 200 MW procured in the absence of this legislation?

Deputy Eamon Ryan: In response to Deputy O'Rourke, I expect it will be a single Supplementary Estimate that we will bring to the Dáil, and it will be to Vote 29 of the Department of the Environment, Climate and Communications. That capital is then provided to EirGrid to be able to place the orders and, in turn, for it to enter into contracts or to sell on the equipment to developers.

The key thing is that it will be in place in October 2023 for the winter of 2023 to 2024. I apologise that I missed the debate yesterday as I was at the European Energy and Environment Council in Luxembourg but I am sure the Minister of State, Deputy Ossian Smyth, made the case. This is different from the procurement of those 200 MW of other capacity. We started the process of engaging in procuring that 200 MW of generation units a year or a year and a half ago and it will take almost two years. It had been subject to legal challenge but any procurement process would have taken a similar two-year period. This approach is quicker and we would look to see the units up within a year or a year and two or three months through a purchase arrangement, rather than a procurement arrangement, as such. The main reason we decided to take this approach is that we expect our particular tight spot will be in the winter of 2023 to 2024, so to have it in place in October was the key measure.

As I said with regard to those procurement units, if we add the two together, the sum is 650 MW, which is what we need. I expect there will be further recoupment for the public and for the

Exchequer in that it is a short-duration contract for three to four years, or three to four winters. After that, having been paid back through a charge, which will be the mechanism of paying for the developers, a resale value, which we have not taken into account in some of the figures that have been mentioned, will be netted back to the householders in line with any residual value. I expect there will be a residual value. From talking to my European energy colleagues yesterday, they are all in similar boats, whereby they are ramping up renewables massively and realising they will need open cycle, flexible generators to back up that. I expect there will be a very good market in this country or, if not in this country, in other markets for the equipment to be resold, and that would recoup some of the cost to the public.

Question put and agreed to.

SECTION 3

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

In page 4, line 35, after “thereto” to insert the following:

“, with priority given to renewables, zero or low carbon electricity generation options or those most easily retrofitted into zero or low-carbon alternatives in the future”.

What I want to do in this amendment is to ensure there is a commitment to consideration of the types of technologies that EirGrid is going to enter into agreement on and procure, and that there should be a prioritisation for technologies that are either renewable, zero carbon or low carbon, or can be transitioned into low carbon alternatives. The point is that they are adaptable and there is a prioritisation within the procurement process. I do not see that elsewhere in the Bill. It is very important that the decisions we make now will bake in emissions into the future. We want to have these technologies. We recognise there is a crisis and we recognise time is important in this regard, but we also need to have an eye on the technologies, so they are zero carbon, low carbon or adaptable into the future.

Deputy Eamon Ryan: Priority is being given to renewables and that will make up 80% of our electricity generation capacity by the end of this decade. I am convinced of that. We have to do that to meet our climate targets but there is also the comparative competitive advantage that we have in renewables. We also know it requires backup that is open and flexible, particularly gas plant and combined cycle gas plant, in likelihood, to allow us to balance that. In periods when the wind is not blowing, we need to have backup capability. This specific legislation and these contractual arrangements are to provide exactly that. We are talking about a three-year to four-year time horizon for the use of the equipment. I do not believe that, within that timeframe, we would deliver, for example, anaerobic digestion and methane gas that could be used or, indeed, green hydrogen which would meet the criteria. Nonetheless, having talked to some of the suppliers around the world who sell this equipment, the sort of equipment we will be looking at will be hydrogen-compatible so that, in the future, as I said, particularly if there is a resale beyond a certain period, they could well switch to being zero carbon generators. Where we were able to manufacture and produce that green hydrogen, it could be used in these machines to varying degrees, depending on the particular machine. Nothing in this impinges on, restricts or holds us back from our renewables ambitions. If anything it allows us to meet them. These machines will run very infrequently. They are only a last resort. When all units have been used and there is still insufficient capacity in the system, that is when these machines will be used. I cannot accept the amendment because, as I said, the purpose is to contract machines

such as this which will, potentially, run on diesel or gas. In fact, there are ongoing discussions on possible sites. Several of them will possibly be run on distillate diesel. I do not believe we would provide zero-carbon biofuel distillate or zero-carbon hydrogen gas in the three- to four-year timeframe that is ahead of us, so I am afraid I cannot accept the amendment.

Deputy Darren O'Rourke: Within those considerations, and as the Minister of State, Deputy Ossian Smyth, said last night, some may be distillate and some may be gas, all things being equal, the State and EirGrid must surely go for the lower emissions alternative. I hear the Minister's point but it is important to state that the lower emissions alternative must be given priority, and if there is an option to go for hydrogen-ready or technologies that are adaptable, they need to be given priority. Otherwise the decisions the State and EirGrid are going to make will bake in significant challenges for us, regardless of who has ownership of these technologies in the years ahead. I restate that position. I will not press the amendment. I hope the Minister understands my concerns in regard to it.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendment Nos. 2, 7 and 22 are related and may be discussed together.

Deputy Bríd Smith: I move amendment No. 2:

In page 4, after line 37, to insert the following:

“(c) place a moratorium on connections to the national grid by high energy users such as data centres.”.

I will start by expressing utter disgust at what we heard here yesterday from the Chairperson of the Joint Committee on Environment and Climate Action, Deputy Brian Leddin. He accused us, who expressed concerns about the proliferation of data centres and the impact these have on the national grid, of using sensationalist tropes, that we were being populist and did not know what we were talking about. He was disgraceful. If that is the position of the Green Party, then shame on it, because all the evidence points to us being correct about this. If he accuses us of using sensationalist tropes, will he say the same about CRU and EirGrid? A statement made by CRU says:

EirGrid has estimated that the data centre demand will be a key driver for electricity demand in Ireland for the foreseeable future.

[...]

Information provided by EirGrid shows that data centres are the largest demand driver out of all the demand by connected customer groups. The rate at which data centres seek to grow their load is unprecedented in Ireland. Over the last 4 years EirGrid have seen annual increases in demand usage of about 600 GWh from data centres alone - equivalent to the addition of 140,000 households to the power system each year. This contrasts starkly to demand growth in other sectors outside of the data centre industry.

I could go on. These are publicly available statements from EirGrid and CRU. I notice from information in *The Irish Times* and other publications that, since May, there is a de facto moratorium on data centres.

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We have a problem, however, because there are existing agreements with data centres to connect them to the national grid:

EirGrid has outlined that Connection Agreements are already in place for over 1,800 MW ... for data centres ... Ireland has a current demand peak of around 5,500 MW.

We are seeing the unprecedented growth in the demand from data centres. To demand a moratorium on this be built in to the legislation is nothing but pure sense. What was said to us here last night was absolute nonsense by the Minister of State. I hope the Minister does not repeat it today. In fact he lied - I should say he misled the public - because he said no permissions have been given in the past two years. That is not the point. The point is there are connection agreements committing us to the level of power usage I have quoted that have to go on the national grid because the agreements have been made.

Is the Minister trying to tell us that data centres are not going to soak up the majority of this extra power being bought in? If that is not the case, will the Minister show us what is going to soak it up? No excuse about the war in Ukraine or the energy crisis or anything else will wash away what is actually happening here. I want to push this amendment very strongly so that we place a moratorium on connections to the national grid by high energy users such as data centres and start looking after people and their needs. If there is a threat to the power in the winter of 2023-24 it is not because of householders, schools or hospitals, or even other aspects of industry. It is purely down to this crazy, insane proliferation of these high guzzling energy consumers. The Minister has done nothing about it and it really needs to be addressed in this Bill.

Deputy Darren O'Rourke: I echo many of those comments and sentiments from Deputy Smith. We have an amendment grouped with this. I entirely agree that the suggestion that data centres are not a significant part of the issue is complete spin and nonsense. It is disingenuous for anyone to make that statement. In fairness to the Minister of State who was here last night, he pointed to three main reasons we are where we are. One was the non-delivery of previously contracted capacity. We have heard from CRU. CRU had lessons to learn. There should be some investigation into CRU and how it has failed to deliver that capacity and has underestimated demand by almost a factor of four. There are questions to be answered in that regard. Again, this is an issue within the control of Government.

The second point was increasing electricity demand. From where is a significant amount of that increase in electricity demand coming other than data centres? We know that data centres increased their demand by 144% between 2015 and 2020. That figure is from the Central Statistics Office, CSO, not made up by the Opposition for some political reasons. In 2021 alone, data centre demand increased by a further 32%, which puts their usage at about 14% higher than the entire demand from residences in rural Ireland and a significant percentage of all residences in Ireland, including in urban spaces. Data centres are a central part of the consideration.

How we have ended up in this position is a complete misalignment, a failure of policy to match demand with supply. We have runaway demand championed by Governments. Whatever hope we had for a Green Party in government calling a halt and trying to introduce some sense on the issue, we can put paid to after what we heard last night. Going by the Dáil record, the greatest cheerleaders for this data centre policy are among high levels within the Green Party. That tells us everything we need to know about that party.

The amendment we have submitted calls for a pause until such time as the State makes its

mind up about what role data centres are going to play, where they should be, what is a reasonable demand to put on our State relative to others, and what role if any they can play in balancing the energy grid. This is about ensuring we have a supply that can match the demand and that does not run the risk of bringing us to a cliff edge or crisis, because this is emergency legislation. Some people tried to deny that last night but it is. It is being rushed through because there is an impending crisis, one successive Governments have managed us towards, and now the Government is seeking the support of the Opposition to bail them out and to look the other way. That is what we are being asked to do.

I ask the Minister to support the Sinn Féin amendment and the others in a similar vein because they make sense. In fact, it is the prudent and sensible thing to do. Our amendment provides for an opportunity to reflect on the current state of affairs and where our energy system might go. We have projections from the Department itself. In March, the Renewable Electricity Corporate Power Purchase Agreements Roadmap was published and it projects the estimated electricity demand in Ireland out to 2030. Residential, commercial and industrial demand stay pretty static between here and 2030 but data centres increase year on year. That is from the Minister's Department, so to suggest this crisis has not been significantly contributed to, if not precipitated, by data centres is a deliberate manoeuvre on behalf of senior figures in Government who should and, I believe, do know better.

Deputy Jennifer Whitmore: I, too, speak in support of this amendment. The Social Democrats had an amendment on data centres as well but, unfortunately, it was ruled out of order. The key thing, however, is the principle of the amendment and I hope the Minister will take on board these discussions.

I was disappointed in the Chairman of the committee and his comments yesterday because a brief Google search or a review of the CRU or EirGrid website indicate very clearly where the blame lies when it comes to this increased demand. It has been stated repeatedly and publicly that the largest demand on our electricity system at the moment is large energy users such as data centres. For the Chairman essentially to deny that was not appropriate and undermines many of the arguments put forward today.

I ask the Minister to ensure his policies and his legislation is evidence-based. The fact he is ignoring the amount of data and the pressures the data centres are putting on our grid is worrying and has led to a situation where he is rushing through significant legislation over the course of a week. The Minister mentioned the reason he was bringing this legislation forward is the existing process was too slow. This issue has been highlighted for quite a while. The Social Democrats had a motion in September of last year highlighting the risk of blackouts and brown-outs, and at that stage we put forward a proposal for a moratorium on data centres. We were not saying to ban them. We were saying we should be strategic about where they go, how many we have and how many we approve to operate in the country. We were saying we should be strategic about what commitments and inputs data centres have and how they participate in the grid to ensure they are part of the solution and part of the system and not the problem. Unfortunately, the Government did not take those comments on board last year when it was probably in a better position to deal with this. Now we have a situation where we are rushing through legislation at breakneck speed and leaving many of us in the Opposition with more questions than comments about this issue, which is not acceptable governance.

The Government seems to be taking a "see no evil, hear no evil, speak no evil" approach to data centres. I just do not understand why there is such an emphasis on rolling out the red carpet

for them when they are creating such difficulties with our electricity supply, energy security and the cost of grid infrastructure. It is unfortunate the data centre policy promised for quarter 1 this year and again for quarter 2 has not yet been developed, particularly prior to these discussions going through. Why has the policy not been developed? I ask the Minister, in his role, to seek to expedite that policy because it is important the Government develops it.

When I was first elected to the Dáil, one of the problems I saw in how we deal with environmental issues is we tend to compartmentalise. We stick the environment into one Department and that operates pretty much independently of all the other Departments. Unfortunately, that has not been rectified and at this moment there seems to be a compartmentalisation even within the Minister's own role. He will put on his environmental, emissions and climate hat and bring forward the legislation and talk about how we need to reduce our emissions. Indeed, yesterday at the committee members, had to discuss and debate the sectoral ceilings, which will be problematic and challenging for every sector. When the Minister has his climate hat on, he is putting forward these suggestions, and then when he puts his energy hat on, he completely wipes out any gains that could potentially be made by proposing a Bill like this. It is like the two do not meet, that there is no connection between the two and the Minister is operating as two separate people. It is a poor way to operate. It will undermine our ability to meet our climate targets.

Will the Minister consider the evidence on data centres and ensure the emergency measure of a moratorium on data centres, for that is exactly what it is, is ingrained in this emergency legislation? When this legislation is complete and there is no need for it as we have the renewable energy, let us then have a debate about data centres, but at this time they are placing far too high a burden on our electricity demand and on our grid for them to be allowed operate *carte blanche* and get planning in a similar way. Will the Minister consider that?

Deputy Denis Naughten: I will speak to my amendment No. 22. I have heard the comments from colleagues about data centres. As the Minister will know from the records in his own Department, this is something I had been highlighting during my term there back in 2017 and 2018. On foot of that, the then Government published a statement on the role of data centres in Ireland. It had a substantial section in it on the issue and challenges regarding energy infrastructure. The difficulty today is 1 MW out of every 7 MW generated on this island is being consumed by data centres and I think that is set to double if not treble between now and 2030. The fact is the vast majority of the growth in electricity consumption we are going to see over this decade is going to be as a result of data centres. The policy statement adopted by the Government in June 2018 clearly set out a prioritisation that data centres should only go on the grid where the electricity supply is available for them. It states the connection of data centres that have an employment dividend associated with them should be prioritised, rather than facilitating speculative data centres that, sadly, have been connected to the grid. The difficulty with all of this is the cost of this 650 MW, which is roughly the amount of electricity that is going into the data centres, in the PSO levy will be €40 for every household in the country. That is what they will have to pay to subsidise the generation of electricity going into these data centres. On top of that, they will have to pay the transmission and distribution costs of bringing that electricity into the data centres.

Amendment No. 22 in my name proposes that the Government pass on the cost of supplying electricity to data centres to the operators of those data centres rather than asking families who are currently struggling to pay their electricity bills to pay another €40 to cover the cost of this electricity going into the data centres. In the middle of an energy emergency where families are faced with astronomical costs, it is immoral that they are being asked to put their hands in their

pocket to subsidise the electricity going into data centres. I am asking that within 180 days of the passage of the Bill, the Minister bring forward proposals to ensure data centres pay for the cost of their own electricity rather than families being expected to do so.

I was interested in the point made earlier by the Minister in respect of meeting our 80% renewable electricity target by 2030. As he knows, however, EirGrid has set itself a target of managing renewable electricity on the grid of 70% by 2030. It has not budged from that. It only has a plan up to 70%. It is publicly stating that it is working towards a plan of delivering 70% renewable electricity onto the grid by 2030, rather than the 80% which is the Government target. If we are not planning today, in 2022, to manage 80% electricity on the grid by 2030, we will have to come back with further emergency legislation to deal with further crises resulting from the lack of planning. We can see it in the context of the Bill before us. Part of it results from numerous data centres being allowed to connect to the grid. Another part relates to old plants being closed down without backup plants being in place. Part of it is an underestimation of where we were going to be and another part of it is because of the abandonment of contracts by semi-State companies. In spite of all those mistakes and all the people who are being paid significant, through the service fees that are paid through electricity bills, to plan our electricity grid, the Government is now asking every home in the country to pay another €40 each year for the next three years to compensate for the failures that were made in projecting out in respect of electricity demand. Sadly, it is the people who are struggling to pay their electricity bills who will have to do this.

My simple request of the Minister is to let the data centres pay for their own electricity. Any of them that are creating jobs are very wealthy multinational companies that are quite willing to pay the cost of their electricity. We need to put that mechanism in place. Any of them that are here on a speculative basis should cough up as well because they are just out to make a buck for themselves and that should not be done on the back of hard-pressed families across the country. In June 2018, the Cabinet stated in black and white that it would have to consider mechanisms to ensure the PSO levies for consumers were not being burdened with the cost of the additional charges resulting from data centres being connected to the grid. Since June 2018, successive Ministers have failed abysmally to address that issue. That is why families are now being asked to pay an extra €40 to cover the cost of this electricity.

Deputy Eamon Ryan: I wish to respond on amendments Nos. 2, 7 and 22 together. Amendment No. 2 proposes the insertion of a paragraph (c) in section 3(1). As regards amendment No. 7, subsection (1) thereof suggests that a moratorium or pause be placed on data centres, while subsections (2), (3) and (4), along with amendment No. 22, relate to the implementation of risk analysis measures and reporting criteria. The management of connections to the electricity grid is a matter for the system operators, namely, EirGrid and ESB Networks, under the rules determined by the CRU, which is an independent statutory body solely accountable to the Oireachtas committee for the performance of its functions. It is important to note that restrictions on the connections of data centres have been introduced by the CRU based on whether a data centre occupant is in a constrained - that is, where energy demand is high - or unconstrained region of the electricity grid. The CRU will continue to monitor the effectiveness of these restrictions to protect security of supply in the coming years.

In addition, under the climate action plan, the Department of Enterprise Trade and Employment has committed to reviewing the 2018 Government statement on the role of data centres in Ireland's enterprise strategy to ensure alignment with Ireland's renewable energy targets, sectoral emissions ceilings and climate priorities. My Department is working with the Depart-

ment of Enterprise, Trade and Employment to ensure there is a plan-led and regionally balanced approach to large developments such as data centres, taking into account congestion, existing grid availability and the opportunity to co-locate significant renewable energy opportunities. As transmission system operator, EirGrid is one of the stakeholders inputting to this review. The statement is due for publication in the coming months.

I will respond directly to some of the comments of Deputies, which are welcome. First, Deputy O'Rourke is correct in summarising the reasons we are purchasing this equipment in the way we are. As he stated, the capacity auctions did not deliver. Our system, including some of the regulators and grid operators I mentioned, did not correctly forecast and estimate the scale of power capacity needs we would have. There is also the increase in demand. Those are all components or reasons in the context of the tight electricity market. There are further reasons in terms of low system availability of some of the existing generation units, but those are the three underlying reasons that we have a tight market in electricity and are purchasing this equipment. The Deputy stated there is a need for a review of those various factors. That is exactly the reason I have asked Dermot McCarthy, a former Secretary General at the Department of the Taoiseach and one of the most eminent civil servants in the history of the State, with significant experience, to review and consider what lessons can be learned in the lead-up to us having to make purchases or engage in these contracts.

With regard to the issue of contracting data centres, a new data centre has not been approved since September 2020. That is because, coming into Government, we recognised there was a problem and that there cannot be an open door. As I have stated on numerous occasions in the House, every sector has to play its role in meeting our climate targets. If we had an unabated, unconstrained and no-holds-barred open door policy, that would be reckless and inappropriate. That is not what we are doing, however. There is a different thing in this State. I have seen it on several occasions in my lifetime in the House where the State has breached its contract or word. In the context of the data centres that have been approved within the system, we, as a State, cannot go back on our word. If we were to do so, it would probably increase the cost of electricity for all consumers because people would say the State cannot be trusted in its dealings as it agrees to something one moment but then changes its mind the next. That is not how we operate.

I absolutely accept the comments from Deputies opposite that the expansion of data centres cannot be allowed to continue in a way that does not allow us to meet our climate targets. I know the data centre companies realise the situation will have to evolve. Critically, in my mind, that needs to be done by way of the provision of planning conditions that would see the use of district heating and the development by centres of their own renewable capacity, as Deputy Naughten suggested, which could, in the way it operates, help to stabilise, enhance and balance our system, as I stated earlier. That is the key thing we need to get right and it often needs to be done quite locally. The biggest constraint on our system is on the grid. If we can have data centres that support the grid in local areas, by varying their demand and using district heating and local renewable supplies, we then start to have a system that helps us to meet our climate targets and provide energy security, rather than counter to that.

Regarding the move to 70% or 80% renewables, Deputy Naughten is correct regarding EirGrid's analysis in its Shaping our Electricity Future roadmap. That was done, as I recall, on the basis of a commitment made by the Government on renewables. It was on that basis that it started on the timeline towards 70%. I have had detailed discussions with EirGrid on this and it is absolutely clear that by being able to achieve 70% renewables on our system, the physics

and engineering capability in doing that will allow us to go to a higher target of 80%. It is doing further work on that. EirGrid is world-leading in running an isolated synchronised grid with very high levels of instantaneous renewable generation of up to 75%, which is unprecedented. No other country or grid operator is testing that. We are at the very edge of making it happen. Achieving it is often down to very technical and complex physics issues around how much inertia is in the system and the voltage and frequency stability. Everything EirGrid representatives say to me gives me confidence that in the timeline to 2030, it will be possible to go to the higher 80% target. It is continuing to learn, evolve and develop to make sure we achieve that.

Deputies opposite are correct that demand is just as important a part of the equation as supply. Yes, we need to move away from an unquestioning welcoming of demand. We must make sure demand gives us the capability we need and a balanced system. I do not believe that requires a moratorium on data centres. It requires working with the CRU and EirGrid to support what they are already doing in putting in place the sorts of standards that would require that industry to fit into our electricity plans rather than *vice versa*. That is what Government policy is and it is what is in place. On that basis, I am afraid I cannot accept these amendments.

Deputy Bríd Smith: It seems there has, in effect, been a moratorium on data centres since June 2020. I understand EirGrid approved 1,800 MW of electricity for future data centres but had applications for 2,000 MW and cancelled all that capacity. That may be a fact but we also know restrictions on data centres are applied only to new applicants. This was confirmed to us by officials from the Minister's Department at the most recent meeting of the climate committee. We have had very little time to deal with this very complex issue. He will be aware that his pals in Friends of the Earth have sent in a series of very sensible questions on everything from how these provisions will operate, the cost to the State, the environmental impact and the risk of lock-in and demand reduction. There is a plethora of questions we have not been able to address because of the rushed nature of the legislative process.

As I said, it has been confirmed by departmental officials that only new applicants will be refused access to the grid. However, there are open, approved and promised connections to the grid in place. Is the Minister trying to tell us that in the case of Grange Castle in Clondalkin, for example, TikTok will not be connected even while it busily beavers away building a massive data centre in the area? I do not believe that for one minute. It will be connected and the extra power provided for in this legislation will be needed to facilitate it.

It is important to note that not everyone in the data centre industry and the global multinationals likes or agrees with what is happening. In response to the de facto moratorium, IDA Ireland has warned that cancelling data centre projects will hold back the country's efforts to become a global business and technology hub. Google has pleaded with the CRU that the moratorium will send the wrong signal about Ireland's ambitions as a digital economy. I am not bringing forward this amendment for the craic or because I do not believe the CRU is, in effect, implementing a moratorium. I believe we need this provision in legislation because the types of Governments that run this country consistently come under huge pressure from global corporations to subscribe to the idea that we must facilitate ever expanding growth in the technology industry. That pressure means more to the Government than the pressure that comes from below, that is, from Deputies in this House and from the needs of ordinary people. That is why I want to push this and see it enshrined in legislation rather than leaving it up to the good sense of the Minister, his Department, the CRU and EirGrid. It needs to be legislated for in order to ensure the pressure from global corporations does not come down on the Government much more weightily than the pressure coming on it from below from ordinary people and their

elected representatives.

Deputy Denis Naughten: I am disappointed that the Minister ignored amendment No. 22 and did not address the point I raised. The amendment provides that:

The Minister shall, within 180 days of the passage of this Act, publish a report on the mitigation measures to be taken to minimise the additional impact of intensified data centre activity on the Public Service Obligation levy and network charges for all other electricity customers.

This legislation is taking €40 out of the pockets of every family in this country to pay for the additional electricity required because of the number of data centres connected to our electricity grid. That is on top of the cost that is already there for electricity customers, including families across this country, in subsidising the electricity that is going into data centres.

The Minister is not prepared to address in this House any attempt to alleviate that cost, even though the previous Government took a decision on 7 June 2018 to ensure that would happen. The only answer he can give us here today is, “Well, we are going to carry out a review on that and it is going to be led by the Department of Enterprise, Trade and Employment.” I know what the outcome of that review will be. Families will have to dig deeper into their pockets to subsidise the electricity going into major multinational data centres in this country; companies that are quite willing to pay, and capable of paying, for the cost of that electricity. Oh, no, the Government could not ask them to pay for it. Instead, it is saying to families across this country who cannot afford to put food on the table that they should pay an extra €40 for the cost of the electricity going into data centres.

This is immoral and it is a national scandal. I have brought forward two amendments to address it. Amendment No. 22 seeks to deal with the historic electricity that is going into the data centres and which we are subsidising. Amendment No. 9 proposes, as the very least that should be done, that the data centres pay the €350 million-plus it is going to cost, because that is where this electricity is going. It is not going to be used by families across the country. They have not increased their demand for electricity over the past four or five years but they are the ones now being asked to foot the bill for this. It is immoral, it is wrong and it has to be addressed.

Deputy Darren O’Rourke: I want to put on the record, as I have done before, an issue that is a cause of frustration. When I raise issues with the Minister or the Department, I am often pointed towards a body at arm’s length, whether that is the CRU, EirGrid or some other organisation with responsibility. Especially in the context of the CRU, there is always a line in the response that the body is not responsible to the Minister or the Department, but to the Joint Committee on Environment and Climate Action. I am a member of that joint committee and I am not satisfied with the CRU’s level of accountability in that regard. The other members of the joint committee present can have their say on this subject. For me, that response is a cop-out and I call it out as that.

My amendment provides for an economic, environmental and energy security impact risk analysis, an impact assessment, of current and planned data centres. The Minister is playing with words regarding what has been granted on what dates. Several applications are working their way through the planning process regarding a site in Huntstown in my county. We need to have a real conversation about what is current, what is planned and what will be delivered in economic, environmental and energy security terms. I am not satisfied that the Government is

across this issue or that EirGrid, the CRU or any other agency will do it. If past performance is any indicator of future performance, the Department of Enterprise, Trade and Employment will continue to plough ahead with these projects, and other Departments and other Ministers will look around the place. It is completely unacceptable. At the very least, we need a commitment to an impact assessment.

Deputy Eamon Ryan: It is true, I am told, but I also hear this when I talk to people in industry, that there is a significant level of connection for the large companies Deputies have mentioned. They provide a great deal of employment, accounting for approximately 50,000 jobs. Much of our tax base is also based on the operations of those companies. That revenue is significant in paying for our social welfare, health, education and other needs. If one talks to representatives of those companies, they will say they see a real connection between the location of data centres and the location of staff. They see it as integral to and a core part of their businesses. Those companies do make that association. That is true.

It is also true that we have passed a climate law and the Government will shortly agree the sectoral emissions targets. This will mean that every sector will have to live within its climate targets. I am certain that will be the determining factor in what we can do. As much as we might like and want further employment or other measures, we will not, as I keep reiterating, have a free pass for any one industry that means other industries will have to do more. I say that because we have such a difficult challenge to face and such a huge leap to make. Therefore, as much as IDA Ireland wishes to encourage further development, and I can fully understand its imperative to provide investment opportunities and further encourage such development, it must be undertaken within a low-carbon calculation.

To mention another point in passing, I am all the more convinced of that point now and not just because of our climate law but also because the general approach and understanding agreed at the European Energy Council on Monday and the Environmental Council at 2.30 a.m. this morning doubles down on that. There is the European Green Deal, the energy efficiency directive, if it is agreed with the European Parliament, which will enter into trilogue discussions in the next six months, the renewables directive and the other Fit for 55 measures. What was agreed in a historic manner at the European Council over the last few days will mean that, similar to the domestic context, climate limits will be the real limits every industry will have to operate within and under. To my mind, that is absolute, cast in iron and clear.

I cannot accept Deputy Naughten's amendment. In respect of the additional reasons the Deputy referred to, one suggested was the impact of the data centres on the PSO levy. As I said, I do not see this as having an impact. Our PSO levy has now, effectively, turned negative. The levy was always a kind of insurance policy to provide certainty for renewable power to be generated. In instances where the cost of electricity, driven by the cost of gas, is above that level the PSO rate falls. I do not see a direct connection between this policy and the PSO levy policy. I do not see that that connection or cost to the householders is in any way affected one way or the other.

Deputy O'Rourke made a valid point. The legislation for the Commission for Regulation of Utilities was written to give direct accounting and responsibility not to the Minister or the Department, but to the relevant Oireachtas joint committee. That is the law that was written down and decided by this House some 20 years ago now in the early 2000s, although I am guessing. Sometimes when we are reading out answers, the Department has to state this fact in any policy debate or discussion because it is a fact. We have to continue to review all these structures and

systems but, to my mind, the CRU has served this country well and the independent regulatory system also has real benefits. Real costs can sometimes start to apply when decision-making and regulatory oversight, foresight and control are not independent.

That is for a wider policy debate, not one on this immediate emergency legislation. The CRU is centrally involved. It wrote to me, as the Minister, with its assessment that this power gap exists. The auctions the CRU had organised had not delivered because of the capacity shortfall the commission and EirGrid had not identified and because demand had increased. The CRU is centrally involved in reviewing, assessing and applying to me, as Minister, to start this process. I was happy to respond to that request. We work collectively. This is a small State. Whatever about the debate on the structures, in my experience of twice being a Minister - I am sure it is also the experience of Deputy Naughten, who is a former Minister - Ministers work well with their public servants. These are trusted, skilled and well-qualified public servants. Ministers trust their advice. In this instance, it was the CRU that initiated this process, in conjunction with our Department, in respect of advising and discussing, and EirGrid. All the parties involved worked together as a team of public servants for the State. That is what the legislation provides for, not a wider outcome on what our broader energy policy might be.

Deputy Denis Naughten: To explain to the Minister how the PSO operates, the legislation before us, along with the 200 MW the CRU had already planned to acquire, is going to cost families approximately €40 annually. That is how the cost will be applied through the PSO. It could be in transmission charges, or whatever.

Deputy Eamon Ryan: That is not true.

Deputy Denis Naughten: The cost associated with the 450 MW is €27, while the cost of the 200 MW already under way is €12, giving us a total of €39. I apologise, I was €1 out, but that is roughly the cost we are talking about. If that is applied and the PSO is negative, that is €40 less those families will get back. We have stipulated in this legislation that if there is a saving to be made, it would be passed back to families. Ultimately, this money is being taken out of the pockets of families to subsidise electricity going into data centres. That is it in black and white and the Minister should not try to misrepresent it here in the House.

Deputy Jennifer Whitmore: I cannot find the detail now but the CRU has stated that the 400 MW will result in a €40 domestic charge. I will find that specific reference and relay it to the Minister.

The Minister stated it is true that large companies will wish to have their data centres close to where they have a density of staff located. It is also true that data centres see us as a soft touch and have done so for years. This Government has rolled out the red carpet. Essentially, it has told the companies to come in and they will get their planning and electricity connections here, while we will not ask them to do anything or charge them any additional money for their power.

6 o'clock

We will not even ask them to put in any energy efficiency measures. All of this is voluntary and, therefore, this country is seen as a soft touch. What I find most frustrating about this whole debate is that for some reason when we enter negotiations with large corporations, we do not stand up for ourselves or our country. We do not make them pay their full share or carry the load they should carry. It is absolutely the case with data centres.

The Minister referred to district heating. I am not sure if he has had a conversation with a data centre operators about district heating but I have and they told me that it is highly unlikely that any data centres will enter district heating schemes because it is very expensive, particularly when the surrounding homes have to be retrofitted. It is not as simple as connecting to a pipe system that will ensure all the neighbouring houses can participate and benefit from the heat generated. Data centres will not do it and they certainly will not if we do not condition them from the very start and we were to put them on a greenfield site and develop them as part of a larger development that included housing, but I do not see that happening. Perhaps the Minister should take a look at the opportunities, or lack thereof, presented by district heating because I would hate for that to form a large part of his thoughts when it comes to data centres playing their part.

The Minister also spoke about how climate targets are set and how we will all have to operate around them. That is true, but when it comes to the burden of meeting climate targets, it is placed on individuals and not on large corporations. We are in a situation where we expect 1 million new electric vehicles to be bought to ease the burden of fossil fuel usage. Electric vehicles are very expensive and will be out of reach for the majority of people in this country, yet they will play a huge part in how we meet our targets.

I am aware the Minister has included retrofitting measures for people on social welfare, but if a person is on social welfare, and not on the lower income bands, it will nearly be impossible for ordinary people to afford to retrofit their home even with the proposed low-interest loan. People are struggling to put food on the table for their children. They cannot afford to take out a loan for €15,000 or €20,000. Yet again, that is a huge part of how this country will meet its targets. We are going to put the burden on individual homeowners to play their part. At the same time, we are asking individual homeowners to do their bit and play their part, and telling them that it will cost them money to do so, we are saying to data centres that they can use as much energy as they want. They can use as much energy as every home in rural Ireland and we will not even charge them for it. In fact, we are not charging them; we are charging those individual homeowners. That is where the difficulty is. The Minister is focusing his demands on individuals and homeowners and he is not asking the large corporations to play their part. I understand that some of the data centres made a proposal that they would be charged extra for their energy demand and they were not taken up on it.

Deputy Denis Naughten: No.

Deputy Jennifer Whitmore: Why?

Deputy Denis Naughten: The Minister does not believe that it is even costing families.

Deputy Jennifer Whitmore: It is costing families. The €40 charge is for the 450 MW. This is not the cost that will go on to people's bills because of the €7 or €8 billion that will be required in grid infrastructure so that data centres can access electricity. We are relying on the fact that we will have all this renewable energy, therefore, it does not matter where that energy is used. However, it will be difficult to meet those renewable energy targets. Once wind farms start going up off the coast, the Minister will find that people will not be as amenable to having the seas completely full of wind farms to facilitate data centre growth on land. I ask that the Minister focuses on where the actual demand is as well as where the biggest changes can be made. It is not through individual homeowners that he will do that. The Minister said that the PSO levy is separate to this charge. Individuals do not care whether the money they are being

charged on their bill is as a result of the PSO or an additional charge to pay for this emergency generation. They do not care. All they see is an extra €40 that they have to find somewhere. I ask the Minister to take that into consideration.

Deputy Denis Naughten: It is not a fight over an acronym; it is a fight over a cost to families.

Acting Chairman (Deputy Cathal Crowe): Just a moment, Deputy Naughten. We have a list of speakers.

Deputy Bríd Smith: Does the Minister deny that this State is an outlier in respect of the percentage of generated power used by data centres compared to other states? The average across the globe is 2% to 4% of the national grid. We are looking at a situation in which 30% of the national grid could be used to feed data centres.

To echo what Deputy Whitmore said, a recent report by the Irish Academy of Engineering stated that estimated data expansion will require almost €9 billion in new energy infrastructure and add at least 1.5% million tonnes to Ireland's CO₂ emissions by 2030. The question is who will pay for all of this. First, it will be the environment and, most importantly, the people who are already struggling with cost-of-living difficulties. None of this makes sense. We have not had a chance to examine or drill down on the Bill. The best we can do is make amendments to the legislation that will absolutely guarantee restrictions such as ceilings or date limits. Amendment No. 2 would ensure that the legislation contains a moratorium on any more data centres.

We have an added problem. I wrote to the Department asking how many data centres that already have agreements are due to be connected. The Minister has said that it is not his business; it is for the CRU. I wrote to the CRU and I still have to get an answer. I am not saying that we do not have faith in our public servants, but it is an inefficient way of dealing with democracy. We who have to be accountable for this have to protect the people and exploit the interests of the people we represent. The added cost to people, as well as the damage to the environment that this is doing, is just insane. It is unbelievable that it is being proceeded with.

Perhaps the Minister will address my question on whether Ireland is an outlier in terms of the percentage of power that goes to data centres compared to other countries. Why are we allowing that? Why are we not standing up for what is the right thing to do and insisting that a ceiling is put on it and no more?

Deputy Darren O'Rourke: Will the Minister come back to the point about the prospect of an economic, environmental and energy security impact risk analysis for current and planned data centres? All the issues that have been raised need to be addressed and such an analysis would be a suitable vehicle to address them.

Deputy Eamon Ryan: I will go back to the various points made. In response to Deputy Whitmore, as I said earlier, we are in the middle of contracting and purchasing machines. The public would not welcome if the House were to set a price in the middle of negotiations and, therefore, we do not know what the final cost will be. The assessment from the CRU and others is lower than that quoted by the Deputy. I do not want to be specific or categorical because it will depend on the price of machines acquired. If it were the case that we had an open-door attitude that did not consider the climate or, indeed, the cost to the consumer or network charges and so on, then the Deputy would have a fair point. However, that is not the case in this Government and, in my role as Minister, that is not how I see it. I do believe, however, that there is

real potential for the likes of data centres, if in the future we will be able to contract within our climate-constrained conditions. I believe there is a possibility and will be an essential requirement to move towards district heating and to see the waste heat from data centres as one of the ways in which we could have a heat load source that would provide for future data centres.

As for meeting our climate targets, it is not just about the individual. That is just not true. Our sectoral emissions targets take into account industry, the public service, agriculture, domestic use and transport in every guise. Every single sector will have to play its part and, yes, it has to be a just transition. We have to make sure we protect the people on the lowest incomes as we do this. It is just not true that it is the individual who will have to do everything. Everyone will have to do something.

District heating has a very strong potential role to play. The Tallaght district heating scheme must be almost close to switching on. I was out there recently and it was very far advanced. It has huge potential efficiencies and benefits to local communities, with reductions in carbon emissions. Similar things can, will and should be done into the future. I do not accept this is not possible or that we will not do it. We will do it, and at scale. It will take ten to 20 years, but that is where we need to go.

Deputy Bríd Smith asked, if I recall correctly, if we are an outlier as to whether we have a large number of data centres. Yes, we do, and that is a factor of a variety of issues. First, we have a cold climate, and data centres tend to locate in cold climates. It is not just us but more northern regions generally. Management of heat is one of the biggest issues. There is a certain gain in this country because we do not have the high temperatures other parts of Europe have. Also, on the back of State investment and strategic decision-making, we went early in providing very good fibre-optic connectivity, particularly transatlantic and to the UK. That fibre infrastructure and our security infrastructure were critical. A third factor in data centres locating here is the fact that, historically, we have had one of the most stable, most reliable and most secure grids, which is what is needed for any kind of process such as this. I think modern data centres need almost three grid connections into them in order that there is an absolute fail-safe. They cannot be allowed to stop. Looking at the statistics, and this is to the credit of the ESB, EirGrid and others, we have had one of the highest reliability rates in recent years, so we have relatively expensive electricity. That was not necessarily the reason the companies came here instead of other locations, but the security, the fibre connectivity and the fact their businesses had other operations here are some of the reasons we have a very high number of data centres.

Deputy Smith referred to the statistic of 30% in 2030. I do not think that will be the figure but there is no doubt those we have already contracted will see a further expansion in demand for data centres. As I said, we do not, as a State, go back on our word because that would actually cost the Irish consumer more in the end because people would not trust our word in planning or other processes. Then we would be shot and we would be gone as a reliable partner to work with. Therefore, we do not do that. We will not, however, just open the door, have a free-for-all and ignore the need to meet our climate and other targets.

Finally, Deputy O'Rourke's assessment is exactly the sort of assessment the Department of Enterprise, Trade and Employment will have to do, but it is not just that Department. As I said, climate law here has a real effect and sectoral emissions targets have real impact. We are working with the Department of Enterprise, Trade and Employment, not on agreeing moratoriums and saying never again here, but rather, coming back to what I said earlier, on assessing whether we could do this now in a clever way, where we are at the very forefront of managing flexible

demand, being really efficient, using district heating, using backup generation in a way that helps the grid and using all these kinds of new developments. My sense is that the companies we are working with now realise that is the way all countries will have to go and that they will deal with a country which is good at that, is upfront and honest about that and puts demands on companies. Going back to what Deputy Whitmore said, we do say to companies they will have to shape up with us as we both learn how to be good in this low-carbon way together. I see that as the best way forward for our State. A review in our climate action plan with the Department of Enterprise, Trade and Employment is the right thing to do.

Deputy Jennifer Whitmore: The best way to reduce our emissions is not to allow them to grow in the first place. There should have been some demand management when it came to this growth. The CRU published its security of supply information note on 29 September last year. It states that “450MW of emergency generation would represent an increase in the Transmission System Operator tariffs and electricity transmission tariffs and could translate into a ca €40 overall increase in an average domestic bill for the forthcoming tariff year”.

Deputy Denis Naughten: I thank Deputy Whitmore for throwing a bit of light on things.

Deputy Eamon Ryan: That was actually completely separate because the generation did not relate to this Bill at all.

Deputy Jennifer Whitmore: That is a separate one?

Deputy Eamon Ryan: That was last October.

Deputy Jennifer Whitmore: No. That was for 200 MW. This one states that 400 MW in additional temporary emergency generation should be sought to address the remainder of this gap. This was last September. It states that the 200 MW had already been procured, that an additional 450 MW would need to be procured and that the cost of that would be €40.

Deputy Eamon Ryan: That was almost a year ago, long before this Bill or the contract arrangements in it were considered. I do not think it relates to this activity at all.

Deputy Jennifer Whitmore: Will the Minister clarify that? He did say it was around last September that he began negotiations with the CRU on the shortfall. Coincidentally, the shortfall specified in this document is 450 MW, so it seems coincidental that we are discussing a shortfall of 450 MW for this Bill and that the CRU had mentioned a shortfall of 450 MW. If that 450 MW resulted in a €40 increase, one would imagine that any 450 MW would result in same. There will not be a different amount placed on a bill depending on the-----

Deputy Denis Naughten: Costs have not gone down in the past 12 months.

Deputy Eamon Ryan: It is true we have been working with the CRU and EirGrid for some time now, going back to last September or beyond, recognising that we had a power shortage and had to close the gap. However, as for the cost to which the Deputy refers, the approach of using the purchase of open-cycle aeroderivative generation in the way we propose here was not considered until earlier this year, certainly nowhere near last September. I will come back and check that. If Deputy Whitmore shares the correspondence with me, I will check it. To come back to the key point for the household, the figure the Deputy quotes is higher than what we expect the CRU says is the estimated cost. That does not include the potential resale value of the machines, which to my mind will have the potential of clawing back a lot of that cost. Ev-

ery other European, especially northern European, country is in a similar position for a variety of reasons. They are short on power, and if they switch to renewables they will be using and looking to this sort of open-cycle aeroderivative capacity. I believe that value will go back to the Irish public in the end.

Deputy Denis Naughten: In four years' time.

Deputy Eamon Ryan: Yes.

Deputy Jennifer Whitmore: I ask that the Minister seek clarity on this because it does say here it was to deal with the generation gap for winter 2023-24, which is what we are discussing at the moment. The one question, therefore, is whether the 450 MW and the €40 relates to this Bill. If not, then there was another 450 MW procured that resulted in a €40 that is additional to this. These questions are a direct result of the fact the Bill has been rushed through this House and the Oireachtas committee did not have an opportunity to do any pre-legislative scrutiny on it. There are a lot of questions, and I did say that at the start. I ask the Minister to get clarity for me on this because one of the important things we should know and members of Government should know is the additional cost the Bill will mean for members of the public.

Amendment put:

<i>The Dáil divided: Tá, 54; Níl, 69; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Bacik, Ivana.</i>	<i>Brophy, Colm.</i>	
<i>Berry, Cathal.</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>Cahill, Jackie.</i>	
<i>Cairns, Holly.</i>	<i>Calleary, Dara.</i>	
<i>Canney, Seán.</i>	<i>Cannon, Ciarán.</i>	
<i>Carthy, Matt.</i>	<i>Carey, Joe.</i>	
<i>Clarke, Sorca.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Collins, Joan.</i>	<i>Chambers, Jack.</i>	
<i>Collins, Michael.</i>	<i>Costello, Patrick.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Coveney, Simon.</i>	
<i>Cronin, Réada.</i>	<i>Cowen, Barry.</i>	
<i>Crowe, Seán.</i>	<i>Creed, Michael.</i>	
<i>Cullinane, David.</i>	<i>Crowe, Cathal.</i>	
<i>Daly, Pa.</i>	<i>Devlin, Cormac.</i>	
<i>Doherty, Pearse.</i>	<i>Dillon, Alan.</i>	
<i>Donnelly, Paul.</i>	<i>Donnelly, Stephen.</i>	
<i>Ellis, Dessie.</i>	<i>Donohoe, Paschal.</i>	
<i>Farrell, Mairéad.</i>	<i>Duffy, Francis Noel.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Durkan, Bernard J.</i>	
<i>Funchion, Kathleen.</i>	<i>Farrell, Alan.</i>	
<i>Gannon, Gary.</i>	<i>Feighan, Frankie.</i>	

<i>Guirke, Johnny.</i>	<i>Flaherty, Joe.</i>	
<i>Healy-Rae, Danny.</i>	<i>Flanagan, Charles.</i>	
<i>Howlin, Brendan.</i>	<i>Fleming, Sean.</i>	
<i>Kenny, Gino.</i>	<i>Foley, Norma.</i>	
<i>Kenny, Martin.</i>	<i>Griffin, Brendan.</i>	
<i>Kerrane, Claire.</i>	<i>Harris, Simon.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Haughey, Seán.</i>	
<i>McDonald, Mary Lou.</i>	<i>Heydon, Martin.</i>	
<i>McNamara, Michael.</i>	<i>Higgins, Emer.</i>	
<i>Munster, Imelda.</i>	<i>Kehoe, Paul.</i>	
<i>Murphy, Catherine.</i>	<i>Lahart, John.</i>	
<i>Murphy, Paul.</i>	<i>Lawless, James.</i>	
<i>Mythen, Johnny.</i>	<i>Leddin, Brian.</i>	
<i>Naughten, Denis.</i>	<i>Madigan, Josepha.</i>	
<i>O'Callaghan, Cian.</i>	<i>Martin, Catherine.</i>	
<i>O'Donoghue, Richard.</i>	<i>Matthews, Steven.</i>	
<i>O'Rourke, Darren.</i>	<i>McAuliffe, Paul.</i>	
<i>Ó Broin, Eoin.</i>	<i>McConalogue, Charlie.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>McEntee, Helen.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>McGrath, Michael.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>McHugh, Joe.</i>	
<i>Pringle, Thomas.</i>	<i>Moynihan, Aindrias.</i>	
<i>Quinlivan, Maurice.</i>	<i>Moynihan, Michael.</i>	
<i>Ryan, Patricia.</i>	<i>Naughton, Hildegarde.</i>	
<i>Shortall, Róisín.</i>	<i>Noonan, Malcolm.</i>	
<i>Smith, Bríd.</i>	<i>O'Brien, Darragh.</i>	
<i>Smith, Duncan.</i>	<i>O'Callaghan, Jim.</i>	
<i>Stanley, Brian.</i>	<i>O'Connor, James.</i>	
<i>Tully, Pauline.</i>	<i>O'Donnell, Kieran.</i>	
<i>Ward, Mark.</i>	<i>O'Dowd, Fergus.</i>	
<i>Whitmore, Jennifer.</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>	

Dáil Éireann

	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Varadkar, Leo.</i>	

Tellers: Tá, Deputies Jennifer Whitmore and Bríd Smith; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

An Leas-Cheann Comhairle: 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 28 June 2022: “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:

<i>The Dáil divided: Tá, 115; Níl, 8; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Canney, Seán.</i>	
<i>Berry, Cathal.</i>	<i>Collins, Joan.</i>	
<i>Brady, John.</i>	<i>Kenny, Gino.</i>	
<i>Brophy, Colm.</i>	<i>McNamara, Michael.</i>	
<i>Browne, James.</i>	<i>Murphy, Paul.</i>	
<i>Browne, Martin.</i>	<i>Naughten, Denis.</i>	
<i>Bruton, Richard.</i>	<i>Pringle, Thomas.</i>	
<i>Buckley, Pat.</i>	<i>Smith, Bríd.</i>	
<i>Burke, Colm.</i>		
<i>Cahill, Jackie.</i>		
<i>Cairns, Holly.</i>		
<i>Calleary, Dara.</i>		
<i>Cannon, Ciarán.</i>		
<i>Carey, Joe.</i>		
<i>Carroll MacNeill, Jennifer.</i>		
<i>Carthy, Matt.</i>		
<i>Chambers, Jack.</i>		
<i>Clarke, Sorca.</i>		
<i>Collins, Michael.</i>		
<i>Conway-Walsh, Rose.</i>		
<i>Costello, Patrick.</i>		
<i>Coveney, Simon.</i>		

<i>Cowen, Barry.</i>		
<i>Creed, Michael.</i>		
<i>Cronin, Réada.</i>		
<i>Crowe, Cathal.</i>		
<i>Crowe, Seán.</i>		
<i>Cullinane, David.</i>		
<i>Daly, Pa.</i>		
<i>Devlin, Cormac.</i>		
<i>Dillon, Alan.</i>		
<i>Doherty, Pearse.</i>		
<i>Donnelly, Paul.</i>		
<i>Donnelly, Stephen.</i>		
<i>Donohoe, Paschal.</i>		
<i>Duffy, Francis Noel.</i>		
<i>Durkan, Bernard J.</i>		
<i>Ellis, Dessie.</i>		
<i>Farrell, Alan.</i>		
<i>Farrell, Mairéad.</i>		
<i>Feighan, Frankie.</i>		
<i>Fitzpatrick, Peter.</i>		
<i>Flaherty, Joe.</i>		
<i>Flanagan, Charles.</i>		
<i>Fleming, Sean.</i>		
<i>Foley, Norma.</i>		
<i>Funchion, Kathleen.</i>		
<i>Gannon, Gary.</i>		
<i>Griffin, Brendan.</i>		
<i>Guirke, Johnny.</i>		
<i>Harris, Simon.</i>		
<i>Haughey, Seán.</i>		
<i>Healy-Rae, Danny.</i>		
<i>Heydon, Martin.</i>		
<i>Higgins, Emer.</i>		
<i>Howlin, Brendan.</i>		
<i>Kehoe, Paul.</i>		
<i>Kenny, Martin.</i>		
<i>Kerrane, Claire.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Leddin, Brian.</i>		
<i>Mac Lochlainn, Pádraig.</i>		
<i>Madigan, Josepha.</i>		
<i>Martin, Catherine.</i>		

<i>Matthews, Steven.</i>		
<i>McAuliffe, Paul.</i>		
<i>McConalogue, Charlie.</i>		
<i>McDonald, Mary Lou.</i>		
<i>McEntee, Helen.</i>		
<i>McGrath, Michael.</i>		
<i>McHugh, Joe.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Munster, Imelda.</i>		
<i>Murphy, Catherine.</i>		
<i>Mythen, Johnny.</i>		
<i>Naughton, Hildegard.</i>		
<i>Nolan, Carol.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Callaghan, Cian.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connor, James.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donoghue, Richard.</i>		
<i>O'Dowd, Fergus.</i>		
<i>O'Gorman, Roderic.</i>		
<i>O'Rourke, Darren.</i>		
<i>O'Sullivan, Christopher.</i>		
<i>O'Sullivan, Pádraig.</i>		
<i>Ó Cathasaigh, Marc.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Laoghaire, Donnchadh.</i>		
<i>Ó Murchú, Ruairí.</i>		
<i>Ó Riordáin, Aodhán.</i>		
<i>Phelan, John Paul.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Rabbitte, Anne.</i>		
<i>Richmond, Neale.</i>		
<i>Ring, Michael.</i>		
<i>Ryan, Eamon.</i>		
<i>Ryan, Patricia.</i>		
<i>Shortall, Róisín.</i>		
<i>Smith, Brendan.</i>		
<i>Smith, Duncan.</i>		
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		

<i>Stanley, Brian.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Tully, Pauline.</i>		
<i>Varadkar, Leo.</i>		
<i>Ward, Mark.</i>		
<i>Whitmore, Jennifer.</i>		

Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies Bríd Smith and Paul Murphy.

Question declared carried.

Judicial Appointments Commission Bill 2022: Report and Final Stages

Acting Chairman (Deputy Cathal Crowe): Amendments Nos. 1 and 5 are related and may be discussed together by agreement.

Deputy Pa Daly: I move amendment No. 1:

In page 10, lines 23 and 24, to delete “or, in the English language, the Judicial Appointments Commission (in this Act referred to as the “Commission”)” and substitute “(in this Act referred to as the “*Coimisiún*)””.

Most of the amendments Deputy Ó Snodaigh submitted are straightforward attempts to ask the Government to live up to commitments under the recently passed Official Languages (Amendment) Act 2021. It is disappointing that the amendments related to the Irish language were rejected on Committee Stage and the Government is not bringing forward any amendments of its own on Report Stage. This contrasts with the position of the Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, and the Minister of State, Deputy Noonan, who engaged on Committee Stage. They met Conradh na Gaeilge in recent weeks and discussed how to improve the Higher Education Authority Bill 2022 and the Electoral Reform Bill 2022, respectively, to ensure that Irish is to the fore in both Bills.

However, the Department of Justice appears to have an approach unlike the rest of the Government and does not seem interested in implementing Government policy on the promotion of Irish. Even at this stage I ask the Minister to reconsider and accept the amendments or at least perhaps commit to meeting representatives of Conradh na Gaeilge and Deputy Ó Snodaigh with a view to introducing Government amendments in the Seanad.

With regard to amendment No. 1, there are examples in Córás Iompair Éireann, Raidió Teilifís Éireann, Bord na Móna and Bord Gáis and many others of public bodies given Irish names only. Such an approach is successful in building a strong Gaelic identity for the State,

whose first official language is Irish. Normalising Irish words among the public is useful as part of revival efforts for the language. I have mentioned road signs, and prominence should be accorded to the Irish language version of place names and logainmneacha.

We also know from discussions with the Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, about the Higher Education Authority, HEA, that a public body will anglicise its name at any opportunity, and that is hard to undo once the English name has entered general parlance. The HEA's only legal name is An tÚdarás um Ard-Oideachas but the Act establishing it was known as the Higher Education Authority Act, so the body renamed itself.

We proposed on Committee Stage that neither An Coimisiún um Cheapacháin Bhreithiúnacha nor An Oifig an Choimisiúin um Cheapacháin Bhreithiúnacha need an English name. This should be the Coimisiún um Cheapacháin Bhreithiúnacha Bill and not the Judicial Appointments Commission Bill. The response from the Department acknowledged that the Official Languages (Amendment) Act 2021 specifies that new bodies should be as Gaeilge only but argues that it would set a precedent in doing this when the Act is not yet commenced. In summary, the argument was that it would do the right thing but it would be wrong to start doing the right thing now. I do not know if St. Augustine said something like that at some stage.

A Minister of State at the Department of Housing, Local Government and Heritage, Deputy Noonan, saw no problem setting that precedent with An Coimisiún Toghcháin in the Electoral Reform Bill 2022 and we now know from another Minister of State, Deputy Chambers, that the Official Languages (Amendment) Act 2021 has been commenced and has been formally adopted as Government policy. The provisions of that Act did not seem to be required when we consider the history of RTÉ, CIE etc., which were set up as public bodies long before the Act. I ask the Minister to consider accepting amendments Nos. 1 and 5.

Minister for Justice (Deputy Helen McEntee): The reasons I set out on Committee Stage are those mentioned by the Deputy, specifically that the Act in question had not commenced. I had no opposition to it other than on the basis we were pre-empting something that had not been commenced. My information is it has not been commenced, but if it has, the provision is something I am very much open to. I must get clarification on that, however.

There is much in this Bill relating to the Irish language and specifications. I know there are later amendments in that regard specifically around judicial appointment nominees and ensuring we have a sufficient number proficient in the Irish language, as well as displaying diversity and everything else. If the Act in question has been commenced - I was informed it had not but we should be able to get clarity on it - I am open to revisiting the name.

Deputy Pa Daly: If the Minister cannot accept the amendment now, perhaps she will meet with us and introduce a Government amendment in the Seanad.

Deputy Helen McEntee: Once it does not delay the process, I am happy to look at it.

Amendment, by leave, withdrawn.

Deputy Pa Daly: I move amendment No. 2:

In page 10, line 27, after "members," to insert "who shall be competent to conduct their functions through the medium of Irish,".

This is a provision to ensure sufficient appointments of people competent in Irish to serve the needs of both the Irish-speaking community and the Constitution. We know there has been a problem in the courts because there are not enough judges who are competent in Irish to handle cases as Gaelige. That is not satisfactory. We even had a senior member of the Judiciary publicly state that people who seek to have their cases heard in Irish face prejudice. This is not equal treatment before the law. These problems have gone unnoticed or ignored by the Government. Ensuring the director and commissioners responsible for the new judicial appointments commission are competent in Irish will help to address this lack of understanding at least.

Deputy Helen McEntee: We are referring to nine members, four of whom will be lay members and four of whom will be from the Judiciary, along with the Attorney General. The point I made on Committee Stage was that three of those are *ex officio* members, including the Chief Justice, the Attorney General and the President of the Court of Appeal. If the President of the Court of Appeal is temporarily replaced by the president of the relevant court, he or she becomes an *ex officio* member as well. It would not be appropriate to provide in legislation specifically that an *ex officio* member of a committee should have proficiency or should be competent in the Irish language. Unfortunately, the population of Ireland is not universally proficient in the Irish language. We are trying to ensure members of the commission and candidates being considered for judicial positions would demonstrate diversity and flexibility.

For the specific purposes of the Bill, the attributes of qualification sought in the lay members is that they have knowledge of business, human resources, the courts and human rights, among other things. There is nothing here that precludes anybody from being proficient in Irish or fluent in both Irish, English or any other language. With the *ex officio* members specifically, I am not sure it would be good to specify they have to be proficient in the Irish language. Again, we have set out different types of qualifications, not excluding the fact people can be competent in the Irish language when included in the nine-person membership.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Cathal Crowe): Amendments Nos. 3, 7 and 15 are related and may be discussed together.

Deputy Pa Daly: I move amendment No. 3:

In page 11, line 12, after “office,” to insert the following:

“ensuring that recommendations in the case of no fewer than 20 per cent of judicial offices, and 100 per cent in the case of appointments to the Supreme Court, in a given year, the nominees shall be exclusively drawn from candidates who are competent to read and understand the Constitution and matters of law in both official languages,”.

Ensuring the minimum requirements that 20% of new appointments to judicial positions are reserved for people who can practise bilingually is imperative if we are to rectify this unfairness at the heart of our courts and get started towards the 20% goal for public bodies that has been committed to in the Official Languages (Amendment) Act 2021. Sinn Féin is also proposing that for the very top level, the Supreme Court, all judges appointed should be able to practise bilingually. This is, of course, because Irish is a necessary skill for that job. Supreme Court judges are charged with interpreting the text of the Constitution, which is not only bilingual but also states categorically that the Irish text is the authoritative version. There are significant differences between this text and the English translations.

We are demanding that judges in charge of interpreting the law should be able to read it. If the Government is serious about the rule of law in respecting the Constitution, there should not be any difficulty with this.

Deputy Helen McEntee: Amendment No. 3 specifies a 20% figure for all judicial appointments. We have tried to set out very clearly in this new legislation that any appointment to judicial office would be based on merit and we must take into account the objective of the membership of the Judiciary in each court. We should have a sufficient number of members who are proficient in the Irish language but, again, we do not set out specifically that there should be a specific number who are men or women. We ask for a sufficient number of men and women. When setting out that there should be sufficient diversity among those being put forward, we are not prescriptive. That is because we want this to be based on merit and we do not want to have to put any specific number or percentage down for any of those requirements or qualifications we have asked of the commission when putting names forward. By putting the 20% figure in the amendment, it would be applied separately and differently from the requirement for diversity and a gender balance.

With regard to the Supreme Court, having candidates drawn exclusively from a pool of judges competent in reading and understanding the Constitution and matters of law in both official languages is one thing. The amendment would have the stipulation that they must be 100% proficient in the Irish language.

7 o'clock

It removes the ability for diversity and quite a number of different elements we are requiring in this legislation. I am not sure it would be beneficial for any of us for that to be the case.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Cathal Crowe): Amendments Nos. 4, 10, and 12 to 14, inclusive, are related and may be discussed together.

Deputy Helen McEntee: I move amendment No. 4:

In page 14, between lines 3 and 4, to insert the following:

“(3) There may be paid by the Commission such allowances for expenses (if any), incurred by lay members on a panel established under *section 46(2)*, as the Commission may, with the consent of the Minister and the Minister for Public Expenditure and Reform, determine.”.

The amendment makes provision for the payment of allowances for expenses, if any, incurred by lay members on a panel established under *section 46(2)*, with the new subsection to be inserted by amendment No. 10. These will be paid by the commission as it may determine with the consent of the Minister and the Minister for Public Expenditure and Reform.

Amendment No. 10 is the substantive amendment in the group. It makes additional provision for the conduct of interviewees and inserts a new subsection. The amendment proposes that an interview shall be conducted by a panel of no fewer than three members of the commission, at least one of whom shall be a lay member and one of whom shall be a judicial member. The composition of the interview panel shall be selected by the commission. Without this amendment, which I flagged on Committee Stage in our previous debate, there is an unintended

implication that all nine members of the commission would be required to conduct the interview or indeed all interviews, which I do not think any of us think would be appropriate. This of course would not be practicable or desirable and having discussed the matter with the Chief Justice, I am satisfied that the change to clarify this position is necessary. It is not the intention of the legislation, however, to micromanage the commission process and it will, therefore, be a matter for the commission to decide which members will conduct the interview. The amended section will prescribe one thing, that the panel of the commission for the purpose of this shall have no less than three members and, importantly, at least one layperson and one judge.

Amendment No. 12 relates to section 50 and provides that the commission when it is recommending a person will provide certain information as set out to support the recommendation. Section 50(c) provides for the communication of the interview and other selection process results to the relevant Ministers. This is a technical drafting amendment that provides for a new cross reference from this requirement to the new section 46(2) inserted by amendment No. 10. The interview results, therefore, referred to in section 50 will now cross-refer to the new provision in section 46(2), which clarifies that the interview was conducted by a panel of the commission.

Amendments Nos. 13 and 14, taken together, make a necessary technical drafting adjustment to section 59. Amendment No. 13 removes the repeat interview condition from section 59(3)(c)(i) and amendment No. 14 replaces it with a simpler cross reference to the interview requirement in section 46. To summarise, all five of these amendments clarify in section 46 that a panel of the commission will conduct interviews as opposed to the commission as a whole and that lay members may receive necessary expenses and may make related necessary drafting adjustments.

Deputy Martin Kenny: None of the amendments are a problem. The only clarification I would like on is amendment No. 10 and the provision for no fewer than three members, one a lay member and at least one a member of the Judiciary. While expenses and all of that is dealt with through these amendments, what is the issue with regard to training of the people who will be carrying out these interviews? It is a very important job that they will have to do to select people. Will sufficient training be put in place to ensure they will be able to carry out that with the competency required?

Deputy Brendan Howlin: It was never intended that the entire judicial appointments commission would interview every applicant. Is a panel of three sufficient? One has to be a member of the Judiciary and one a lay member. Is there a reason three is the required number? All panels could be panels of three then under this legislation to make the determination and do the interviews. The Minister does not want everybody but is there a particular reason the Minister has reduced it to three?

Deputy Helen McEntee: What we have said is “at least three”. I felt one or two would not be sufficient. Three would ensure that we have at least one lay member, one member of the Judiciary and one additional person but it could be four. It can be additional numbers. In speaking to the Chief Justice, it would be desirable not to have the same three people all the time. That is something that will be made clear and we would need to make sure that happens.

In terms of the competencies, it will be a matter for the commission to make sure that anybody who is conducting interviews has the ability. If training or anything is required by those individuals, as I mentioned earlier, those who are on this panel and particularly the lay members

should have a knowledge of business, human resources, the courts and human rights among other things. Most like when these are going through the Public Appointments Service, we will potentially be looking at those who have the ability to conduct interviews and perhaps who have done something similar in their previous roles as well. If that is something that is missing from the commission or something the commissioners themselves feel they require, it will be up to the commission and it will be allowed for the commission to be able to support them in that regard.

Amendment agreed to.

Amendment No. 5 not moved.

Amendment No. 6 not moved.

Amendment No. 7 not moved.

Deputy Martin Kenny: I move amendment No. 8:

In page 26, between lines 30 and 31, to insert the following:

“(i) in the case of all offices specified under *paragraph (a), (b), (c), (d), (e), (f), (g), or (h)*, he or she has not held the office of Attorney General for a period of two years prior to their application under *section 43*.”.

This is a very simple little amendment in respect of the Attorney General’s role in all of this. There have been issues in the past with regard to that. We feel that the amendment is appropriate because it provides that an appointee to the Judiciary cannot have held the office of Attorney General for at least two years prior to that appointment. It is appropriate that there would be that cooling-off period. The Attorney General is one of the central judicial offices in the land. It would be appropriate that he or she would be out of office for a period before he or she could be appointed to the Judiciary. It is fair and balanced and would allay public concerns in regard to that. In the past, regardless of how good a judge the Tánaiste thought he would make, I do not think it was a good idea to be appointing Attorneys General as judges immediately after their vacation of that post. This amendment would take care of that and would create a balance that is absent from the legislation.

Deputy Helen McEntee: My view on this is that I do not see why any Attorney General, be they serving or retired or having moved on, should be disbarred at all for any particular period from applying. On the judicial appointments commission we have the Chief Justice and two other judicial members. We are not saying that they should at any point recuse themselves or not apply for a promotion or position for at least two years. They of course will be allowed to apply to progress their career in the same way.

Deputy Martin Kenny: They are already members of the Judiciary.

Deputy Helen McEntee: They are but the Attorney General is not a member of Government; the Attorney General advises Government. I am not sure it should be a disadvantage to a person that they have taken on quite a significant and busy role. They would then be at a disadvantage having done that and having served not just the Government but the country in general. I am not sure that putting them at a disadvantage as opposed to other members of the commission is the right thing to do. The commission is independent and will set the criteria. There will be an interview process. There will be a very clear process that absolutely every

individual right from the Chief Justice to any potential Attorney General, solicitor, barrister or other will have to go through. Individuals will be put forward on merit, taking into account the need for diversity, proficiency in the Irish language and gender balance as well.

Deputy Brendan Howlin: I was interested in what the Minister's response would be. My experience is that senior practitioners of the law are appointed as Attorney General. They play a pivotal role in advising Government and they are the chief legal adviser to the Government. It gives an extraordinary experience to somebody, no matter how senior he or she is in practising law at the Bar, to actually sit around the Cabinet table and run an entire Department, which is the Office of the Attorney General. It seems to me there would be an extra qualification in having done that. There probably would be a disincentive for people who might see themselves having practised at the Bar from applying for a judicial role or even accepting appointment to the role of Attorney General if they thought at the end of it there would be a period where they would first have to re-establish a legal practice, having given it up to serve as Attorney General, and then start a process after two years to apply for a judicial position. I would be minded to accept the Minister's position on this.

Amendment put:

<i>The Dáil divided: Tá, 49; Níl, 75; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Andrews, Chris.</i>	<i>Bacik, Ivana.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Berry, Cathal.</i>	
<i>Brady, John.</i>	<i>Brophy, Colm.</i>	
<i>Browne, Martin.</i>	<i>Browne, James.</i>	
<i>Buckley, Pat.</i>	<i>Bruton, Richard.</i>	
<i>Cairns, Holly.</i>	<i>Burke, Colm.</i>	
<i>Canney, Seán.</i>	<i>Calleary, Dara.</i>	
<i>Clarke, Sorca.</i>	<i>Cannon, Ciarán.</i>	
<i>Collins, Joan.</i>	<i>Carey, Joe.</i>	
<i>Collins, Michael.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Chambers, Jack.</i>	
<i>Cronin, Réada.</i>	<i>Costello, Patrick.</i>	
<i>Crowe, Seán.</i>	<i>Coveney, Simon.</i>	
<i>Cullinane, David.</i>	<i>Cowen, Barry.</i>	
<i>Daly, Pa.</i>	<i>Creed, Michael.</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>Funchion, Kathleen.</i>	<i>Donohoe, Paschal.</i>	
<i>Gannon, Gary.</i>	<i>Duffy, Francis Noel.</i>	
<i>Guirke, Johnny.</i>	<i>Durkan, Bernard J.</i>	
<i>Harkin, Marian.</i>	<i>Farrell, Alan.</i>	
<i>Healy-Rae, Danny.</i>	<i>Feighan, Frankie.</i>	
<i>Kenny, Gino.</i>	<i>Fitzpatrick, Peter.</i>	

Dáil Éireann

<i>Kenny, Martin.</i>	<i>Flaherty, Joe.</i>	
<i>Kerrane, Claire.</i>	<i>Flanagan, Charles.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Fleming, Sean.</i>	
<i>McDonald, Mary Lou.</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>Nolan, Carol.</i>	<i>Howlin, Brendan.</i>	
<i>O'Callaghan, Cian.</i>	<i>Kehoe, Paul.</i>	
<i>O'Donoghue, Richard.</i>	<i>Kelly, Alan.</i>	
<i>O'Rourke, Darren.</i>	<i>Lahart, John.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Lawless, James.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>Leddin, Brian.</i>	
<i>Pringle, Thomas.</i>	<i>Madigan, Josepha.</i>	
<i>Quinlivan, Maurice.</i>	<i>Martin, Catherine.</i>	
<i>Ryan, Patricia.</i>	<i>Matthews, Steven.</i>	
<i>Shortall, Róisín.</i>	<i>McAuliffe, Paul.</i>	
<i>Smith, Bríd.</i>	<i>McEntee, Helen.</i>	
<i>Stanley, Brian.</i>	<i>McGrath, Michael.</i>	
<i>Tully, Pauline.</i>	<i>McHugh, Joe.</i>	
<i>Ward, Mark.</i>	<i>Moynihan, Aindrias.</i>	
<i>Whitmore, Jennifer.</i>	<i>Moynihan, Michael.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Noonan, Malcolm.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connor, James.</i>	
	<i>O'Donnell, Kieran.</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>	

29 June 2022

	<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>	

Tellers: Tá, Deputies Martin Kenny and Pa Daly; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

An Leas-Cheann Comhairle: The time for this debate having expired, I am required to put the following question in accordance with an order of the Dáil of 28 June: “That the amendments set down by the Minister for Justice and not disposed of are hereby made to the Bill, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

Regulation of Providers of Building Works and Building Control (Amendment) Bill 2022: From the Seanad

The Dáil went into Committee to consider amendments from the Seanad.

Acting Chairman (Deputy Bernard J. Durkan): The amendments are from the Seanad, apart from one, which is in a different category. Amendments Nos. 1, 12 and 26 are related and will be discussed together.

Seanad amendment No. 1:

TITLE: In page 7, line 8, to delete “*Clár Tionscal Tógála na hÉireann*” and substitute “*Clár Tionscail Foirgníochta na hÉireann*”.

Deputy Richard Boyd Barrett: I would like an explanation from the Minister of State. There is a load of amendments that have nothing whatsoever to do with the Bill that was originally discussed in the Dáil. The expression we use is that they are outside the scope of the Bill. They are completely outside of the scope of the Bill that was discussed here and they just appeared. The Minister of State might tell me there was great debate but from what I have heard from the Seanad, there was not much understanding of where these things came from there ei-

ther. It is very sharp practice. That is not a comment on any of the particular amendments and, from what I can see, there are some we would support. However it is not good parliamentary or legislative practice to bring in a load of amendments that are way outside the scope of the Bill at this Stage, when we have not had a chance to look at or examine any of them.

Will the Minister of State please explain this? This always happens, but I have never seen it quite as blatant as this, where we have a number of things that really belong in totally different Acts, for example, the Nursing Homes Support Scheme Act, the Residential Tenancies Act and the Affordable Housing Act, which are all very distinct and separate things. This is a Bill about building control. Maybe someone else knows more than I do about this, but I think it is pretty extraordinary.

Acting Chairman (Deputy Bernard J. Durkan): We are not getting into a long debate about the rights or wrongs of the amendments. We have to stick to the subject matter and we are already wandering outside it, exactly as the Deputy indicated. Perhaps an tAire Stáit would like to shed some light on the issue. There is a time factor and we have to move on.

Deputy Richard Boyd Barrett: It is a joke anyway. We only have half an hour.

Acting Chairman (Deputy Bernard J. Durkan): I know but we can take up the time arguing about what should be part of it. That time is over.

Deputy Richard Boyd Barrett: If we get one amendment done we, will be lucky.

Acting Chairman (Deputy Bernard J. Durkan): It is over. Does the Minister of State want to pour some oil on the troubled waters?

Minister of State at the Department of Housing, Local Government and Heritage (Deputy Malcolm Noonan): It is okay if the Deputy wants to speak.

Acting Chairman (Deputy Bernard J. Durkan): I know he does but does the Minister of State wish to make any comment?

Deputy Malcolm Noonan: I will make a general comment. They are mostly technical amendments. Some of them came from opposition proposals, but they are mostly technical amendments.

Deputy Cian O'Callaghan: I had indicated to speak on Seanad amendment-----

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy wants to give a lecture to the Chair, I will move on. Let us move on from there. Does the Deputy not want to speak at all?

Deputy Cian O'Callaghan: I do. I want to speak on Seanad amendment No. 1, which is about the Title of the Bill. Many of the amendments are not related to the Title of the Bill. I specifically want to know why the amendments on the Residential Tenancies Act 2004 are coming in like this? Why were they not brought in in the Dáil originally? Why are we not getting an opportunity to input into them? Some of them are welcome but some need changes. Being brought in this way does not give us the opportunity to do that. Why is it being done that way?

Deputy Malcolm Noonan: There has been ample time for Members to input into the Bill. As I said, the majority are related to the Title of the Bill and are technical amendments.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 2 and 46 are related and will be discussed together.

Seanad amendment No. 2:

TITLE: In page 7, line 17, after “2007;” to insert the following: “to amend the Nursing Homes Support Scheme Act 2009 by providing for certain rental income of a person who is receiving care services or his or her partner under a tenancy of the principal residence of that person to be assessed at a lower rate than other income of that person; to enable the rate at which such rental income is to be assessed to be reduced or to enable such rental income to be disregarded;”.

Deputy Richard Boyd Barrett: This is a totally-----

Acting Chairman (Deputy Bernard J. Durkan): One is either for or against. We are dealing with amendments. I do not want to wrangle about the merits or demerits of what should have been done before. We are at a certain level and we must deal with it.

Deputy Patricia Ryan: I was-----

Acting Chairman (Deputy Bernard J. Durkan): I asked the Minister of State.

Deputy Malcolm Noonan: We are discussing Seanad amendments Nos. 2 and 46. These amendments bring forward a change to the nursing home support scheme, also known as the fair deal, to remove disincentives that might prevent applicants to the scheme from renting out their principal residence once they enter long-term residential care. While the scheme is the responsibility of the Minister for Health, this amendment was brought forward by my Department through the Regulation of Providers of Building Works and Building Control (Amendment) Bill 2022. These amendments address action 19.8 in the Housing for All strategy. Within the nursing homes support scheme a person’s income is assessed with 80% of it going towards the cost of their care. This new amendment would change the rate of their assessment from 80% to 40% for rental income from a person’s principal residence. A reduction in assessment to 40% is expected to incentivise the rental of around 1,200 additional properties. The 40% rate is also expected to help mitigate some of the risks identified with proposals to reduce the rate of assessment to zero. Six months after the amendments have been brought into operation the Government will review the policy and based on a report will decide on potentially further lowering the rate at which rental income is assessed.

Overall this amendment supports the Government policy’s intention to remove disincentives against the rental of homes owned by participants in the fair deal scheme, which might otherwise remain vacant.

Deputy Patricia Ryan: It is a very worrying way of doing business, if I may say so. What safeguards are in place for these people?

Deputy Malcolm Noonan: As I said, there will be a review of the policy and a report will be furnished. We will decide on potentially further lowering the rate. This should be welcomed by the Opposition.

Seanad amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Seanad amendments Nos. 3, 7, 48,

amendment No. 1 to Seanad amendment No. 48 and Seanad amendment No. 49 are related and will be discussed together.

Seanad amendment No. 3:

TITLE: In page 7, line 17, after “2007;” to insert the following: “to amend the Residential Tenancies Act 2004 by providing for an increase of the notice period for termination of certain tenancies, to require landlords to serve a copy of any notice of termination on the Board, and to enable the Board to assist in providing contact details of tenants to landlords for the purpose of facilitating a reletting offer; to amend the Housing (Regulation of Approved Housing Bodies) Act 2019 by providing for an increase of the period permitted for an application for registration as an approved housing body;”.

Deputy Malcolm Noonan: Seanad amendment No. 49 amends the Housing (Regulation of Approved Housing Bodies) Act 2019. The amendments to the Residential Tenancies Act were made to increase the notice period to be given by landlords when terminating certain tenancies to require landlords to serve a copy of any notice of termination on the Residential Tenancies Board, RTB, and to enable the RTB to assist in providing contact details of tenants to landlords for the purpose of facilitating a reletting offer. A key amendment is provided in section 93 which amends section 35 of the 2004 Act to delete the requirement for tenants to expressly provide their contact details to their landlord for the purpose of the landlord making a relet offer.

Deputy Cian O’Callaghan: On Seanad amendment No. 3, was there any engagement with bodies, such as Threshold, which have expertise in this area? Why are these being rushed through without proper consideration given that there has only been a handful of cases where an adjudicator has found the tenant did not provide the landlord with contact details in an appropriate manner, for the landlord to offer back the home? Why is there such speed on this? Why is there not proper consultation and consideration of this amendment? As the Minister of State may be aware, this mechanism rarely results in tenants moving back into the home as more than likely they will have moved on to another secure home by the time another offer is made, because they need somewhere to live. The benefit to a tenant is usually only realised in the form of awards made by the RTB. Has that been taken into account on this?

On the provisions regarding the seven-day time limit for a tenant to respond to the offer of a home, why does the Government think seven days is sufficient? Why has it not considered something more realistic like 21 days? I seek an explanation for the rationale for that.

In summary, I wish to know whether there has been consultation, why it is being rushed through, what is the rationale and why has it not been given more consideration.

Acting Chairman (Deputy Bernard J. Durkan): Does Deputy Boyd Barrett wish to speak?

Deputy Richard Boyd Barrett: I would like to hear the Minister of State first.

Deputy Malcolm Noonan: Again, my understanding is there has been considerable consultation with Threshold among other organisations and that frames the rationale. On the seven-day time limit, again, I cannot give a response on that. I do not have a response for the Deputy on why that was seven days versus 21 days.

Acting Chairman (Deputy Bernard J. Durkan): Deputy Boyd Barrett may go ahead.

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Deputy Richard Boyd Barrett: I just find this extraordinary. The Minister of State is telling us he cannot answer the questions about these amendments to the Residential Tenancies Act that we have never debated in the Dáil and that are contained in building control legislation. The Minister of State who is taking the session does not know the answers. That is a joke of legislation. It absolutely makes a sham of legislation. I cannot believe it; well I can believe it actually, from this Government, but it is flipping outrageous.

Do not get me wrong, extending the notice period is a good thing but at this point, given some of us have been screaming for the past few weeks that we need emergency measures on the number of families going into homelessness because of evictions and so on, we should be discussing this as part of a residential tenancies amendment Bill to ban all evictions and give greater protections to people in a situation where evictions and family homelessness are going out of control.

Some of this seems okay. We do not really know what the rationale is behind other bits and the Minister of State has been sent in here to ram this through because that is what happens when you are ramming stuff through without proper debate. You do not send in the senior Minister because there is no intention to discuss any of this; it is just about ramming it through. All I can say is it is very sharp practice.

Acting Chairman (Deputy Bernard J. Durkan): It is not a question-----

Deputy Richard Boyd Barrett: It is sharp practice.

Acting Chairman (Deputy Bernard J. Durkan): Just a second. To inform the House, it is not a question of ramming it through anywhere. This is the Committee Stage of the Regulation of Providers of Building Works and Building Control (Amendment) Bill. It came to this Stage through other Stages, it just did not come to this Stage first, so if there was not adequate debate before this I cannot provide for it here and it is not going to take place in the committee.

Deputy Richard Boyd Barrett: I am not blaming the Acting Chairman.

Acting Chairman (Deputy Bernard J. Durkan): That is all right.

Deputy Richard Boyd Barrett: But just for the record, if we try to introduce amendments to a Bill that are outside its scope, we are laughed out of the room. We are not even given explanations. They are just ruled out of order, full stop. We are told this has nothing to do with the Bill. Now we have a whole load of them that are outside the scope of the Bill.

Acting Chairman (Deputy Bernard J. Durkan): I thank the Deputy. We must move on now, we are at a different Stage.

Deputy Cian O'Callaghan may go ahead.

Deputy Cian O'Callaghan: This is not the responsibility of the Cathaoirleach Gníomhach or the Minister of State who is here *per se* but in terms of process, this is absolutely unacceptable. I have raised a question about these provisions and we have had no opportunity to discuss this anywhere previously. This is our only opportunity. Why is the Government saying seven days is sufficient for a tenant to be able to respond and not something like 21 days, which Threshold incidentally thinks would be a reasonable amount?

Acting Chairman (Deputy Bernard J. Durkan): I thank the Deputy.

Deputy Cian O’Callaghan: It is strange there has been consultation with Threshold, because if there has been it has not been listened to on this.

Acting Chairman (Deputy Bernard J. Durkan): I know.

Deputy Cian O’Callaghan: On the seven days, I want to make this point, which is tenants live in the real world. They have other things going-----

Acting Chairman (Deputy Bernard J. Durkan): I am sorry-----

Deputy Cian O’Callaghan: A Chathaoirligh Gníomhaigh, I am speaking on this-----

Acting Chairman (Deputy Bernard J. Durkan): No, resume your seat for a second. I want to say something.

Deputy Richard Boyd Barrett: He is speaking on the amendment.

Deputy Cian O’Callaghan: I am speaking on this amendment.

Acting Chairman (Deputy Bernard J. Durkan): Resume your seat just for a minute. I want to say something. We are not about to have a Second Stage debate tonight. It is not provided for in Standing Orders. It is not provided for in the rota in front of me and it is not going to happen. To allow a Second Stage debate on the issue in general would be wrong and I cannot allow it.

Deputy Cian O’Callaghan: But when else can we-----

Acting Chairman (Deputy Bernard J. Durkan): We have heard that Second Stage bit already.

Deputy Richard Boyd Barrett: He is speaking on the amendment.

Deputy Cian O’Callaghan: This is not Second Stage. There was no Second Stage. This is my chance to speak to this amendment.

Acting Chairman (Deputy Bernard J. Durkan): I am sorry. It is a Second Stage debate, so we will not have it because here we have the amendments.

Deputy Richard Boyd Barrett: He is speaking to the amendment.

Deputy Cian O’Callaghan: I am speaking to the amendment.

Acting Chairman (Deputy Bernard J. Durkan): Deputy Boyd Barrett is long enough in this House to know the Standing Orders so we will move on-----

Deputy Cian O’Callaghan: I am speaking to the amendment.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy can speak to the amendments.

Deputy Cian O’Callaghan: Yes.

Acting Chairman (Deputy Bernard J. Durkan): Strictly to the amendments.

Deputy Cian O’Callaghan: Strictly to the amendments, and in terms of the seven days-----

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Deputy Richard Boyd Barrett: Whatever you do, do not go outside the scope of the amendment.

Deputy Cian O’Callaghan: I simply want to know-----

Acting Chairman (Deputy Bernard J. Durkan): That is right.

Deputy Cian O’Callaghan: I simply want to know-----

Acting Chairman (Deputy Bernard J. Durkan): That is right. Hold on a second. Deputy Boyd Barrett, I tell you this now, if you are having a swipe at the Chair and having a laugh I tell you very quickly, do not go there again.

Deputy Richard Boyd Barrett: It is the Government.

Acting Chairman (Deputy Bernard J. Durkan): Do not go there again.

Deputy Richard Boyd Barrett: It is the Government.

Acting Chairman (Deputy Bernard J. Durkan): Do not go there again.

Deputy Richard Boyd Barrett: It is playing fast and loose.

Acting Chairman (Deputy Bernard J. Durkan): This is Committee Stage of the Bill. Only-----

Deputy Cian O’Callaghan: Simply on the amendment-----

Acting Chairman (Deputy Bernard J. Durkan): Only amendments that are put down here by somebody-----

Deputy Cian O’Callaghan: Yes.

Acting Chairman (Deputy Bernard J. Durkan): -----and these came from the Seanad.

Deputy Cian O’Callaghan: Yes.

Acting Chairman (Deputy Bernard J. Durkan): That is why you did not have the debate. The debate took place in the Seanad. It was amended in the Seanad and it is back home to the Dáil again.

Deputy Cian O’Callaghan: This is our only opportunity to raise a question on this, so simply on amendment No. 3 and the seven days, it is the case that tenants and renters have other things going on in their lives. They can be caring for family members, dealing with sickness, they can have work commitments and they could be away. A seven-day limit for them to accept this offer will cut many people out, especially more vulnerable renters and tenants. That will, presumably, give an advantage to landlords on this. The fact there is no explanation from the Minister of State on why it is seven days rather than 21 days is alarming. A normal part of the process here should be that we are able to ask a question, such as on how the Government arrived at seven days, rather than the 21 days recommended by Threshold, and can get an answer on that. To me, this is totally unacceptable and shows this process is not credible.

Acting Chairman (Deputy Bernard J. Durkan): I thank the Deputy and call the Aire Stáit.

Deputy Malcolm Noonan: I wish to add to the note on amendment No. 48 that section 35 of the Act of 2004 will be amended to require a landlord must comply with section 39A of that Act when serving a notice of termination and any notice served in contravention shall be invalid of this Bill. I will provide detail on this shortly.

The new provisions in sections 35(12) to 35(15), inclusive, provide that upon receipt of a notice of termination the RTB will, in cases of terminations grounded on a landlord's intention to sell, occupy by the landlord or a family member, substantially refurbish or renovate or change the use of the rented dwelling, seek to ascertain the tenant's contact details and to pass those details, if ascertained, onto the landlord and the tenant's consent, if requested by the landlord, for the purpose of making a relet offer.

Section 94 amends section 39A of the Act of 2004 to require a landlord to simultaneously copy the RTB with all notices of termination that he or she serves on a tenant. The RTB will then notify the tenant of the timeframe for the referral of a dispute as to the validity of the notice of termination, increased under section 98 from 28 days to 90 days after receipt of the notice of termination in cases where there has been no breach of tenancy obligations, and provide the tenant and landlord with a fresh copy of the statement setting out a summary of their tenancy rights and obligations, as well as details of the RTB's dispute resolution service.

Section 96 substitutes table 1 of section 66 of the Act of 2004, which sets out the termination notice period to be given to a tenant by a landlord where there has been no breach of tenancy obligations. An increase of approximately two months is provided to the period of termination notice that applies to tenants with tenancies of less than three years in duration where there has been no breach of tenant's obligations.

Section 99 provides that Part 11 would commence on the day of the passing of this Bill. Part 11 provides for some standard consequential technical amendments to the Residential Tenancies Act 2004.

Amendment No. 49 provides for a number of amendments to the Housing (Regulation of Approved Housing Bodies) Act 2019 to increase by 12 months the period permitted for an application to be made to register as an approved housing body, AHB. It is proposed to amend the Housing (Regulation of Approved Housing Bodies) Act 2019 to extend by 12 months the timeframe for AHBs to register with the Approved Housing Bodies Regulatory Authority. The 2019 Act provides for the regulation of approved housing bodies for the purposes of supporting stronger governance and the financial viability of that sector, with a particular focus on safeguarding the significance of public investment being made in the delivery of social housing by AHBs. The Act provided for the establishment of the independent Approved Housing Bodies Regulatory Authority, AHBRA. Section 34 of the 2019 Act sets out deadlines for the AHBs to register with the AHBRA, depending on their size. The proposed amendment provides for a 12-month extension to the existing registration for all currently registered AHBs, including those deemed registered AHBs with the AHBRA. The extension of this period will allow for the analysis and further consideration of a technical issue that has arisen in respect of the legal definition of the eligibility criteria for an application to the register.

Deputy Richard Boyd Barrett: Which amendment is that?

Acting Chairman (Deputy Bernard J. Durkan): The Deputy cannot interject like that. A speaker who wishes to contribute has already indicated.

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Deputy Eoin Ó Broin: I am happy to allow the Minister of State to answer Deputy Boyd Barrett's question.

Acting Chairman (Deputy Bernard J. Durkan): I have called on you to speak, Deputy.

Deputy Eoin Ó Broin: I thank the Minister of State. My apologies for being late. Unfortunately, I have just come from a meeting to try to finalise amendments to another Bill for which amendments have to be submitted by 11 a.m. tomorrow, in spite of the fact that Second Stage of the Bill has not even started, let alone finished and, apparently, we will only be given a very short amount of time.

As regards the Bill before the House, we are dealing with two issues on which I suspect most Members present are in agreement, that is, the fair deal-related amendments and the residential tenancy amendments. In that regard, technical and significant legislative changes are being brought in and we have half an hour to discuss them while also trying to deal with everything else. I know that is not the fault of the Minister of State but he is probably blue in the face hearing me say that whenever there is crappy stuff that this collective has to deal with, he keeps getting that crappy stuff. I ask the Acting Chairman to excuse my language. The lesson in the context of the Bill is that this is stuff on which we agree with the Minister of State but if the Government does not get it right and properly consider it, that is not acceptable. My colleague, Deputy Patricia Ryan, is asking about measures, for example, to ensure that older people are protected from elder abuse in the context of the changes to the fair deal scheme. Deputy Cian O'Callaghan is asking reasonable questions about the meaning and interpretation of aspects of the Bill. For me, the real question relates to the reason for these changes, welcome and all as they are, to the Residential Tenancies Act. Deputy Boyd Barrett is as confused as I am as to which amendment we are discussing now. If the Minister of State can clarify that, it would be useful.

I have no difficulty with these amendments. I would have much preferred to have had an hour or two on Committee Stage to go through them properly and discuss them, but that is the Government's business. I am interested to know why the amendments are being tabled now. They came out of the blue. There was no consultation with anybody in the NGO sector, such as Threshold or any other tenants' rights organisations. I am not objecting to the amendments. I welcome anything that strengthens tenants' rights. My suspicion is that there is a crisis in the private rental sector. There is a dramatically increasing level of homelessness, particularly in terms of the presentation of families as homeless. This is the Government attempting to be seen to do something to address that. Of course, while the amendments are welcome, they will not do anything to address the dramatically increasing levels of homeless presentations. It might just delay them by a small number of days. From where did these amendments come? What was their origin? What is the logic and thinking of the Government in this regard? We are supporting the amendments but I really want to understand why they have been tabled in this way. Ordinarily, when changes to the Residential Tenancies Act are proposed, there is some level of consultation with the sector and some logic behind them. These amendments have come out of the blue, welcome and all as they are. Any clarification the Minister of State can provide would be most welcome.

Acting Chairman (Deputy Bernard J. Durkan): I thank the Deputy. Does Deputy Boyd Barrett wish to contribute?

Deputy Richard Boyd Barrett: On a point of order, this is not Committee Stage.

Acting Chairman (Deputy Bernard J. Durkan): All I can tell the Deputy is that there are regulations and amendments and a pink paper here in front of me. I know he would like to select and move on from his position but it does not work that way, unfortunately. If the Minister of State wishes to comment, he may do so. Otherwise, I am putting the question.

Deputy Malcolm Noonan: If the Deputies are largely supportive of the amendments, then I will seek their support on them.

Deputy Eoin Ó Broin: May I make a final response? I will not labour the point but our job is not just to say whether we are for or against what the Government is doing. Deputies Cian O’Callaghan, Boyd Barrett and I spend a lot of time in committee. We take our job as legislators very seriously. Even when it comes to the things the Government is doing that we support, we want to make sure the language and the text is right. For example, when rent pressure zones were first being introduced, that was done in such a rush that the mathematical formula underpinning the 4% rent cap was miscalculated in the legislation as 8%. It was only I and Deputy Shortall, and, in fairness, former Deputy John Curran who was on the Government side at that stage, who noticed it. Part of our job is to scrutinise. If we are not given adequate time to do so, either because insufficient time is provided in the Dáil to discuss the Bill or because we are trying to deal with multiple pieces of legislation that are being rushed through at the last minute, that is a recipe for mistakes. I make that appeal to the Minister of State in the context of this Bill. It is not a controversial Bill but that does not mean it is not technical and should not be adequately scrutinised in a public forum to make sure there are no mistakes, unintended consequences, etc. If he is in a position to reply, I would like him to answer my question. It is a genuine one. From where did these amendments come? What was their origin? Why is the Government introducing them now? Those are reasonable questions and I would appreciate it if the Minister of State were to respond on them.

Acting Chairman (Deputy Bernard J. Durkan): I will allow one more contribution on the amendments and then I will close because we are in breach of an order of the House. We have to dispose of the amendments and we have limited time.

Deputy Eoin Ó Broin: You are the boss.

Acting Chairman (Deputy Bernard J. Durkan): I know Deputy Ó Broin would not dream of interfering with an order of the House. My apologies. I had called Deputy Cian O’Callaghan.

Deputy Cian O’Callaghan: I take my responsibility in terms of scrutinising the Bill and the amendments very seriously. While the overall thrust of the amendments is welcome, as are most of the measures, there is a flaw in what is being put forward in terms of the provision of a seven-day limit rather than 21 days. That will be unworkable for many people. It may be an unintended flaw in these amendments. I do not know if that is the case because no rationale whatsoever has been given for it. We have been given no information on it or why that limit was arrived at. It makes me wonder whether the intention is to make it unworkable in order to reduce the number of disputes that go to the RTB. That may not be the case, but I am completely in the dark as to why that period has been arrived at. It is legitimate to expect the Government, when it is proposing this change and this seven-day limit, to explain why it believes that is the appropriate amount of time to provide for in the legislation. The approach being taken is not what Parliament is about. When proposals are brought, we raise questions and make criticisms and then get a response. If that is not what it is about in a democracy, what is it about?

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Acting Chairman (Deputy Bernard J. Durkan): Sorry, Deputy, we have had enough chat about the-----

Deputy Cian O’Callaghan: I was just finishing my contribution.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy should get to the point on the amendment.

Deputy Cian O’Callaghan: That will be my last word on it if the Acting Chairman lets me sit down.

Acting Chairman (Deputy Bernard J. Durkan): For the information of the Deputy and in compliance with an order of the House, the Deputy wandered completely outside discussion of the amendment and tried to start a new debate in order to delay the discussion of the Bill. We are time limited.

Deputy Cian O’Callaghan: Not at all. That will be my last word on the matter if I am allowed to sit down.

Acting Chairman (Deputy Bernard J. Durkan): Every last word is the last word. I see that Deputy Boyd Barrett is in contemplative mood.

Deputy Richard Boyd Barrett: I thank the Acting Chairman. As we have already pointed out, we are discussing the nursing home support scheme and the Residential Tenancies Act. We discovered from the most recent response of the Minister of State that we are also talking about the Housing (Regulation of Approved Housing Bodies) Act 2019 and changes being made thereto. We will not even get to discuss the amendments introduced at the last minute by the Government to the Affordable Housing Act.

Acting Chairman (Deputy Bernard J. Durkan): Was the Deputy at the meeting of the Business Committee?

Deputy Richard Boyd Barrett: No, I was not.

Acting Chairman (Deputy Bernard J. Durkan): That was a mistake. He should have attended that meeting. He could have dealt with all that there. This is not the forum for it at all.

Deputy Richard Boyd Barrett: I am sure there were objections to this carry-on.

Acting Chairman (Deputy Bernard J. Durkan): Is the Deputy sure about that?

Deputy Richard Boyd Barrett: I am sure.

Acting Chairman (Deputy Bernard J. Durkan): He cannot be sure.

Deputy Richard Boyd Barrett: I am sure I am sure.

Acting Chairman (Deputy Bernard J. Durkan): You are not sure. I ask the Deputy to please resume his seat. He is only play-acting now.

Deputy Richard Boyd Barrett: I am not.

Acting Chairman (Deputy Bernard J. Durkan): He knows that himself.

Deputy Richard Boyd Barrett: I am deadly serious.

Acting Chairman (Deputy Bernard J. Durkan): When the business was taking place, he was not there.

Deputy Richard Boyd Barrett: Sometimes one cannot attend the Business Committee. I had a substitute there, by the way.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy should resume his seat.

Deputy Richard Boyd Barrett: I have not finished. I want the Minister of State to explain the changes to the Affordable Housing Act.

Acting Chairman (Deputy Bernard J. Durkan): We do not have time for that. I am shortly going to put the question.

Deputy Richard Boyd Barrett: There you go. The Dáil has never discussed the amendments to the Affordable Housing Act.

Acting Chairman (Deputy Bernard J. Durkan): I am sorry. These are amendments from the Seanad. It is as simple as that. The Leas-Cheann Comhairle has arrived just in time.

8 o'clock

Seanad amendment agreed to.

An Leas-Cheann Comhairle: 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 28 June: "That the amendment set down to Seanad amendment No. 48 on the first additional list is hereby agreed to in committee and that in respect of the Seanad amendments not disposed of, the Seanad amendments or, as appropriate, the Seanad amendments, as amended, are hereby agreed to in committee and agreement to the amendments is accordingly reported to the House."

Question put and agreed to.

An Leas-Cheann Comhairle: A message will be sent to the Seanad acquainting it accordingly.

Consumer Rights Bill 2022: Report and Final Stages

An Leas-Cheann Comhairle: This debate will conclude after 45 minutes. Amendments Nos. 1 and 49 are related and will be discussed together.

Bill recommitted in respect of amendments Nos. 1 and 49.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Robert Troy): I move amendment No. 1:

In page 13, line 20, after "2014;" to insert "to amend section 459 of the Companies Act 2014;".

Deputies will recall that I indicated on both Second and Committee Stages that I would be

bringing forward amendments to section 459 of the Companies Act 2014, which I am now doing. The purpose of amendment No. 1 is to change the Long Title of the Bill to make reference to the 2014 Act, given that I am seeking to amend section 459 of the Act.

Amendment No. 49 makes amendments to section 459 that are technical and operational in nature. They set out a process for dealing with unclaimed considerations of former dissenting shareholders in respect of an acquisition. The purpose of this process is to remove any potential exposure of the State to financial risks arising from the indemnity currently provided by the Minister for Public Expenditure and Reform, provide for adequate legal examination and oversight of unclaimed considerations, and provide for efficient operation of unclaimed considerations and ensure a person so entitled can make a claim at any time.

In a takeover, it is the objective of the person or company making the bid, known as the offeror under the Companies Act 2014, to ensure 100% ownership is achieved. Under the 2014 Act, once the offeror has acceptances that meet the threshold of affected shares, the offeror may proceed to acquire the shares of the dissenting minority shareholders of the target company, which is known as the offeree company. Section 459(7) of the Act provides for the completion of the compulsory acquisition. This includes the offeree company holding for seven years any moneys or non-cash assets such as shares or property received by it on trust for the former dissenting shareholders, who, for example, may not be contactable.

Section 459(7)(c), which matured on 1 June 2022, provides that after seven years, any unclaimed consideration is then transferred by the offeree company to the Minister for Public Expenditure and Reform, who indemnifies the offeree company for the amount transferred against any future claims. The Department of Public Expenditure and Reform has identified financial risks arising from this indemnity. Thus, the provision is being amended to minimise the State's exposure to financial risk and provide for adequate legal examination and oversight. The amendments are based on section 623 of the Companies Act 2014, which provides for the court-operated companies liquidations account into which unclaimed dividends and balances are paid in a winding-up and which, after seven years, are transferred to the Exchequer.

I will now outline the amendments to section 459 of the Companies Act. Section 173(a) of the Consumer Rights Bill, as provided for in amendment No. 49, substitutes subsection (7)(c) of section 459 to provide that at the expiry of seven years, the offeree company must lodge unclaimed considerations to the court account nominated by the Minister for Public Expenditure and Reform. As the court can only accept cash, the offeree company must realise the non-cash assets such as shares or property it has held on trust as soon as practically possible and lodge the proceeds of the sale to the nominated court account.

Section 173(b) of the Bill, as provided for in amendment No. 49, inserts new subsections (9) to (16), inclusive, in section 459. Subsection (9) provides that where the offeree company cannot realise the non-cash assets, it must continue to hold them on trust until such time as they are either claimed or realised, following which the proceeds must be lodged with the nominated court account. Subsection (10) provides that a person entitled to the moneys in the court account can apply to the court to make a claim. Subsection (11) provides that after seven years in the court account, the unclaimed moneys are lodged with the Exchequer. Under subsection (12), a person can apply to the court to make a claim on those moneys. Where the court is satisfied the person concerned is so entitled, it can order the Minister for Public Expenditure and Reform to provide the payment. Subsection (13) is a transitional provision that provides for the treatment of a consideration that may transfer from the offeree company to the Minister for

Public Expenditure and Reform under the current subsection (7)(c) before the commencement of this new process. Subsection (14) provides that a person making a claim on moneys arising from processes in the transitional period will also apply to the court. Under subsection (15), no liability will attach to the Minister for Public Expenditure and Reform in respect of the actions or omissions of the offeree company concerning the unclaimed consideration. Subsection (16) clarifies references to subsection (7)(c).

Amendment agreed to.

Bill reported with amendment.

An Leas-Cheann Comhairle: Amendments Nos. 2 and 3 are related and will be discussed together.

Deputy Maurice Quinlivan: I move amendment No. 2:

In page 30, line 38, to delete “12 months” and substitute “24 months”.

I am moving this amendment on behalf of Deputy O’Reilly. We submitted this amendment to ascertain the reason there is a timeframe of 12 months, instead of 24 months, for a customer to prove that the goods supplied under a sales contract are not in conformity with that contract. Article 11(2) of the sale of goods directive permits a period of 24 months. Will the Minister of State indicate why a period of 12 months was chosen? I assume it is to strike a balance between the interests of traders and consumers but I want to be certain as to the reason for the deviation from the directive. With sufficient explanation, I will be happy to withdraw both amendments.

Deputy Robert Troy: We had this discussion on Committee Stage. I appreciate what Deputy O’Reilly is aiming to achieve with these amendments. Section 22(1) of the Bill, which gives effect to Article 11(1) of the sale of goods directive, provides that a lack of conformity that becomes apparent within one year of the delivery of the goods shall be presumed to have existed at the time of delivery. The section does not utilise the option in Article 11(2) of the directive that permits member states to introduce a period of two years from the time of delivery for the presumption of lack of conformity.

The reason for not opting for a two-year timeframe is based on the need, as Deputy Quinlivan noted, to achieve a reasonable balance between the rights of consumers on the one hand and, on the other, the obligations placed on businesses. The inclusion of a two-year period would negatively impact on this balance. For instance, under the 1999 sales directive, the reverse burden of proof currently applies for only six months after delivery. Increasing the duration of this period from six months to two years would represent a sudden and sharp change in the scheme of remedies. There is also a risk that the longer a lapse in time from the delivery of goods, the greater the possibility that a subsequent lack of conformity may not have been presented at the time of delivery. That could therefore open the possibility that traders will question whether the manner in which the goods were used could have contributed to the lack of conformity.

Another reason for not adopting the longer timeframe was to ensure consistency in the terms of consumer rights across the various parts of the Bill. The digital content directive provides that the burden of proof in respect of whether digital content or a digital service was in conformity with the contract is set for a period of one year from the time of the supply. There is no option for member states to increase this period to two years. It would be insufficient and difficult to justify having a two-year period from the reversal of the burden of proof for goods,

while a one-year period applied to the digital content. Therefore, this provision is to ensure consistency between digital content and goods, and acknowledges that we are already going from six months to 12 months. We must have the right balance in respect of the protection of customers and from a business perspective. It is for those three reasons that we are not proposing to accept these amendments.

Deputy Maurice Quinlivan: On foot of the Minister of State's answer, I withdraw amendments Nos. 2 and 3.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Deputy Alan Kelly: I move amendment No. 4:

In page 33, between lines 23 and 24, to insert the following:

“Rights in relation to diagnosis, maintenance and repair of electronic equipment

26. (1) In relation to digital electronic equipment sold in the State, a manufacturer shall make available, for the purposes of diagnosis, maintenance or repair of the equipment—

(a) to independent repair providers, and

(b) to owners of the equipment, in a timely manner and on fair and reasonable terms, relevant documents, parts and tools, including any updates to information or embedded software.

(2) Where a manufacturer has made an express warranty with respect to digital electronic equipment and the wholesale price of the equipment is €100 or more, the manufacturer shall provide such parts, tools, and documents as enable the repair of the equipment during the warranty period at an equitable price, with due regard to—

(a) the actual cost to the manufacturer of preparing and distributing the parts, tools or documents, exclusive of any research and development costs incurred,

(b) the ability of owners and independent repair providers to afford the parts, tools or documents, and

(c) the means by which the parts, tools or documents are distributed.

(3) In relation to equipment with an electronic security lock or other security-related function, the manufacturer shall make available to the owner and to independent repair providers, on fair and reasonable terms and through secure data release systems where appropriate, any special documents, tools or parts needed to disable the lock or function, and to reset it, for the purposes of diagnosis, main-

tenance or repair of the equipment.

(4) Both an owner and an independent repair provider may maintain an action against a manufacturer who contravenes *subsection (1), (2) or (3)*, and the court may order the manufacturer to take such action as may be necessary to observe the requirements of the subsection concerned, or to pay damages.

(5) (a) Nothing in this section requires a manufacturer to disclose a trade secret, save as and to the extent necessary to provide documents, parts and tools on fair and reasonable terms.

(b) Subject to *paragraph (c)*, nothing in this section alters the terms of any agreement between a manufacturer and an authorised repair provider.

(c) A provision of an agreement referred to in *paragraph (b)*, or any other agreement, is void insofar as it purports to waive, avoid, restrict or limit a manufacturer's obligations under this section.

(6) In this section—

“authorised repair provider”, in relation to a manufacturer, means a person who is not a connected person and who has an agreement with the manufacturer—

(a) pursuant to a license to use a trade name, service mark or other proprietary identifier, to offer the services of diagnosis, maintenance or repair of digital electronic equipment under the name of the manufacturer, or

(b) otherwise to provide such services on behalf of the manufacturer, provided that a manufacturer who offers the services of diagnosis, maintenance or repair of digital electronic equipment manufactured by it or on its behalf, and who does not have an agreement with a connected person for the provision of such services, is an authorised repair provider with respect to that equipment;

“connected person” has the meaning assigned to it by section 10 of the Taxes Consolidation Act 1997;

“digital electronic equipment”—

(a) subject to *paragraph (b)*, means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product,

(b) does not include—

(i) mechanically propelled vehicles designed and constructed to be suitable for use on roads, or

(ii) medical devices within the meaning of the Health (Pricing and Supply of Medical Goods) Act 2013;

“document” includes any manual, diagram, reporting output, service code description, schematic, or other guidance or other information used in effecting the services of diagnosis, maintenance, or repair of digital electronic equipment;

“embedded software” means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for such equipment, for the purposes of operating the equipment, including all relevant patches and fixes made by the manufacturer of such equipment or part for this purpose;

“firmware” means a software program or set of instructions programmed on digital electronic equipment, or on a part for such equipment, to allow the equipment or part to communicate within itself or with other computer hardware;

“independent repair provider”, means a person who—

(a) in relation to a manufacturer and any authorised repair provider of the manufacturer, is not a connected person, and

(b) is engaged in the diagnosis, maintenance, or repair of digital electronic equipment,

provided that a manufacturer or an authorised provider of a manufacturer is, when engaged in the diagnosis, service, maintenance or repair of digital equipment that is not manufactured by or sold under the name of the manufacturer, an independent repair provider;

“manufacturer” means a person engaged in the business of selling, leasing, or otherwise supplying new digital electronic equipment, or parts of such equipment, that has been made by or on behalf of the manufacturer;

“owner” means a person who owns or leases digital electronic equipment;

“part” means any replacement part, whether new or used, made available by a manufacturer for purposes of maintenance or repair of digital electronic equipment manufactured by or on behalf of, sold or otherwise supplied by the manufacturer;

“tools” includes any software program, hardware implement or other apparatus used for diagnosis, maintenance, or repair of digital electronic equipment, including software or other mechanisms that provision, program or pair a new part, calibrate functionality, or perform any other function required to bring the equipment back to fully functional condition.

(7) A reference in this section to making a document or thing available on fair and reasonable terms means making the document or thing available on terms that are equivalent to the most favourable terms under which a manufacturer makes the document or thing available to an authorised repair provider—

(a) regard being had to any discount, rebate, convenient means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference the manufacturer offers to an authorised repair provider, or any additional cost, burden, or impediment the manufacturer imposes on an independent repair provider, and

(b) not conditioned on or imposing a substantial obligation or restriction that is not reasonably necessary for enabling the owner or independent repair provider to engage in the diagnosis, maintenance, or repair of digital electronic equipment made by or on behalf of the manufacturer.”.

I am dealing with this amendment on behalf of my colleague, Deputy Sherlock. It is, however, a topic that I have spoken about before. This amendment aims to deal with the issue of how different electronic products and devices become obsolete and the right to repair. All of us in these Houses have these smartphones. We are lucky now if we get a couple of years out of them. It is quite ridiculous. I sometimes get jealous of my father’s Nokia brick, as they call it, because of the reliability. There is no upgrading required, there is nothing required in that regard.

This amendment is grounded in the idea that we will have to deal with this matter. In Ireland, we have often been innovative and ahead of the curve. Examples of this include the plastic bag levy, how we addressed the issue of smoking indoors and other things. This, however, is something that we must get ahead of the EU on. Looking at the regulations being brought in, and I sat on the Committee on Internal Market and Consumer Protection when I was an MEP, and specifically regarding some of the changes in the context of technological necessities, those measures took several years to come through. Again, on this topic, it is also going to take a long time to address. Therefore, we should lead on this issue.

The idea that, basically, no matter what the device or technology, whether smartphones, tablets, Kindles, small household items or large household appliances, there is effectively only a lifespan of a few years is unacceptable. We must have a change in this mindset. It is not good for the environment. It is not good for our pockets. In many cases, this attitude has impacts concerning energy consumption. There are also other issues involved. Equally, there is also the aspect of the effects and costs for consumers. They are required to constantly upgrade, whether that involves purchasing new software, apps, additions, different components for household items, etc.

Therefore, we must be very radical in this regard. I have high hopes that the Minister of State will be radical. In that context, I hope he will accept this amendment, because it is a necessary one. We must have the right to repair these items and we must not be continuously bounced into ensuring that all these types of items, whether personal devices or household items, must be continuously upgraded, have constant changes made to them and that their lifespans will be dictated by those who manufacture them. I refer to people being constantly forced to change and upgrade devices and appliances. Somebody must shout “Stop” here.

I am not sure that I ever want to do any more with the device I have now. It has everything I need. Within one year, however, I will have to change this device. New applications or upgrades will ensure I have to do that because the manufacturer will dictate it. Therefore, I urge the Minister of State to take on board this amendment. I will be listening closely to what he is going to say regarding it. This is something the Labour Party feels strongly about and I hope

the Minister of State will take this amendment on board.

Deputy Robert Troy: I fully understand where the Deputy is coming from in this regard, and indeed Deputy Sherlock, because we had quite a lengthy debate on this topic on Committee Stage. I felt then that this proposal was problematic, but I gave a clear undertaking that I would have my officials look to see if there was any practical way possible in which we could accept this amendment. I say that because I agree wholeheartedly with what the Deputy said and with what Deputy Sherlock said on Committee Stage. The sale of goods directive, however, is a maximum harmonisation directive, and that leaves very little discretion in respect of its implementation.

The amendment, as currently drafted, is unclear regarding whether it intends to create new obligations on a seller, as defined in Article 2 of the directive, who has entered into a sales contract with the consumer. If that is the case, then this amendment goes beyond what is required in the directive and so breaches the maximum harmonisation provision set out in Article 4. As the Deputy will understand, member states may not adopt stricter rules than those provided for in the directive, even to achieve a higher level of consumer protection. If, on the other hand, the intention of the amendment is to create new rules to cover the relationship between the manufacturer and an owner of an independent repair provider, the amendment does not fall within the scope of the directive and therefore does not fit within the scope of Part 2 of the Bill. In that case, I would argue that this is not the appropriate legislative vehicle for making such changes to the law.

I reiterate, although the Deputy might be hearing this for the first time, what I said to Deputy Sherlock. The European Commission is working party on consumer protection and information is currently considering several proposals to empower consumers to make sustainable consumption decisions. One such proposal has a particular emphasis on promoting repair and reuse as an initial remedy before a replacement is offered. These proposals will almost certainly be harmonised and will, quite probably, apply to all goods, including motor vehicles, and not just electronic equipment as dealt with in this amendment.

As I said, I advised Deputy Sherlock on Committee Stage that the European Commission is currently examining a proposal to improve the participation of consumers in the circular economy by providing better information on the durability and reparability of certain products. While I would of course welcome further protections being given to consumers in the area of reparability and maintenance of all goods, including electronic goods, I am acting in the context of strong legal advice because of this being a maximum harmonisation measure. Even though I would like to, and I concur with the sentiments of Deputies Kelly and Sherlock in this regard, I am unable to accept this amendment for these reasons.

Deputy Alan Kelly: I take on board what the Minister of State is saying. I remember several years ago when I was an MEP and we brought in the regulations concerning mobile phone coverage and prices. The interesting thing about that development was that some country had to kick it off. Several countries came together and kicked such a measure off. Eventually, it got to the European Parliament and then went to the European Commission. We got there in the end with that measure and that is why we have the standardisation we have now in this context. I feel that we need to be leaders on this issue. I do not accept the Minister of State's arguments regarding the appropriateness of this provision being in this Bill. Any examination of several Bills that have been on the floor of the House tonight would show that is not really a good argument.

Regarding the issue of maximum harmonisation, I know it only too well. At some point, we, as a country, have to show leadership. In terms of scale, Ireland is a country that can really show leadership in this area. We are a highly technological country but, obviously, we are not the biggest country in terms of scale. Therefore, we can lead on this and show how it can be done. The amendment is very appropriate. This could be a seismic moment. It could be a great moment for the Department and a good moment for the Minister of State to show leadership. Whether the amendment passes or not, I ask the Minister of State to lead the charge on this. If he does so, he would receive great thanks. It would be a symbolic issue to fight for because ultimately we cannot continue like this. Every one of us has boxes of phones, tablets, consumables and machines that last only a few years. This cannot go on.

Deputy Robert Troy: I fully agree with what Deputy Kelly is saying, but I am not a legal professional and I have to take the best legal advice that is given. I am told that in the context of maximum harmonisation, it is not possible to accept the amendment as submitted. I thank the Deputy for saying that it is an opportunity to make a name and lead the charge on this. There is a working party on consumer protection looking at this issue in Europe, and we can feed into that. We can request that the working party comes back on that at a very early date. We know that with supply-chain issues across the globe at present, it makes more sense to repair than replace.

I concur with Deputy Kelly but I am sure, when he was on this side of the House and received legal advice, he was loath to ignore it. That is where I stand at the moment. I genuinely agree with what he is saying. We need to promote repair over replace. There is a vehicle at the European Commission to do that and it is important that we feed into that process. More importantly, we need to make progress in this area as soon as possible. I cannot, much as I would love to, accept the amendment.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendments Nos. 5 to 9, inclusive, 15 and 20 are related and may be discussed together.

Deputy Maurice Quinlivan: I move amendment No. 5:

In page 44, line 13, after “in” to insert “concise,”.

These amendments follow on from the wording of the Bill, which aims to ensure that information relating to contracts, communications, guarantees, etc., is expressed in plain, intelligible language. However, these amendments seek to build on this to ensure that contracts, communications, guarantees and so on are also concise. If they are accepted, the legislation would state that all information will be in concise, plain, intelligible language. The reasons for this, I am sure he will agree, are obvious. Customers often and small businesses are sometimes faced with information on contracts, communications, guarantees and so forth that may be plain and intelligible but that runs to 40 pages. People will read through this information if it is concise and they know their rights and responsibilities, but they cannot be reasonably expected to read a 50-, 60- or 70-page document. I hope the Minister of State will look favourably on these amendments.

Deputy Robert Troy: I thank Deputy Quinlivan for moving these amendments on behalf of Deputy Louise O'Reilly. They seek to ensure that the information provided to consumers entering into various types of contracts is concise and in plain language. While I agree with all seven

of Deputy O'Reilly's amendments and would welcome an end to countless pages of information being imposed on consumers, I can only accept three of them. I have sought legal advice on this matter and have been advised that due to the maximum harmonisation nature of certain articles in the directive that this Bill transposes, the additional requirement is not permissible in all cases. I will go through the proposed amendments and explain the rationale.

Amendments Nos. 5 and 20 deal with commercial guarantee statements provided under sale of goods contracts or hire purchase agreements. Section 44(2) of the Bill and section 73W(2) of the Consumer Credit Act 1995, as inserted by section 150(1) of the Bill, transpose Article 17(2) of the sale of goods directive. Article 17(4) of the directive states: "Member States may lay down rules on other aspects concerning commercial guarantees which are not regulated in this Article, including rules on the language or languages in which the commercial guarantee statement is to be made available to the consumer." This means that these proposed amendments are permissible. I am, therefore, happy to accept them.

Amendments Nos. 6 and 7 seek to insert the word "concise" into sections 103(4)(c), "Information requirements for off-premises contract", and section 104(5)(c), "Information requirements for off-premises contract for repairs or maintenance". These sections transpose Article 7(1) of the consumer rights directive. Article 4 of the directive states: "Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive." Article 7 of the directive, relating to formal requirements for off-premises contracts, states: "Member States shall not impose any further formal pre-contractual information requirements for the fulfilment of the information obligations laid down in this Directive." I have been advised that the proposed insertion of "concise" relates to the form in which the information is provided, as opposed to the information itself and is, therefore, not permissible. The same reasoning applies to amendments Nos. 8 and 9, which seek to adjust sections 106(1)(a), "Information requirements for distance contract", and 107(1), "Additional information requirements for distance contract concluded on online marketplace", both of which transpose Article 8(1) of the consumer rights directive. Therefore, these amendments are also not permissible.

Amendment No. 15 seeks to make the same insertion into section 134(2)(a), "Consumer contract terms to be transparent". I have been advised that the relevant wording in this provision has its origin in Article 5 of the unfair commercial terms directive, which does not preclude the proposed amendment. I am, therefore, happy to accept amendment No. 15.

Amendment agreed to.

Amendments Nos. 6 to 9, inclusive, not moved.

An Leas-Cheann Comhairle: Amendments Nos. 10 and 11 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 10:

In page 94, line 4, to delete "during" and substitute "before the expiry of".

These amendments are very straightforward and make small typographical corrections, such as, for example, the slight rewording of a section to clarify the law. These amendments are not policy driven; they merely tidy up the draft. Amendment No. 10 is a minor wording change to

ensure consistency and continuity with the current position in Irish law on the right to cancel a consumer contract. The proposed language mirrors the European Union (Consumer Information, Cancellation and other Rights) Regulations 2013, which transpose the consumer rights directive that is being repealed by the Bill. It does not change the purpose or meaning of section 112. It replaces the word “during” with the phrase “before the expiry of” regarding a cancellation period. Amendment No. 11 is a minor technical amendment to tidy up the language.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 11.

In page 94, lines 7 and 8, to delete “during the cancellation period” and substitute “in accordance with subsection (1)”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 12, 13 and 50 are related and may be discussed together.

Deputy Robert Troy: I move amendment No. 12:

In page 103, to delete lines 24 to 27 and substitute the following:

“124. (1) Where a trader operates a telephone line for the purpose of enabling a consumer to contact the trader in relation to a contract concluded by the consumer with the trader, the trader shall ensure that the telephone line is available to the consumer at a charge that does not exceed the basic rate.”.

The purpose of amendment No. 13 is to clarify the language of section 124(7) which defines “basic rate” as it applies to the charges for communication by telephone.

Specifically, the policy aim of this section is to protect consumers from paying premium-rate fees for contacting trader helplines about their consumer contracts. The amended definition will give clarity to traders on the expectation as to what the basic-rate charge is for calls made to, for example, landlines and mobile phone numbers.

The new definition also adheres to the spirit of the recent judgment of the European Court of Justice, which ruled that call charges relating to a contract concluded with a trader to a telephone helpline operated by the trader may not exceed the cost of a call to a standard geographical landline or mobile telephone line.

Amendment No. 12 makes a slight adjustment to the wording of section 124(1) in order to take account of the revised definition of “basic rate” and does not change the policy intent of that subsection.

Deputy Maurice Quinlivan: Deputy O’Reilly had an amendment to the Government’s amendment No. 12. The reason we proposed it was to make sure that consumers who contact a trader or business about a product or service are not left waiting on telephone lines for inordinate periods. We regularly hear of consumers left on the phone for hours to resolve a broadband issue, to query a guarantee or a contract or for any other reason. It is unacceptable that a customer would be left on a phone line, for which they have to pay, for a long period. The two points in the amendment added that consumer calls to telephone lines be answered within ten

minutes and, where a call to a telephone line exceeds 30 minutes, that that call then become free of charge to the consumer. These are sensible and fair amendments.

Deputy Robert Troy: The Government has tabled an amendment clarifying what the definition of the basic rate is. It is to be no more than the rate in respect of a geographical landline. Deputy O'Reilly had sought to amend that, I suppose to add greater clarity.

Deputy Maurice Quinlivan: Yes.

Deputy Robert Troy: It comes back to the maximum harmonisation point I have raised on a number of other amendments. The advice is that we cannot go further than we are going and that we have given the clarity as to what the basic rate is. Unfortunately, I am not at liberty to accept Sinn Féin's amendment.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 13:

In page 104, to delete lines 1 to 20 and substitute the following:

“(7) In this section—

“basic rate”, in relation to a telephone line operated by a trader for the purpose referred to in *subsection (1)*, means:

(a) where the telephone line uses a freephone number, nil;

(b) where the telephone line uses a landline telephone number, the rate charged for a call to a landline telephone number;

(c) where the telephone line uses a mobile telephone number, the rate charged for a call to a mobile telephone number;

(d) where the telephone line uses a standard rate number, the rate charged for a call to a standard rate number;

(e) where the telephone line does not fall within any of *paragraphs (a) to (d)*, the rate charged for a call to a landline telephone number;

“freephone number” means a non-geographic number (other than a mobile telephone number, a standard rate number or a premium rate number), in respect of which the charge for a call is paid for by the called party and not the caller;

“landline telephone number” means a number from the national numbering scheme where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point;

“mobile telephone number” means a mobile telephone number that is a nongeographic number (other than a freephone number, a standard rate number or a premium rate number);

“national numbering scheme” has the same meaning as it has in section 12 of the Communications Regulation Act 2002;

“network termination point” has the meaning assigned to it by Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast);

“non-geographic number” means a number—

- (a) that is not a landline telephone number, and
- (b) that is from the national numbering scheme;

“premium rate number” means a non-geographic number that is used to provide a premium rate service within the meaning of the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010;

“standard rate number” means a non-geographic number (other than a freephone number, a mobile telephone number or a premium rate number), in respect of which the rate charged to the caller does not exceed the rate charged for a call to a landline telephone number.”

Amendment agreed to.

Deputy Alan Kelly: I move amendment No. 14:

In page 107, between lines 18 and 19, to insert the following:

“(1) (a) Without prejudice to the generality of the foregoing, where a trader supplies a service to subscribers, it is an unfair term of the contract under which the service is provided if the trader, in relation to provision of the same or substantially the same service, charges consumers who are renewing their subscription a higher fee than the trader charges consumers who are new subscribers.

(b) In *paragraph (a)*, “subscriber” means a consumer who receives a service from a trader pursuant to a contract where, on payment of a periodic fee, the contract with the trader under which the service is supplied is successively renewed or rolled over, whether the fee is calculated solely by reference to a period of time or by reference to the amount of service received during that period, or by a combination of both; and “subscription” shall be construed accordingly.”

This is a very important amendment. The Minister of State in his contribution on Committee Stage was very determined to come back with good news on this one, so I hope he has good news. This amendment, in essence, bans what we now know will take place in the insurance industry whereby customers who are loyal to whichever company they are subscribing with are not discriminated against. In other words, if you sign up for broadband, if you are a long-standing customer, if you sign up for your phone tariff, your television package or whatever else, you will not be discriminated against as a consumer because you are a loyal customer. There are situations in which people who are loyal to a provider get one rate and then the person next door gets a cheaper tariff because he or she is switching. We all know that for a sizeable number of the population, the idea of switching provider is an ordeal. It might not be for the likes of us, but, certainly, thinking of my parents, the idea of switching would be a huge ordeal to them. Many of these companies, or basically all of them, know that. They have analysts studying this left, right and centre. Those who sign up consumers get bonuses and get paid more if they sign up more people of a higher age because it is known they are more likely to stay

with the company. These are the simple facts. There should not be discrimination. If you are a new customer, that is great and you will get a good service, it is to be hoped, but that should not mean that those who have availed of the service for so many years or, in some cases, decades should be discriminated against.

I note that in one of the Minister of State's previous contributions he said he accepted the validity of this and, considering it is coming in in the insurance industry and the insurance market, would take the time between Committee Stage and Report Stage to look at how this could be achieved here as well. Ultimately it is - I have no doubt the Minister of State will agree - the right thing to do.

Deputy Robert Troy: The proposed amendment to section 130 relates to renewal of subscription contracts. This is a highly complex area involving a number of regulated markets, including utilities, electronic communications and financial services, for which my Department has no policy responsibility. Any amendment of this kind would require consultation with sectoral regulators and other sectoral stakeholders as well as other Government Ministers.

The new rules on differential pricing in the insurance sector, which are to take effect in July, differ from those proposed in the amendment. Those rules allow for discounts to new customers and will prohibit only the charging of a premium to a renewing customer that is higher than the premium charged to a renewing customer with a similar risk profile who is renewing a policy after the first year with the same company. It would be inconsistent and undesirable to have different rules and different pricing for different sectors. The suggested amendment effectively proposes that a contract term is always unfair if its object or effect is to require a consumer who is renewing a subscription to pay a higher price for a service than a new subscriber. As such, its inclusion in section 130 is at odds with the section in that it bypasses the criteria for the assessment of the unfairness of the contract terms set out in the section.

If the Deputy agrees to withdraw this amendment, I will undertake to look at bringing forward a Government amendment on Committee Stage in the Seanad. We did try to do that on this Stage but the timeline was too short. This will allow officials in my Department to engage with Parliamentary Counsel to ensure that the Government amendment meets with the spirit of the Deputy's intention but in a legally sound way, particularly in addressing the point I made earlier about the contract term always being unfair. I get what the Deputy is trying to achieve, and it is exactly what Deputy Sherlock said the last time.

I must point out that the inclusion of any such provision in the Bill does not mean that it will be commenced with the rest of the Bill, but it will show the Government's intent and will allow such time for consultation with other Government Ministers and sectoral regulators to take place.

I am pleased to report that the Competition and Consumer Protection Commission, CCPC, has already commenced research into pricing practices across various sectors and how they influence consumer behaviour. The work was motivated by the same concerns that prompted the Deputy's proposed amendment. The CCPC intends to publish a report towards the end of this year and its findings will play a crucial role in informing the potential commencement of the proposed provision. It is my clear intention, however, and I have said this to my officials, to bring forward an amendment on Committee Stage in the Seanad, bearing in mind that we may not be able to commence it at the same time as the rest of the Bill. We have a legal requirement from a European perspective as to when the Bill has to be transposed before we potentially face

finer. I want to accept this amendment because I share the aspirations of Deputies Kelly and Sherlock. My compromise is to bring forward an amendment the provisions of which can be commenced at a later stage than the rest of the Bill while giving a clear commitment to try to achieve what we want to achieve.

Deputy Alan Kelly: I thank the Minister of State for the thoughtful way in which he has dealt with this. I appreciate that this has to be across Departments and that it was not all going to come within his remit, and I appreciate the time constraints. I was going to ask why the Government did not table its own amendment but, in fairness to the Minister of State, he is after proposing that he will table such an amendment. I welcome that. I am aware of everything the Minister of State said about the CCPC. I am glad to see that it is getting teeth because I have had concerns over the past number of years that it did not have enough teeth, particularly in respect of these areas, which I also welcome.

There is one issue in respect of what the Minister of State is drafting. I accept and understand the necessity to push forward with what he has to do in this Bill, given the requirements under European law. I also understand and accept that he will not necessarily commence the amendment he is proposing at the same time. I understand that in a situation like this there would need to be a bedding-in period in order for this to be brought out and to demonstrate how it would work with all of the different stakeholders.

I ask, considering it was the Labour Party which brought forward this amendment, that in the spirit of this, the Government would work with our party and consult my colleagues in Seanad Éireann in respect of the amendment which will be going through that Chamber. We believe that this is a very important amendment and is in the spirit of what we are doing in respect of the insurance industry.

I also accept, however, what the Minister of State is saying in that the technicalities of how one would even draft this are very particular but it can be done. We have to ensure that anybody who is receiving a renewal contract, within the same type of portfolio, across a whole range of different services, is not being discriminated against. It can be done so I encourage the Minister of State to deliver on such a matrix as part of the amendment that he will be bringing forward. On the basis of the good spirit in which the Minister of State has taken this proposal, we will withdraw this amendment. We welcome and look forward to his amendment coming through the Seanad.

Amendment, by leave, withdrawn.

Deputy Maurice Quinlivan: I move amendment No. 15:

In page 109, line 25, after “in” to insert “concise,”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 16 to 19, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 16:

In page 130, line 27, to delete “(a)” and substitute “(b)”.

These grouped amendments which I am proposing are very straightforward and make small

typographical corrections. They are not policy driven and merely tidy up the draftsmanship. Amendments Nos. 16 to 19, inclusive, are typographical amendments to retitle paragraphs as a consequence of insertions made on Committee Stage.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 17:

In page 130, line 29, to delete “(b)” and substitute “(c)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 18:

In page 131, line 28, to delete “(b)” and substitute “(c)”.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 19:

In page 131, line 30, to delete “(c)” and substitute “(d)”.

Amendment agreed to.

Deputy Maurice Quinlivan: I move amendment No. 20:

In page 135, line 31, after “in” to insert “concise,”.

Amendment agreed to.

An Leas-Cheann Comhairle: We now come to amendment No. 21 in the name of the Minister of State. Amendments Nos. 21, 38, and Nos. 40 to 48, inclusive, are related and will be discussed together.

Deputy Robert Troy: I move amendment No. 21:

In page 137, between lines 15 and 16, to insert the following:

“(a) by the substitution of the definition “authorised officer” for the following definition:

“ ‘authorised officer’—

(a) in relation to the functions performed by the Competition and Consumer Protection Commission under this Act, has the same meaning as it has in the Competition and Consumer Protection Act 2014, and

(b) in relation to the functions performed by the Commission for Communications Regulation under this Act, has the same meaning as it has in section 39 of the Communications Regulation Act 2002;”.

I propose in amendment No. 21 to substitute the current definition of “authorised officer” in section 2 of the Consumer Protection Act 2007. The reason for this change is to ensure that for

the purposes of the electronic communications sector, ComReg's authorised officers have the same enforcement functions under the Consumer Rights Bill as under section 39 of the Communications Regulation Act 2002.

The purpose of amendment No. 38 is to insert a new section 84A into the Consumer Protection Act 2007 to ensure ComReg can take summary proceedings for offences that relate to its functions.

Amendments Nos. 40 and 42 refer to section 171, which in turn amends section 10 of the Communications Regulation Act 2002. It is a minor technical amendment to ensure ComReg has the power to monitor and ensure compliance with certain obligations.

Amendment No. 41 is a minor technical amendment to section 10 of the Communications Regulation Act 2002. The adjustment replaces a list of sections in the Consumer Protection Act 2007 with a reference to Part 3 of the Act instead. The purpose is to guarantee that ComReg has the powers to monitor and ensure compliance with undertakings on premium rate service providers with Part 3 of the Act.

Amendment No. 43 amends section 10 of the Communications Regulation Act 2002 by inserting a new paragraph with the intention of ensuring ComReg holds a number of enforcement functions that are listed in the Consumer Protection Act 2007 in respect of Part 3 of the Consumer Rights Bill. These functions which relate to the electronic communications sector include prohibition orders, undertakings, compliance notices and fixed payment notices for price display and product pricing offences.

Amendment No. 44 is a minor typographical amendment to retitle a paragraph as a consequence of amendment No. 43. Amendment No. 45 is a minor technical amendment to ensure that ComReg has the powers in regard to section 72 of the Consumer Protection Act 2007.

Amendment No. 46 is a minor technical amendment to replace a reference to section 87 of the 2007 Act with a reference to section 88. Amendment No. 47 is a minor typographical amendment to retitle a paragraph as a consequence of amendment No. 43.

Amendment No. 48 inserts a new section 172 into the Consumer Rights Bill 2022 in order to amend section 39 of the Communications Regulation Act 2002. Its purpose is firstly, at subsection (1), to increase the number of enactments under which ComReg may appoint persons to be authorised officers and to also include the Consumer Protection Act 2007, the Competition and Consumer Protection Act 2014 and the Consumer Rights Act 2022.

In subsection (3), which sets out the functions of authorised officers, the amendment again increases the enactments under which authorised officers may obtain any information which may be required in respect of a matter under investigation, to include the Consumer Protection Act 2007, the Competition and Consumer Protection Act 2014 and the Consumer Rights Act 2022, as well as competition law as already provided by the Competition (Amendment) Bill 2022.

Amendment agreed to.

An Leas-Cheann Comhairle: We are moving on to Deputy Sherlock but we have unfortunately run out of time in this matter. I call Deputy Kelly to speak briefly, please.

Deputy Alan Kelly: I will speak briefly. The spirit of this contribution refers to where

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people sign up to broadband contracts, etc., and are not receiving the full broadband speed but are still paying the full premium price. Our request is that we have a way of dealing with this. We suggest that if there is a certain number of transmission dropouts, etc., these consumers are compensated for the lack of service. I believe that the Minister of State is aware of the spirit of this Bill to ensure that more powers will go to the regulators to enable them to deal with this. We hope that the Minister of State and this Bill will actually deliver on that issue.

An Leas-Cheann Comhairle: 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 28 June 2022: “That the amendments set down by the Tánaiste and Minister for Enterprise, Trade and Employment and not disposed of are hereby made to the Bill, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

Message from Seanad

An Leas-Cheann Comhairle: Seanad Éireann has passed the Defence Forces (Evidence) Bill 2019, without amendment.

Assisted Decision-Making (Capacity) (Amendment) Bill 2022: Report and Final Stages

Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O’Gorman): I move amendment No. 1:

In page 6, between lines 6 and 7, to insert the following:

“(e) section 93;”.

I thank the Leas-Cheann Comhairle. I move amendment No. 1 to repeal section 93 of the 2015 Act, which provides for a separate review of Part 8 of the Act

I will move a separate amendment to ensure that Part 8, which is related to advanced health-care directives and designated healthcare representatives, will form part of the overall review of the Act under section 146. This was raised by Deputies Ward and Sherlock on Committee Stage. I am happy to have been able to have the amendment proofed and drafted by the Office of the Attorney General to give effect to the desired policy.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 2, 34 to 36, inclusive, 38 and 53 are related and will be discussed together.

Deputy Holly Cairns: I move amendment No. 2:

In page 6, between lines 6 and 7, to insert the following:

“(e) section 85(7);”

I express my opposition and concern about the speed and inaccessible nature of the Bill. It

will have far-reaching consequences for disabled people, older people and individuals experiencing mental health difficulties. At all stages it has excluded them. There has been no meaningful engagement with disabled people and disabled persons' organisations. There is still no easy-to-read version of the Bill. The amendments are coming so quickly we do not have time to interrogate them properly. Not alone is this bad lawmaking, but it is contrary to the principles and requirements of the UN Convention on the Rights of Persons with Disabilities, UNCRPD. Now we have just 90 minutes to discuss more than 60 amendments, many of which we saw for the first time on Monday afternoon.

The original rationale for rushing through the legislation was the ending of wardships. Some of the amendments tabled by the Minister will extend wardships. Will the Minister clarify whether it is still his intention to have the Bill progressed through the Oireachtas by the recess in two weeks' time? If not, why is important and complex legislation being pushed through? To whose benefit is it to do so?

The amendments I have tabled address concerns about respecting advanced healthcare directives for individuals engaging with mental healthcare. An advanced healthcare directive is a statement someone can make on the type of medical or surgical treatment they want or do not want. It is an established instrument for individuals to outline their will and preference if they are unable to make these decisions in future. Under the 2015 Act people detained in hospital for mental health treatment are specifically excluded from legally binding advanced healthcare directives. The Act intentionally removes their right to have their advance wishes respected even though they had capacity to make decisions about their mental health care and treatment at the time of making the directive. It is shocking this was included in the original Act. It is even more reprehensible that it is not being removed by the Minister now. To be clear, this exclusion is not applied to any other group of people. It is wrong and harmful and further stigmatises mental health. On Committee Stage the Minister conceded this area would have to be addressed but located in terms of the reform of the Mental Health Act. However, this is still a way off and the Bill could resolve this human rights issue much sooner. I cannot comprehend why there is not action to preserve people's rights.

I welcome that amendment No. 35 reflects the changes brought about by repeal but the Act still singles out pregnancy as a specific medical state different from all others. It imposes a specific requirement on directive makers to clarify whether they intend their advanced directive to apply during their pregnancy rather than presuming they would have a reasonable expectation that their wishes regarding medical treatment would continue to apply in the event of pregnancy even if this is not specified in the directive. Other Deputies and I did not submit amendments on this in good faith because the Minister committed to addressing the issue. On Second Stage the Minister of State, Deputy Rabbitte, stated the Government would repeal this provision of the 2015 Act. The Government has not done so. Will the Minister clarify why not? The pre-legislative scrutiny report called for repeal of section 85(6) of the 2015 Act. This is the amendment I would have submitted and the one we should be discussing.

Deputy Mark Ward: I want to speak about the speed at which the Bill has progressed through the House. It has been quite difficult for people to engage in the process. On Committee Stage we heard people felt they were excluded from the process, particularly people with disabilities who felt the speed of the process excluded them. Nobody wants the Bill delayed but we want to get it right. The 90-minute guillotine being imposed on us today is another example of a rushed process. When will the Bill go to the Seanad? Will it be in the next couple of weeks? Will it be in the autumn? I have heard that it will be in the autumn. The rationale

for getting the Bill through so quickly was a judicial challenge. If it will be the autumn when it goes to the Seanad, what happens with regard to the judicial challenge in the meantime?

Amendment No. 2 seeks to allow people detained under the Mental Health Act to have their advanced healthcare directives adhered to in the same way as anyone else. The amendment relates to removing section 85(7) to allow advanced healthcare directives to be extended to those involuntarily detained under the Mental Health Act. People who have a long history of mental illness know better than anybody what treatment works best for them. They have the real lived experience. In layman's terms what the Bill means if passed unamended is that people who are involuntarily detained under the Mental Health Act will be discriminated against. If a person goes to the trouble of doing an advanced healthcare directive and is then subsequently detained under the Mental Health Act their wishes may not be adhered to. No other group in society is excluded in this way. Keeping this section is discriminatory towards those with mental health difficulties and does not allow parity of treatment for all Irish citizens.

Every citizen in the State must be afforded an equal right to exercise their will and preference. This must apply to mental as well as physical health. As I have said to the Minister previously, I am a member of the Oireachtas Subcommittee on Mental Health and Oireachtas Joint Committee on Children, Equality, Disability, Integration and Youth. We are going through a review of the Mental Health Act 2001 but it could be a couple of years before it is enacted. This will create a lacuna whereby people with mental health difficulties will be discriminated against under Irish law. The Mental Health Commission and the Decision Support Service support the extension of this right for people under the Mental Health Act. On average 2,500 people a year could be subjected to forced psychiatric treatment, the administration of forced medication or forced electroconvulsive therapy, ECT, without the protection of a legally binding advanced healthcare directive.

Amendment No. 36 relates to the inclusion of 16- and 17-year-olds. At present those aged 16 and 17 can consent to or refuse physical healthcare decisions but this right does not apply to mental healthcare decisions. Those aged 16 and 17 do not have any right to consent or refuse mental health treatment. I have tabled a Bill to address this, and that Bill is on Second Stage. This will be discussed and I hope it will be reviewed under the Mental Health Act but that is several years down the line. At present those aged 16 and 17 cannot refuse admission to hospital. Guardians can decide to admit them without their consent. Those aged 16 and 17 cannot refuse a particular course of therapy such as ECT. We need to make sure everybody is covered including those with mental health difficulties and those aged 16 and 17.

Amendment No. 34 removes language regarding the deleterious effect on the unborn and this is welcome. As Deputy Cairns said, I did not submit amendments because I accepted the Minister's bona fides that he would address this. I am concerned that the Minister is imposing in amendment No. 35 a specific requirement on directive makers to clarify whether they intend their advanced directive to apply during pregnancy.

9 o'clock

We believe that in general, the directive makers would have a reasonable expectation that their wishes regarding medical treatment would continue to apply in the event of pregnancy, even if this is not specified within the directive. Such an amendment singles out pregnancy as a specific medical event different to all others, which is not warranted.

Deputy Joan Collins: I have not really been involved in this debate, but Mental Health Reform, at a meeting of the Joint Committee on Disability Matters a couple of weeks ago, asked me to put forward amendments to support Deputies Cairns and Ward from the point of view what they went through on Committee Stage. I really want to support amendments Nos. 2, 36, 37 and 53.

I will make an appeal to the Minister. The Mental Health Commission, the Decision Support Service, the Irish Human Rights and Equality Commission, IHREC, the Centre for Disability Law & Policy, NUIG, the Department of Health, Ministers, Opposition Deputies and Government Deputies are in agreement that the discriminatory exclusion addressed in amendments Nos. 2, 38 and 53 must be addressed. If we have to wait for the Mental Health Act 2001 to be reformed, what protections will those involuntarily detained have in the meantime? It has taken seven years to get to the point of commencement with the Assisted Decision-Making (Capacity) (Amendment) Bill 2022. People involuntarily detained will be the only cohort receiving any sort of treatment who will not have their will and preference respected.

An advance healthcare directive is a statement set out by someone when he or she has capacity to make decisions about his or her will and preferences for care and treatment in the future. An advance healthcare directive will come into effect if and when the person becomes unwell and no longer has the decision-making capacity. People can make advance healthcare directives about a broad range of issues, such as the type of medication they prefer, the type of therapies that work best for them and the refusal of treatments such as ECT.

Under the Assisted Decision-Making (Capacity) Act 2015, people detained in hospital for mental health treatment are specifically excluded from legally binding advance healthcare directives. They have no legal right to have their advance wishes respected even though they had capacity to make decisions about their mental healthcare and treatment at the time of making their directives. There is no other group of individuals that is specifically excluded from this legal right. The exclusion is contrary to international human rights standards, including those outlined in the UNCRPD.

While advance healthcare directives can be made for mental health treatment care decisions under Part 8 of the 2015 Act, they are not legally enforceable for persons involuntarily detained under the 2001 Act. Amendments Nos. 2, 38 and 53 relate to removing section 85(7) and section 136 in order to allow advance healthcare directives and decision supports to be extended to those involuntarily detained under the Mental Health Act.

With regard to amendment No. 36, people aged 16 to 17 cannot consent to or refuse physical healthcare decisions. However, this right does not apply to mental healthcare decisions such as those dealt with in the Non-Fatal Offences against the Person Act 1997. People aged 16 to 17 do not have any right to consent to or refuse mental health treatment. Under-18s cannot refuse admission to hospital and guardians could decide to admit them without consent. People aged 16 or 17 cannot refuse a course of treatment, such as ECT, even if they wish to do so. The World Health Organization has criticised the use of ECT on children and young people and has recommended that its use should be prohibited under legislation. There is currently no national advocacy service for people under the age of 18 who are accessing mental health services. As a result, there is a risk that young people are not having their voices heard regarding their mental healthcare and treatment.

Part 8 of the mental health (amendment) Bill is set to provide for 16- and 17-year-olds to

give or withdraw consent to treatment and mental health services if they are deemed to have capacity. The heads of that Bill state that the Assisted Decision-Making (Capacity) Act 2015 would apply for the purposes of conducting the necessary capacity assessments. However, the Act does not provide for decision supports for under-18s. Mental Health Reform has raised this with all relevant Ministers and in relevant submissions and briefing notes to date. The omission of a 16- and 17-year-old from decision-making rights is contrary to our obligations under the UN Convention on the Rights of the Child.

Deputy Roderic O’Gorman: I will speak to amendment No. 2 first. Deputy Collins is right that there is agreement among everyone that there must be parity between physical healthcare and mental healthcare in the operation of advance healthcare directives. I reiterate what I and the Minister of State, Deputy Rabbitte, said on Second Stage. The Minister for Health, Deputy Stephen Donnelly, and I, our respective Departments and the Government are in absolute agreement that this is an issue which has to be addressed as soon as possible. However, I have stated at all points that this is a technically complex issue, from both the legal perspective and the healthcare policy point of view. In light of the current work to reform the Mental Health Act 2001 in a comprehensive fashion, I am not, at this point, able to support the complete deletion of sections 85(7) or 136.

The application of the 2015 Act to persons whose treatment is regulated under Part 4 of the Mental Health Act 2001 is being considered by the Department of Health. It is appropriate that full and proper consideration will be given to this issue within the context of the ongoing reform of the 2001 Act and with the input of the clinical and policy expertise of the Department. The Minister for Health and I are in full agreement with Deputies about the need for parity of care. I will be very clear that there is no question of not addressing this issue. Government will address the gap that exists. However, it is important to ensure that the changes we are bringing forward to make sure that gap is addressed are properly sequenced in terms of changes to the 2015 Act, on foot of this legislation, and the 2001 Act. If we do not properly sequence these issues, we risk putting something on the Statute Book that risks leaving somebody lacking legal or clinical certainty at a point in their lives when they are particularly vulnerable and need the full protection of the legislation.

The amendments call for outright deletion. I am not in the position to support them at this time. However, my officials and officials in the Department of Health are continuing to engage on this issue. If we are able to devise a policy solution that can be implemented in this legislation, I will bring forward an amendment on Committee Stage or Report Stage in the Seanad. Engagement is continuing. We are still trying to find a solution here. I cannot guarantee that will happen because this matter is complicated. It is very much dependent on the wider reforms and how the reforms of the 2001 Act will apply.

The same applies in the context of amendment No. 36, which I am also not in a position to accept today. My officials will, however, continue to engage with their counterparts in the Department of Health on this. As the Deputies know, this falls within Part 8. That is a matter of responsibility for the Minister for Health. The proposed amendment from Deputy Ward seeks to allow minors who have reached the age of 16 to make valid advance healthcare directives and this would allow minors to make decisions with regard to their own treatment.

The 2015 Act was designed with respect to adults because it is about capacity in terms of decision-making. It was not designed, originally, to apply to those who are under 18. I am aware - and I have stated this before in the context of healthcare - that 16- and 17-year-olds have

legal capacity to consent to surgical, medical and dental treatment. However, there is a body of family law that regulates their capacity to refuse treatment in certain circumstances. More examination is ongoing in respect of that. If I am able to bring forward a resolution regarding 16- and 17-year olds, I will do so in the form of an amendment in the Seanad.

I am bringing forward two amendments, Nos. 34 and 35, both of which need to be read together. As recommended in pre-legislative scrutiny and as I committed to in early stage, amendment No. 34 proposes to delete section 85(6) of the 2015 Act. This amendment has been drafted with the Attorney General. The Office of the Attorney General identified a need for a related amendment to section 89 as well. It is important to state that section 85(6), which was originally included to qualify and limit the application of advance healthcare directives in the context of pregnancy, was required by the then constitutional provision. As we know, that constitutional provision was wrong. Now section 85(6) will be deleted if the amendment is passed.

Amendment No. 35 applies to section 89 of the principal Act, which includes provisions on the role of the High Court when considering an application on the validity of an advance healthcare directive in respect of life-sustaining treatment. The sole change there is that we are substituting the term “her pregnancy” for “the unborn”. It is the sole change in that provision. It is important to state the provision we discussed that caused so much concern in terms of the maintenance of the approach that followed the repeal of the eighth amendment, section 89(6), is to be deleted.

Deputy Holly Cairns: We all have much to say in response to the Minister’s comments but given we have 90 minutes for 60 amendments, there is no point in continuing the discussion on these. The Minister seems set on them. I really hope there will be a change to these in the Seanad.

Deputy Mark Ward: I welcome that the Minister will seek a resolution in the Seanad and I will watch that intently. I am happy the Minister did not use the language he used on Committee Stage in saying people detained under the Mental Health Act 2001 could be a risk to themselves and others. That language caused upset and it was a generalisation that stigmatised people detained under the Mental Health Act. Today’s stance continues to discriminate against those whose rights are incredibly restricted due to detention under the Mental Health Act.

There is a significant body of research on the failures of predicting risk of harm posed by psychiatric patients. We also know people with experience of mental health services, including those detained under the Mental Health Act, are more likely to be victims of violence than perpetrators of such violence. People contacted me to say people would already be detained in an approved setting so the potential to cause harm to anyone in such an environment is incredibly low. I bring that language used during Committee Stage to the Minister’s attention because I was asked to do so. It caused people particular upset and concern.

Amendment No. 35 would still single out pregnancy as a specific medical event different from all others, which is not warranted. Why is it in there? I know it is not part of these amendments but I asked about the processing of the Bill. When will it go to the Seanad? Will it be in the autumn or the next couple of weeks?

Deputy Joan Collins: Amendments Nos. 38 and 53 relate to removing sections 85(7) and 136 to allow an advance healthcare directive and decision supports to be extended to those detained under the Mental Health Act. Leaving these sections in is discriminatory so I expect the

Minister will move very quickly and certainly to address those matters. We should not have it brought in under the mental health legislation and leave people waiting another seven years with a lacuna. I defer to the other Deputies on amendment No. 36 and it being dealt with in the Seanad. I hope the Minister can bring something positive forward there.

Deputy Roderic O’Gorman: Amendment No. 35 relates to section 89 of the Act. We are replacing the reference to “the unborn” with “her pregnancy”. This means that where there is an application to a court to clarify a matter with regard to an advance healthcare directive, the healthcare needs of the woman’s pregnancy will be considered, not those of “the unborn”. There is no instruction regarding the rights of the unborn, meaning the advance healthcare directive will apply to a pregnant woman in the same manner as any other person.

On the progress of the Bill, I hope to bring it to Second Stage in the Seanad next week or the week after, if possible. At all times I have wanted to get the Bill passed swiftly. We have waited far too long to remove wardship. We have had this legislation there since 2015 and nothing has been done with it. I have indicated that. There is a constitutional challenge and a risk in our continuing maintenance of wardship, which we know is in breach of the Constitution and the UNCRPD.

I have listened closely to the matters raised by Deputies Ward and Cairns and others throughout this. I am endeavouring to address those and I am addressing some of them with some of the amendments before us today. These are complex amendments, particularly those we have just discussed. If this involves the final Stages of the Bill being pushed into the next term, it is a consequence of wanting to get the best result in this Bill. There were two sessions taking in Second Stage of the Bill and we had a planned four-hour session on Committee Stage that we got through in three hours. I understand what Deputies are saying but I do not set the timetable, which is set by the Business Committee. I have been happy to engage with the matters raised by Deputies at all stages.

Deputy Holly Cairns: If this may go past the recess, why is the legislation being rushed through? The Minister told us before it was because of the need to end wardship but now there are amendments to extend that. Nobody has any clarity on why it is being rushed through if it is okay to continue deliberations after the recess.

Amendment put:

<i>The Dáil divided: Tá, 54; Níl, 73; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Berry, Cathal.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Brophy, Colm.</i>	
<i>Browne, Martin.</i>	<i>Browne, James.</i>	
<i>Buckley, Pat.</i>	<i>Bruton, Richard.</i>	
<i>Cairns, Holly.</i>	<i>Burke, Colm.</i>	
<i>Canney, Seán.</i>	<i>Cahill, Jackie.</i>	
<i>Carthy, Matt.</i>	<i>Calleary, Dara.</i>	
<i>Collins, Joan.</i>	<i>Cannon, Ciarán.</i>	
<i>Collins, Michael.</i>	<i>Carey, Joe.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Carroll MacNeill, Jennifer.</i>	

Dáil Éireann

<i>Cronin, Réada.</i>	<i>Chambers, Jack.</i>	
<i>Crowe, Seán.</i>	<i>Costello, Patrick.</i>	
<i>Cullinane, David.</i>	<i>Coveney, Simon.</i>	
<i>Daly, Pa.</i>	<i>Cowen, Barry.</i>	
<i>Doherty, Pearse.</i>	<i>Creed, Michael.</i>	
<i>Donnelly, Paul.</i>	<i>Crowe, Cathal.</i>	
<i>Ellis, Dessie.</i>	<i>Devlin, Cormac.</i>	
<i>Farrell, Mairéad.</i>	<i>Dillon, Alan.</i>	
<i>Funchion, Kathleen.</i>	<i>Donnelly, Stephen.</i>	
<i>Gannon, Gary.</i>	<i>Donohoe, Paschal.</i>	
<i>Guirke, Johnny.</i>	<i>Duffy, Francis Noel.</i>	
<i>Harkin, Marian.</i>	<i>Durkan, Bernard J.</i>	
<i>Healy-Rae, Danny.</i>	<i>English, Damien.</i>	
<i>Healy-Rae, Michael.</i>	<i>Farrell, Alan.</i>	
<i>Howlin, Brendan.</i>	<i>Feighan, Frankie.</i>	
<i>Kelly, Alan.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Kenny, Gino.</i>	<i>Flaherty, Joe.</i>	
<i>Kenny, Martin.</i>	<i>Flanagan, Charles.</i>	
<i>Kerrane, Claire.</i>	<i>Fleming, Sean.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Foley, Norma.</i>	
<i>McDonald, Mary Lou.</i>	<i>Griffin, Brendan.</i>	
<i>McNamara, Michael.</i>	<i>Harris, Simon.</i>	
<i>Munster, Imelda.</i>	<i>Haughey, Seán.</i>	
<i>Murphy, Catherine.</i>	<i>Heydon, Martin.</i>	
<i>Murphy, Paul.</i>	<i>Higgins, Emer.</i>	
<i>Mythen, Johnny.</i>	<i>Kehoe, Paul.</i>	
<i>Nolan, Carol.</i>	<i>Lahart, John.</i>	
<i>O'Callaghan, Cian.</i>	<i>Lawless, James.</i>	
<i>O'Donoghue, Richard.</i>	<i>Leddin, Brian.</i>	
<i>O'Rourke, Darren.</i>	<i>Lowry, Michael.</i>	
<i>Ó Broin, Eoin.</i>	<i>Madigan, Josepha.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Martin, Catherine.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>Matthews, Steven.</i>	
<i>Ó Riordáin, Aodhán.</i>	<i>McAuliffe, Paul.</i>	
<i>Pringle, Thomas.</i>	<i>McConalogue, Charlie.</i>	
<i>Quinlivan, Maurice.</i>	<i>McEntee, Helen.</i>	
<i>Ryan, Patricia.</i>	<i>McGrath, Michael.</i>	
<i>Shortall, Róisín.</i>	<i>McHugh, Joe.</i>	
<i>Smith, Bríd.</i>	<i>Moynihan, Aindrias.</i>	
<i>Smith, Duncan.</i>	<i>Moynihan, Michael.</i>	
<i>Stanley, Brian.</i>	<i>Naughton, Hildegarde.</i>	
<i>Tully, Pauline.</i>	<i>Noonan, Malcolm.</i>	
<i>Ward, Mark.</i>	<i>O'Brien, Darragh.</i>	

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<i>Whitmore, Jennifer.</i>	<i>O'Callaghan, Jim.</i>	
	<i>O'Connor, James.</i>	
	<i>O'Donnell, Kieran.</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 Mark Ward and Holly Cairns; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 3, 62 and 65 are related and may be discussed together.

Deputy Duncan Smith: I move amendment No. 3:

In page 6, after line 34, to insert the following:

“(2) A court shall construe this Act in a manner that gives effect to the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006, and for this purpose the court shall have regard to the provisions of the Convention, including its preamble.”.

Now that Ireland has ratified the UNCRPD, embedding an explicit requirement for courts to interpret the Act in a manner that gives effect to the convention strengthens the potential for the Act to be interpreted in manner compatible with the human rights obligations within that convention. The Act was continually referred to by successive Ministers during its development as being an essential part of Ireland’s preparation to ratify the UNCRPD. Adding this amendment

recognises that best practice in this field is continually evolving and reaffirms Ireland's commitment to refine and reinterpret our law in a manner consistent with our human rights obligations. Introducing this amendment signals Ireland's commitment to a progressive and evolving interpretation of this law in light of emerging understandings of human rights law.

On Committee Stage, the Minister said it would not be possible to accept an amendment such as this due to Ireland's dualist legal system and that full incorporation of the UN convention in separate legislation would be required, similar to the European Convention on Human Rights, ECHR. The Minister noted that courts are free to have regard to the UN convention already, following Ireland's ratification. However, evidence from legal cases where the UN convention has been put forward by counsel in support of a claimants constitutional and ECHR rights shows that courts are not willing to consider it until it is incorporated, see *C. O'C v. An Bord Pleanála*, for example. However, incorporation of principles from other UN conventions has occurred in different Irish legislation without full incorporation of the convention of the whole. For example, legislation on children's rights, including the Children and Family Relationships Act 2015 and the Domestic Violence Act 2018 have codified rights enshrined in the UN Convention on the Rights of the Child, such as non-discrimination and the rights of children to be heard.

Since the term "will and preferences" in the principal Act is taken directly from Article 12 of the UNCRPD, and has no precedence in any other domestic legislation, it is entirely appropriate that domestic courts interpreting this provision would have regard to the primary text from which this term derives, that is, the UNCRPD. Therefore, this amendment has been resubmitted. I would urge the Minister to reconsider accepting it. In addition, the Minister mentioned on Committee Stage that full incorporation of the UNCRPD into domestic law will be an option, similar to the manner in which the ECHR was incorporated. We would welcome the suggestion and will support the Minister if he comes forward with such a proposal for such incorporation.

Amendment No. 62 would create an obligation on IHREC to engage meaningfully and directly with disabled people in order to obtain information and advice on how the rights of disabled people are being impacted at grassroots level. IHREC has already taken steps to achieve this, including through the creation of the disability advisory committee. However, further direct engagement with disabled people would be more appropriate in this context. The Joint Committee on Children, Equality, Disability, Integration and Youth has called for such an amendment to ensure wide consultation with the disability community. The Minister acknowledged on Committee Stage that IHREC is an independent monitoring mechanism appointed by the State under Article 33 of the convention and, as such, already has a clear monitoring function and a strong track record of consulting with disabled people, as evidenced through its creation of the disability advisory committee.

However, some groups of disabled people are currently not represented on this advisory committee, including people with experience of mental health services. As numbers on this committee are limited, it will never be able to represent the full diversity of the disability community in Ireland. IHREC has never claimed that its obligation to engage with disabled people can be solely or even primarily achieved through its disability advisory committee, as other forms of engagement are necessary and ongoing. Therefore, we have resubmitted this amendment, not to undermine the work in this area, but to strengthen it and give a stronger legislative basis to IHREC's designation by the State as an independent monitoring mechanism under Article 33 of the convention.

Deputy Mark Ward: I want to speak to amendment No. 65. The Disability Act 2005 takes an overly medical model approach to the definition of disability as compared with the conceptualisation of disability under Article 1 of the UNCRPD. The UN's understanding of disability is broader than that covered under the Disability Act and is more inclusive of and reflective of different experiences, including for people who have experience of mental health services but who do not identify with any label or diagnosis, and for people who have experienced disability-based discrimination even if they do not themselves identify as disabled people. Given that the function of the IHREC disability advisory group is to support IHREC's work on the UNCRPD, it would be more appropriate to take the UNCRPD's approach to disability rather than the narrow definition of disability in the Disability Act.

Deputy Roderic O'Gorman: Is amendment No. 6 included in this grouping?

An Leas-Cheann Comhairle: No, it is amendments Nos. 3, 62 and 65.

Deputy Roderic O'Gorman: My apologies. In response to Deputy Duncan Smith, while I appreciate the intention behind the amendment, the Government's position has not changed on this provision since Committee Stage. The amendment being proposed is unusual in terms of legislative norms and we would also see it as unnecessary in order to achieve the desired effect of the provision. Following ratification of the UNCRPD in 2018, Ireland is already bound by the obligations contained in the convention by decision of the Executive. The amendment is unnecessary as the State, including Departments and public bodies, is under an existing obligation to honour the requirements of the convention and to act in a manner that is compliant with the convention. The provisions of the 2015 Act and this amendment Bill are progressive and rights-based, and they weave that requirement to identify, respect and act in accordance with the will and preference of the relevant person throughout the entirety of the Act. From that perspective, we do not believe the proposed amendment adds anything that is material.

The amendment is also technically problematic as it appears too vague to work in legal practice. As we know, the convention is a large instrument. It is drafted as a document for international consumption and it does not go into the level of detail or the level of rigour that maybe a piece of legislation would. We would have a concern as to whether its principles could be transposed in the manner the amendment seeks in a way that is legally sound and could provide clear definitions. As such, I am still not in a position to accept this amendment.

With regard to amendment No. 62 we discussed this at committee and, again, whereas I understand the intention behind the amendment, I am not clear why it is being proposed in this particular place. The proposed amendment seeks to alter the section of the Bill dealing with the appointed day for the transfer of status of staff from the National Disability Authority. This part of the Bill provides for the transfer of employment status of employees of the National Disability Authority from being public servants to becoming full civil servants of the State. This process will be provided for by the insertion of a new section 27A to the Act of 2015, to which the appointed day relates. I am unsure of the intention of the amendment in the context of what is quite a specific action within the provisions of the Bill.

Deputy Ward's amendment No. 65 seeks to assign an alternative meaning to disability that is different to that set out in statute under the Disability Act 2015. Again, I understand the attempt to move towards a more social model definition. I would also say that the definition specifically used in the convention is not technically tight enough in terms of a provision being put on a legislative basis to serve as the linchpin for determinations made under Irish statute

law. The 2005 definition in the Disability Act is broadly consistent with a social model conception of disability, although I recognise it is an older definition. However, it is important that the legal meanings we assign to terms within the Irish Human Rights and Equality Commission Act 2014 would be consistent with other definitions that are contained within primary law and, of course, the meaning that is assigned to disability within the 2005 Act is well established and is widely known and used. While I acknowledge the intention behind this amendment, I do not believe the term being proposed is suitable for inclusion in primary law. I am not in a position to accept that amendment.

Deputy Mark Ward: It is my understanding that, since Committee Stage, IHREC has changed its position in its recent recruitment campaign for new members of its disability advisory group by using the UNCRPD's understanding of disability rather than that in the Disability Act 2005. As I said, this is more inclusive and facilitates the participation of more people, including people with experience of mental health services. It is my opinion that if the Minister does not accept this amendment, it could hamper IHREC's efforts to be more inclusive and progressive in its recruitment of future members of its disability advisory committee by embedding a medical model of disability in this legislation instead.

Amendment put and declared lost.

Deputy Roderic O'Gorman: I move amendment No. 4:

In page 6, after line 34, to insert the following:

“Amendment of section 4 of Principal Act

5. Section 4 of the Principal Act is amended-

(a) in subsection (1)

(i) by the substitution of “sections 37” for “sections 37, 85(6)(b)”,

(ii) by the substitution of “in which the following persons are residing or carrying on business at the time the application or appeal concerned is made, or have resided at any time during the period of 3 years immediately prior to the making of the application or the lodging of the appeal concerned:” for “in which—”, and

(iii) by the substitution of the following paragraphs for paragraphs (a) and (b):

“(a) the relevant person (including a ward) the subject of an application under this Act;

(b) in the case of proceedings under section 15, the decision-making assistant appointer, whose decision-making assistant or decision-making assistance agreement is the subject of an application or appeal under that section;

(c) in the case of proceedings under Part 4, the co-decision-maker appointer, whose co-decision-maker or co-decision-making agreement is the subject of an application or appeal under that Part;

(d) in the case of proceedings under section 46 or 47, the relevant person, whose decision-making representative is the subject of an application or appeal under the section concerned;

(e) in the case of proceedings under Part 7-

(i) the donor, whose attorney, enduring power of attorney or instrument creating an enduring power of attorney, or

(ii) the donor under the Act of 1996, whose attorney under the Act of 1996, enduring power under the Act of 1996 or instrument creating an enduring power under the Act of 1996,

is the subject of an application or appeal under that Part;

(f) in the case of proceedings under section 88 or 89, the directive-maker, whose designated healthcare representative is the subject of an application under the section concerned;

(g) in the case of proceedings under section 125 or 127, the adult the subject of the measure that is the subject of an application under the section concerned.”.

and

(b) by the insertion of the following subsection after subsection (4):

“(5) Nothing in this Act shall affect the inherent jurisdiction of the High Court to make orders for the care, treatment or detention of persons who lack capacity.”.

This amendment provides for and clarifies the geographical jurisdiction of the Circuit Court so there is no ambiguity as to which circuit should deal with an application made to it. These updates are largely by way of technical amendments but will provide clarity to the Circuit Court system and practitioners.

The amendment also introduces a new subsection (5), which clarifies the inherent jurisdiction of the High Court in matters regarding treatment and detention orders which the court possesses under the Constitution and clarifies that that remains, notwithstanding the provisions of the 2015 Act. While it would be wholly inappropriate for a decision supporter to ever restrain or detain a relevant person, and indeed, as we know, the amendment Bill removes provisions that enable the use of restraints, a legal vehicle for the care and treatment of persons who are in detention outside of the area of capacity is still required. The amendment clarifies that following the abolition of wardship, such matters are proper to the High Court, having regard to the individual circumstances of the case and the protections that are provided within the case law of the Irish courts.

I will bring further related amendments on Committee Stage in the Seanad regarding the review of detention of existing wards under sections 107 and 108.

Deputy Mark Ward: We will be opposing this amendment as it gives a legislative basis to inherent jurisdiction. Inherent jurisdiction creates a loophole which allows the court to deny a person’s legal capacity and makes decisions for them without following the rules of any specific legislation providing a specific basis for appeals or ensuring regular review. It allows the court to determine and forcibly treat people beyond what is permitted under the 2015 Act or the Mental Health Acts. In recent years, inherent jurisdiction has been used to make orders for the detention and transfer of people to other jurisdictions for treatment against their will and preference, including young people in psychiatric treatment and people with eating disorders, and has

authorised unwanted surgery on pregnant women in prison.

Deputy Roderic O’Gorman: It is important to state that inherent jurisdiction is controlled by the jurisprudence of the Irish courts. It is important in that context to refer to the case of *AC v. Cork University Hospital and the HSE*, a very important case that was decided on the whole area of capacity law. It was heard in the High Court, the Court of Appeal and, eventually, the Supreme Court. This case affirmed that constitutional rights cannot be swept away by a piece of legislation, such as wardship. It stated that the law itself must be compliant with the ECHR, and it is not enough for deprivation of liberty measures to be simply lawful in a domestic sense. The Supreme Court judgment forced the legal system to ensure deprivations of liberty in all instances, be they under statute or wardship, but importantly, be they through inherent jurisdiction, must meet safeguards required by constitutional justice. There is a very recent Supreme Court decision clearly regulating the court’s use of inherent jurisdiction in this situation and putting in place very clear case law protections.

Deputy Mark Ward: There are always alternatives to forced psychiatric treatment which are more compliant with an individual’s human rights if the Minister was minded to fund and resource peer-led human rights compliant initiatives. However, this amendment brings the law further from compliance with the UNCRPD.

Amendment put and declared carried.

Deputy Holly Cairns: I move amendment No. 5.

In page 6, after line 34, to insert the following:

“Amendment of section 3 of Principal Act

5. The Principal Act is amended by the substitution of the following for section 3:

“Recognition of legal capacity

3. (1) ‘Legal capacity’ means the ability to hold rights and duties and to exercise these rights and duties.

(2) The exercise of legal capacity may be achieved either:

(a) by the relevant person, acting legally independently, and with decision-making supports and reasonable accommodation as needed; or alternatively,

(b) by the person(s) appointed to support the relevant person in exercising his or her legal capacity; and

(3) Where capacity falls within the purview of paragraph (b) of subsection (2), there shall be a requirement that the decision be guided by the decision-making assistant, co-decision-maker, decision-making representative, attorney or designated healthcare representative’s best interpretation of the relevant person’s will or preferences and how these are to be applied to a specific decision(s).

(4) In applying subsection (3), ‘best interpretation’ means the interpretation of the relevant person’s behaviour and/or communication that seems most reasonably justified in the circumstances,

(5) Decision-making assistants, co-decision-makers, decision-making representatives, attorneys, or designated healthcare representatives must be able to provide a reasonable account of how this interpretation was arrived at.”.”.

This is a really important amendment. It is focused on removing the functional test of mental capacity as a means of determining whether a relevant person can exercise his or her legal capacity. This approach results in substitute decision-making rather than supported decision-making. The functional test of mental capacity has been found to be contrary to the UNCRPD. The UN committee on the Rights of People with Disabilities states in general comment No. 1:

The functional approach attempts to assess mental capacity and deny legal capacity accordingly. Article 12 does not permit such discriminatory denial of legal capacity but rather, requires that support be provided in the exercise of legal capacity.

The retention of the functional test and substitute decision-making means that the Act is not compliant with the UNCRPD. On Committee Stage, the Minister refused to accept this amendment because he said the functional approach to mental capacity is compliant with Article 12 of the UNCRPD and general comment No. 1. He was incorrect and I hope that in the meantime, he and his officials have consulted those documents. General comment No. 1, which I just quoted, clearly states that functional assessment of capacity should not be used to deny someone’s human rights and recognises it is an unreliable method of assessing the inner workings of the human mind, it discriminates on the basis of disability and has been recognised as a subjective method of assessment with individuals receiving different results depending on the person conducting the assessment.

Following pre-legislative scrutiny, the Joint Committee on Children, Equality, Disability, Integration and Youth recommended that the functional test of capacity should be removed and replaced with an obligation to acknowledge, interpret and act upon the relevant person’s will and preference in line with the UNCRPD. I have tried to be proactive here and put forward an amendment based on the guidance from the Centre of Disability Law and Policy, which undeniably is the expert in this area. The wording is drawn primarily from a draft statutory framework for legal capacity law reform in Canada.

Another reason the Minister seemed to be opposed to the amendment was due to the subsequent changes it would trigger. If these changes are necessary to ensure the Act is compliant with the convention, then they must be adopted. Related to this was the excuse that these changes would delay the progress of the Bill and prolong the abolition of wardship. The timeline has shifted and seems now to be a moving thing since Committee Stage. The Minister is now proposing transitional arrangements to continue wardship. There is obviously fresh scope to make the necessary amendments. It is far preferable that these amendments take place now to ensure Ireland is as close as possible to compliance with our international obligations. These issues will arise during the review and when Ireland enters into dialogue with the UN committee in Geneva, this will also be raised. We have the opportunity and the responsibility to ensure the Act is compliant with the UNCRPD.

Deputy Mark Ward: There has been a shift in focus from deeming a person does not have capacity to an equal recognition of legal capacity. As per Article 12 of the UNCRPD, legal capacity is an inherent right owed to everyone. This is about moving to a recognition that everyone has legal capacity but still holds the understanding that where you may not be able to understand, will and preference decision-making supports may be needed. On Committee

Stage, as Deputy Cairns said, the Minister refused to accept the amendment because he said the functional approach to mental capacity is compliant with Article 12 of the UNCRPD and general comment No. 1. This is clearly not the case as the UN committee stated in general comment No. 1, “The functional approach attempts to assess mental capacity and deny legal capacity accordingly”. It is often based on whether a person can understand the nature and consequence of a decision and-or whether he or she can use or weigh the relevant information.

The approach is flawed for two key reasons. It is discriminatory and applied to people with disabilities and it presumes that to be able actively to assess the inner workings of the human mind and when the person does not pass the assessment, it then denies him or her a core human right, the right to equal recognition before the law.

In all these approaches a person with a disability and-or decision-making skills are taken as legitimate grounds for denying his or her legal capacity and lowering his or her status as a person before the law. Article 12 does not permit such denial of legal capacity but rather requires that support be provided in the exercise of legal capacity. As the UN committee has made clear the functional test of mental capacity has no place in a true system of supported decision-making.

Deputy Roderic O’Gorman: This amendment seeks to replace section 3 of the 2015 Act which sets out the functional capacity model with replacement text on legal capacity. As drafted, the amendment does not fit with the overall architecture of the 2015 Act or the amendment Bill. It would require significant policy drafting to give effect to the proposed amendment. As the functional model is core to what the previous administration tried to achieve with the 2015 Act and what we are trying to achieve with the amendment Bill, that fundamental restructure would make the current Bill unworkable and would prolong the abolition of wardship, which is something we all wish to achieve.

As I said on Committee Stage, the amendment seems to be designed towards a view that the functional model is not compliant with the UNCRPD. I do not accept that position nor does the Government. I do not accept the 2015 Act or the amendment Bill as a whole do not provide compliance with Article 12 of the convention. I wish to be very clear that the 2015 Act and the amendment Bill provide a framework for supported decision-making that will provide the components for legal certainty and for compliance with Article 12. While no single section sets this out, the 2015 Act provides for relevant persons to hold and exercise legal rights, responsibilities and duties. Where higher-tier decision supporters may be the people exercising these rights, interests and duties, they are required to do so in a manner that aligns explicitly with the will and preference of the relevant person and a robust and proportionate oversight regime will be in place to ensure that is how the Act is operated.

Where we are not compliant with the UNCRPD is in our continued reliance on wardship. The place of functional capacity model in the Act is designed to maximise a person’s decision-making capacity in a manner that explicitly privileges and provides a framework to enforce and safeguard his or her explicit will and preference. Contrary to the prevailing system of wardship, assisted decision-making will allow a person to hold and exercise legal rights and obligations.

While I appreciate the intent of this amendment, I do not think this model, which would, as I said, fundamentally change and remove a central element of what we are trying to achieve, is helpful in terms of achieving Ireland’s overall compliance with the UNCRPD. I have spoken on the guiding principles contained in Part 2 of the original Act on a number of occasions. On

the guiding principles, section 8(2) states that it shall be presumed that a relevant person falls within paragraph (a) of the definition of relevant person has the capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of the Act. The very centre of the legislation we seek to activate through this amendment legislation is that presumption of capacity.

In terms of general comment No. 1, I would make the point the Deputy is right in her direct quote.

10 o'clock

It comes from 2014. It was written prior to our current legislation even being drafted but what I draw attention to is what is currently being said by UN bodies about the Irish legislation. I draw the House's attention to Jonas Ruskus, who is the vice chair of the UN Committee on the Rights of Persons with Disabilities. At the World Congress on Adult Capacity in Edinburgh earlier this month he commended Ireland and the progressive nature of our legislation and praised the introduction of mechanisms for supported decision-making by Ireland. That is not me saying it and that is not the Government saying it; that is the vice chair of the UN committee that oversees the UNCRPD and is responsible for drafting the state reports on each member state recognising the advanced nature of the legislation we have here. However, let us not forget that is legislation that is still not enacted. That is why this Bill is important, that is why the functional test needs to be an element of this Bill and that is why I am not able to accept this amendment.

Deputy Holly Cairns: When the Minister says he does not accept that position, I hope he is aware he is basically saying he does not accept the position of the UNCRPD committee. This issue is very clear. There is no ambiguity. Retaining the functional test makes the Act not compliant with the UNCRPD. We are at risk of repeating ourselves but I am going to because it is important this goes on the record. Paragraph 15 of the UN committee's general comment No. 1 states:

The functional approach attempts to assess mental capacity and deny legal capacity accordingly. It is often based on whether a person can understand the nature and consequences of a decision and/or whether he or she can use or weigh the relevant information. This approach is flawed for two key reasons: (a) it is discriminatorily applied to people with disabilities; and (b) it presumes to be able to accurately assess the inner-workings of the human mind and, when the person does not pass the assessment, it then denies him or her a core human right — the right to equal recognition before the law. In all of those approaches, a person's disability and/or decision-making skills are taken as legitimate grounds for denying his or her legal capacity and lowering his or her status as a person before the law. Article 12 does not permit such discriminatory denial of legal capacity, but, rather, requires that support be provided in the exercise of legal capacity.

As the UN committee has made clear, the functional test of mental capacity has no place in a true system of supported decision-making. Then the Minister says what is a breach of the UNCRPD is the wardship. Yes, 100%. I think everybody agrees with him. Why then is he introducing amendments to extend that? He was speaking about the vice chair of the UN committee. I would bet money that if the vice chair of the UN committee saw amendment No. 5 he would support it.

Deputy Mark Ward: I will not repeat everything Deputy Cairns just said but the UN committee has made clear the functional test of mental capacity has no place in a true system of supported decision-making. I understand accepting this amendment would require further amendments to the Bill and the principal Act. However, it is preferable these amendments take place now to ensure this State is as close as possible to compliance with international obligations than realising the error of our ways further down the line in the review of the Act following its commencement and seeking to change the course at that stage when it has already been rolled out in its present form.

Deputy Roderic O’Gorman: I regret Deputy Cairns’s attempts to put words in my mouth so let me be very clear in what I am saying - I do not believe the 2015 Act is in breach of the UNCRPD. That is my position and the position of the Government. The piece Deputy Cairns quoted was written a year prior to the 2015 Act being drafted and as I have stated, the vice chair of the body that oversees the UNCRPD has complimented our approach to the issue of dealing with capacity. The reason Ireland is seeking to bring this in and is being recognised and regarded is the graduated model of tiered decision-making supports that we are introducing. The Deputy spoke of supports and quoted the issue of supports. We are bringing in those supports in terms of the tiered decision-making within the 2015 Act and we will activate them if we initiate this.

There is also the fact the language in the Bill is disability neutral. Importantly, there is no diagnostic component linking incapacity to a condition. We are moving away from the model that was adopted in wardship. The Bill also moves us away from a “best interests” approach and again centres on the “will and preference” of the individual concerned. That is what this legislation seeks to achieve and what is at its core. That is why members of the UNCRPD committee are recognising the advances the Irish legislation represents.

Amendment put:

<i>The Dáil divided: Tá, 55; Níl, 71; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Berry, Cathal.</i>	
<i>Bacik, Ivana.</i>	<i>Brophy, Colm.</i>	
<i>Barry, Mick.</i>	<i>Browne, James.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>	
<i>Browne, Martin.</i>	<i>Burke, Colm.</i>	
<i>Buckley, Pat.</i>	<i>Cahill, Jackie.</i>	
<i>Cairns, Holly.</i>	<i>Calleary, Dara.</i>	
<i>Canney, Seán.</i>	<i>Cannon, Ciarán.</i>	
<i>Carthy, Matt.</i>	<i>Carey, Joe.</i>	
<i>Collins, Michael.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Chambers, Jack.</i>	
<i>Cronin, Réada.</i>	<i>Costello, Patrick.</i>	
<i>Crowe, Seán.</i>	<i>Coveney, Simon.</i>	
<i>Cullinane, David.</i>	<i>Cowen, Barry.</i>	
<i>Daly, Pa.</i>	<i>Crowe, Cathal.</i>	
<i>Doherty, Pearse.</i>	<i>Devlin, Cormac.</i>	

<i>Donnelly, Paul.</i>	<i>Dillon, Alan.</i>	
<i>Ellis, Dessie.</i>	<i>Donnelly, Stephen.</i>	
<i>Farrell, Mairéad.</i>	<i>Donohoe, Paschal.</i>	
<i>Funchion, Kathleen.</i>	<i>Duffy, Francis Noel.</i>	
<i>Gannon, Gary.</i>	<i>Durkan, Bernard J.</i>	
<i>Guirke, Johnny.</i>	<i>English, Damien.</i>	
<i>Harkin, Marian.</i>	<i>Farrell, Alan.</i>	
<i>Healy-Rae, Danny.</i>	<i>Feighan, Frankie.</i>	
<i>Healy-Rae, Michael.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Howlin, Brendan.</i>	<i>Flaherty, Joe.</i>	
<i>Kelly, Alan.</i>	<i>Flanagan, Charles.</i>	
<i>Kenny, Gino.</i>	<i>Fleming, Sean.</i>	
<i>Kenny, Martin.</i>	<i>Foley, Norma.</i>	
<i>Kerrane, Claire.</i>	<i>Griffin, Brendan.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Harris, Simon.</i>	
<i>McDonald, Mary Lou.</i>	<i>Haughey, Seán.</i>	
<i>McNamara, Michael.</i>	<i>Heydon, Martin.</i>	
<i>Munster, Imelda.</i>	<i>Higgins, Emer.</i>	
<i>Murphy, Catherine.</i>	<i>Kehoe, Paul.</i>	
<i>Murphy, Paul.</i>	<i>Lahart, John.</i>	
<i>Mythen, Johnny.</i>	<i>Lawless, James.</i>	
<i>Nolan, Carol.</i>	<i>Leddin, Brian.</i>	
<i>O'Callaghan, Cian.</i>	<i>Lowry, Michael.</i>	
<i>O'Donoghue, Richard.</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 Laoghaire, Donnchadh.</i>	<i>McAuliffe, Paul.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>McConalogue, Charlie.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>McEntee, Helen.</i>	
<i>Pringle, Thomas.</i>	<i>McGrath, Michael.</i>	
<i>Quinlivan, Maurice.</i>	<i>McHugh, Joe.</i>	
<i>Ryan, Patricia.</i>	<i>Moynihan, Michael.</i>	
<i>Shortall, Róisín.</i>	<i>Naughton, Hildegarde.</i>	
<i>Smith, Bríd.</i>	<i>Noonan, Malcolm.</i>	
<i>Smith, Duncan.</i>	<i>O'Brien, Darragh.</i>	
<i>Stanley, Brian.</i>	<i>O'Callaghan, Jim.</i>	
<i>Tully, Pauline.</i>	<i>O'Connor, James.</i>	
<i>Ward, Mark.</i>	<i>O'Donnell, Kieran.</i>	
<i>Whitmore, Jennifer.</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 Mark Ward and Holly Cairns; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

An Leas-Cheann Comhairle: 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 28 June 2022: “That the amendments set down by the Minister for Children, Equality, Disability, Integration and Youth and not disposed of are hereby made to the Bill, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and declared carried.

Emergency Budget: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Pearse Doherty on Tuesday, 28 June 2022:

That Dáil Éireann:

recognises that:

— citizens are struggling with the rising cost of living and need action from the Government now;

— the Government cannot protect everyone from the full impact of every price increase, some of which are being driven by international factors beyond its control;

— the Government is now projected to take in €5.6 billion more in tax revenue this year than had been expected on Budget day;

29 June 2022

— the Irish Fiscal Advisory Council have advised that there is scope for additional measures to support the cost of living; and

— the Government can and must do more to support workers and families, and should do so now;

condemns:

— the hardship, anxiety and desperation being felt by households across the country, as a direct result of the Government’s refusal to introduce measures to support workers and families at this time; and

— the dismissive attitude of the Government party leaders towards calls from workers, families, stakeholder groups and representatives for measures to address the cost-of-living crisis now;

commends the Cost of Living Coalition and the thousands of citizens who took to the streets to demand immediate measures from the Government to address the rising cost of living; and

calls for the immediate introduction of an emergency Budget, to introduce and extend further supports to workers and families to support them with the many high and rising costs they are now facing.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“notes that:

— the annual rate of consumer price inflation, as measured by the European Union’s Harmonised Index of Consumer Prices, has picked up sharply in recent months, reaching a multi-decade high of 8.3 per cent in May;

— the key driver of inflation at present is the sharp rise in wholesale energy, food and other commodity prices since the onset of the war in Ukraine;

— Budget 2022 contained a large range of measures to protect households from the rising cost of living, including a personal income tax package worth €520 million next year and a social welfare package of over €550 million;

— a further suite of measures amounting to €505 million was announced on 10th February, 2022, with measures including an energy credit of €200 (inclusive of Value Added Tax (VAT)) to every household in the country, a once—off lump sum payment in respect of the Fuel Allowance, and a 20 per cent reduction in public transport fares;

— on 9th March, at an estimated cost of €320 million, the Government agreed to VAT-inclusive reductions in excise duty of 20 cent per litre in respect of petrol, 15 cent per litre in respect of diesel and 2 cent per litre in respect of Marked Gas Oil;

— in April and May, the Government announced a further set of measures amounting to almost €500 million, including a reduction in the VAT rate for electric-

ity and gas to 9 per cent from 1st May until the end of October, an additional once-off lump sum payment in respect of the Fuel Allowance and the extension of the 9 per cent VAT rate for the hospitality sector until the end of February 2023; and

— on a cumulative basis, this brings the total cost-of-living package to approximately €2.4 billion;

recognises that:

— the Government has been pro-active in limiting the fall-out from higher rates of inflation;

— this follows the extensive support provided to households and firms during the pandemic, where the Government made available €48 billion of fiscal support, one of the most significant policy responses of any country in the world;

— Ireland's public debt is almost a quarter of a trillion euros as a result, and among the highest in the developed world on a per capita basis; and

— Ireland is a small open economy, where wage growth in excess of other economies erodes our competitiveness and puts future jobs and economic growth at risk; and

acknowledges that:

— the recent rise in inflation is primarily the result of global factors and consequently largely beyond the reach of Government policy;

— the recent increase in inflation is having a significant impact on the cost of living for Irish citizens;

— while the Government has already introduced a wide range of measures to mitigate the impacts of increases in the cost of living on citizens, it must pursue broadly neutral budgetary policy in order to contain domestic inflationary pressures;

— Government policy should focus on temporary and targeted measures, aimed at the most vulnerable;

— it is crucial that we do not have an inflation 'chain reaction' that would damage our international cost competitiveness;

— borrowing costs, including sovereign borrowing costs, are now on a rising trajectory, and accordingly, trade-offs are once again apparent and choices about tax and spending will have to be made, as revenue and expenditure will need to be aligned in order to avoid adding to the stock of debt; and

— the budgetary process is the best and most appropriate way to consider further action on the cost-of-living challenge and this issue must be addressed in a strategic, comprehensive and responsible manner.”

- (Minister of State at the Department of Finance).

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the

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motion regarding an emergency budget. On Tuesday, 28 June 2022, on the question, “That the amendment to the motion be agreed to”, a division was claimed and in accordance with Standing Order 80(2), that division must be taken now.

The Dáil divided by electronic means.

Rinne an Dáil vótáil ar mhodh leictreonach.

An Leas-Cheann Comhairle: The amendment is passed.

Deputy Pearse Doherty: A Leas-Cheann Comhairle, there is no doubt that people across the State are calling for emergency intervention.

An Leas-Cheann Comhairle: We are in the middle of a vote, Deputy. Please resume your seat. The amendment has just been carried and I am now obliged to put the question-----

Deputy Pearse Doherty: On a point of order, I am calling for a vote on the amendment by other than electronic means.

An Leas-Cheann Comhairle: The Deputy can come back to that in a minute. I am in the middle of clarifying what has happened. The question now is, “That the motion, as amended, be agreed to.”

Deputy Pearse Doherty: No. As a teller in the vote on the amendment and given that the public is calling out for an emergency intervention on the cost-of-living crisis, I am asking for a vote on the amendment other than by electronic means.

An Leas-Cheann Comhairle: In the interest of clarity, the question is, “That the motion, as amended be agreed to.” A vote has been called for other than by electronic means. I am going to allow a roll-call vote on the motion, as amended.

Deputy Pearse Doherty: To clarify, when the Leas Cheann-Comhairle announced the result of the vote on the amendment to the motion, I stood up as a teller in that vote and asked for a vote other than by electronic means. There has not been a division called on the substantive motion. We have not gone to that process. As a teller, I ask her to allow a vote other than by electronic means on the amendment.

Deputy Darragh O’Brien: The Chair has already ruled on this.

Deputy Pearse Doherty: That is what happened.

(Interruptions).

An Leas-Cheann Comhairle: I ask Deputies to show a little respect. This is complex and I am trying to clarify the situation. The amendment was carried. I stood up to put the question that the motion, as amended, be agreed to. I was interrupted by Deputy Doherty at that point asking that the vote be carried out by other than electronic means. I am conceding to that.

A Deputy: The vote should be on the motion, as amended.

An Leas-Cheann Comhairle: I was putting that question when the interruption came, before I got to put it. I was in the process of putting it when the request came for a vote other than by electronic means on the amendment. I am allowing that.

Amendment again put:

<i>The Dáil divided: Tá, 69; Níl, 59; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staan</i>
<i>Brophy, Colm.</i>	<i>Andrews, Chris.</i>	
<i>Browne, James.</i>	<i>Bacik, Ivana.</i>	
<i>Bruton, Richard.</i>	<i>Barry, Mick.</i>	
<i>Burke, Colm.</i>	<i>Berry, Cathal.</i>	
<i>Cahill, Jackie.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Calleary, Dara.</i>	<i>Brady, John.</i>	
<i>Cannon, Ciarán.</i>	<i>Browne, Martin.</i>	
<i>Carey, Joe.</i>	<i>Buckley, Pat.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Cairns, Holly.</i>	
<i>Chambers, Jack.</i>	<i>Canney, Seán.</i>	
<i>Costello, Patrick.</i>	<i>Carthy, Matt.</i>	
<i>Coveney, Simon.</i>	<i>Collins, Michael.</i>	
<i>Cowen, Barry.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Crowe, Cathal.</i>	<i>Cronin, Réada.</i>	
<i>Devlin, Cormac.</i>	<i>Crowe, Seán.</i>	
<i>Dillon, Alan.</i>	<i>Cullinane, David.</i>	
<i>Donnelly, Stephen.</i>	<i>Daly, Pa.</i>	
<i>Donohoe, Paschal.</i>	<i>Doherty, Pearse.</i>	
<i>Duffy, Francis Noel.</i>	<i>Donnelly, Paul.</i>	
<i>Durkan, Bernard J.</i>	<i>Ellis, Dessie.</i>	
<i>English, Damien.</i>	<i>Farrell, Mairéad.</i>	
<i>Farrell, Alan.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Feighan, Frankie.</i>	<i>Funchion, Kathleen.</i>	
<i>Flaherty, Joe.</i>	<i>Gannon, Gary.</i>	
<i>Flanagan, Charles.</i>	<i>Guirke, Johnny.</i>	
<i>Fleming, Sean.</i>	<i>Harkin, Marian.</i>	
<i>Foley, Norma.</i>	<i>Healy-Rae, Danny.</i>	
<i>Griffin, Brendan.</i>	<i>Healy-Rae, Michael.</i>	
<i>Harris, Simon.</i>	<i>Howlin, Brendan.</i>	
<i>Haughey, Seán.</i>	<i>Kelly, Alan.</i>	
<i>Heydon, Martin.</i>	<i>Kenny, Gino.</i>	
<i>Higgins, Emer.</i>	<i>Kenny, Martin.</i>	
<i>Kehoe, Paul.</i>	<i>Kerrane, Claire.</i>	
<i>Lahart, John.</i>	<i>Lowry, Michael.</i>	
<i>Lawless, James.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Leddin, Brian.</i>	<i>McDonald, Mary Lou.</i>	
<i>Madigan, Josepha.</i>	<i>McNamara, Michael.</i>	
<i>Martin, Catherine.</i>	<i>Munster, Imelda.</i>	
<i>Matthews, Steven.</i>	<i>Murphy, Catherine.</i>	

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<i>McAuliffe, Paul.</i>	<i>Murphy, Paul.</i>	
<i>McConalogue, Charlie.</i>	<i>Mythen, Johnny.</i>	
<i>McEntee, Helen.</i>	<i>Nolan, Carol.</i>	
<i>McGrath, Michael.</i>	<i>O'Callaghan, Cian.</i>	
<i>McHugh, Joe.</i>	<i>O'Donoghue, Richard.</i>	
<i>Moynihan, Aindrias.</i>	<i>O'Rourke, Darren.</i>	
<i>Moynihan, Michael.</i>	<i>Ó Broin, Eoin.</i>	
<i>Naughton, Hildegarde.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Noonan, Malcolm.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>O'Brien, Darragh.</i>	<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Callaghan, Jim.</i>	<i>Pringle, Thomas.</i>	
<i>O'Connor, James.</i>	<i>Quinlivan, Maurice.</i>	
<i>O'Donnell, Kieran.</i>	<i>Ryan, Patricia.</i>	
<i>O'Dowd, Fergus.</i>	<i>Shortall, Róisín.</i>	
<i>O'Gorman, Roderic.</i>	<i>Smith, Bríd.</i>	
<i>O'Sullivan, Christopher.</i>	<i>Smith, Duncan.</i>	
<i>O'Sullivan, Pádraig.</i>	<i>Stanley, Brian.</i>	
<i>Ó Cathasaigh, Marc.</i>	<i>Tully, Pauline.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Ward, Mark.</i>	
<i>Phelan, John Paul.</i>	<i>Whitmore, Jennifer.</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 Brendan Griffin and Jack Chambers; Níl, Deputies Pádraig Mac Lochlainn and Pearse Doherty.

Amendment declared carried.

An Leas-Cheann Comhairle: Is the motion, as amended, agreed to?

Deputies: No. Vótáil.

The Dáil divided by electronic means.

Rinne an Dáil vótáil ar mhodh leictreonach.

Deputy Pádraig Mac Lochlainn: As the difference between the “Tá” and “Níl” votes was ten or less, and considering that people in this country need help now and cannot wait until October, we ask for a vote other than by electronic means.

An Leas-Cheann Comhairle: A vote has been called for other than by electronic means. As the difference in the vote was ten or less, the Deputy is allowed to call for a roll-call vote under Standing Order 83(3)(b).

Question again put: : “That the motion, as amended, be agreed to.”

<i>The Dáil divided: Tá, 69; Níl, 59; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staan</i>
<i>Brophy, Colm.</i>	<i>Andrews, Chris.</i>	
<i>Browne, James.</i>	<i>Bacik, Ivana.</i>	
<i>Bruton, Richard.</i>	<i>Barry, Mick.</i>	
<i>Burke, Colm.</i>	<i>Berry, Cathal.</i>	
<i>Cahill, Jackie.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Calleary, Dara.</i>	<i>Brady, John.</i>	
<i>Cannon, Ciarán.</i>	<i>Browne, Martin.</i>	
<i>Carey, Joe.</i>	<i>Buckley, Pat.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Cairns, Holly.</i>	
<i>Chambers, Jack.</i>	<i>Canney, Seán.</i>	
<i>Costello, Patrick.</i>	<i>Carthy, Matt.</i>	
<i>Coveney, Simon.</i>	<i>Collins, Michael.</i>	
<i>Cowen, Barry.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Crowe, Cathal.</i>	<i>Cronin, Réada.</i>	
<i>Devlin, Cormac.</i>	<i>Crowe, Seán.</i>	
<i>Dillon, Alan.</i>	<i>Cullinane, David.</i>	
<i>Donnelly, Stephen.</i>	<i>Daly, Pa.</i>	
<i>Donohoe, Paschal.</i>	<i>Doherty, Pearse.</i>	
<i>Duffy, Francis Noel.</i>	<i>Donnelly, Paul.</i>	
<i>Durkan, Bernard J.</i>	<i>Ellis, Dessie.</i>	
<i>English, Damien.</i>	<i>Farrell, Mairéad.</i>	
<i>Farrell, Alan.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Feighan, Frankie.</i>	<i>Funchion, Kathleen.</i>	
<i>Flaherty, Joe.</i>	<i>Gannon, Gary.</i>	
<i>Flanagan, Charles.</i>	<i>Guirke, Johnny.</i>	
<i>Fleming, Sean.</i>	<i>Harkin, Marian.</i>	
<i>Foley, Norma.</i>	<i>Healy-Rae, Danny.</i>	
<i>Griffin, Brendan.</i>	<i>Healy-Rae, Michael.</i>	
<i>Harris, Simon.</i>	<i>Howlin, Brendan.</i>	
<i>Haughey, Seán.</i>	<i>Kelly, Alan.</i>	
<i>Heydon, Martin.</i>	<i>Kenny, Gino.</i>	

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<i>Higgins, Emer.</i>	<i>Kenny, Martin.</i>	
<i>Kehoe, Paul.</i>	<i>Kerrane, Claire.</i>	
<i>Lahart, John.</i>	<i>Lowry, Michael.</i>	
<i>Lawless, James.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Leddin, Brian.</i>	<i>McDonald, Mary Lou.</i>	
<i>Madigan, Josepha.</i>	<i>McNamara, Michael.</i>	
<i>Martin, Catherine.</i>	<i>Munster, Imelda.</i>	
<i>Matthews, Steven.</i>	<i>Murphy, Catherine.</i>	
<i>McAuliffe, Paul.</i>	<i>Murphy, Paul.</i>	
<i>McConalogue, Charlie.</i>	<i>Mythen, Johnny.</i>	
<i>McEntee, Helen.</i>	<i>Nolan, Carol.</i>	
<i>McGrath, Michael.</i>	<i>O'Callaghan, Cian.</i>	
<i>McHugh, Joe.</i>	<i>O'Donoghue, Richard.</i>	
<i>Moynihan, Aindrias.</i>	<i>O'Rourke, Darren.</i>	
<i>Moynihan, Michael.</i>	<i>Ó Broin, Eoin.</i>	
<i>Naughton, Hildegard.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Noonan, Malcolm.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>O'Brien, Darragh.</i>	<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Callaghan, Jim.</i>	<i>Pringle, Thomas.</i>	
<i>O'Connor, James.</i>	<i>Quinlivan, Maurice.</i>	
<i>O'Donnell, Kieran.</i>	<i>Ryan, Patricia.</i>	
<i>O'Dowd, Fergus.</i>	<i>Shortall, Róisín.</i>	
<i>O'Gorman, Roderic.</i>	<i>Smith, Bríd.</i>	
<i>O'Sullivan, Christopher.</i>	<i>Smith, Duncan.</i>	
<i>O'Sullivan, Pádraig.</i>	<i>Stanley, Brian.</i>	
<i>Ó Cathasaigh, Marc.</i>	<i>Tully, Pauline.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Ward, Mark.</i>	
<i>Phelan, John Paul.</i>	<i>Whitmore, Jennifer.</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 Brendan Griffin and Jack Chambers; Níl, Deputies Pádraig Mac Lochlainn and Pearse Doherty.

Question declared carried.

Offences against the State (Amendment) Act 1998: Motion (Resumed)

The following motion was moved by the Minister for Justice on Wednesday, 29 June 2022:

That Dáil Éireann resolves that sections 2 to 4, 6 to 12, 14 and 17 of the Offences against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“— resolves that sections 2 to 4, 6 to 12 and 17 of the Offences against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023; and

— in the absence of any specific information being presented which points to the inadequacy of the ordinary courts in the administration of justice in Ireland with specific regard to offences listed under sections 6 to 9 and 12 of that Act, and acknowledging the views of multiple national and international human rights agencies that have raised serious concerns regarding the operation of the Special Criminal Court, resolves to proactively and progressively implement societal and justice reform measures which, within a specified period of time being no later than 2025, ensure that section 14 of that Act should not continue in operation after that date.”

- (Deputy Catherine Murphy)

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the motion regarding the Offences against the State (Amendment) Act 1998. On Wednesday, 29 June 2022, on the question, “That the amendment to the motion be agreed to”, a division was claimed and in accordance with Standing Order 80(2), that division must be taken now.

Amendment put:

<i>The Dáil divided: Tá, 20; Níl, 77; Staon, 31.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Berry, Cathal.</i>	<i>Andrews, Chris.</i>
<i>Barry, Mick.</i>	<i>Brophy, Colm.</i>	<i>Brady, John.</i>
<i>Boyd Barrett, Richard.</i>	<i>Browne, James.</i>	<i>Browne, Martin.</i>
<i>Cairns, Holly.</i>	<i>Bruton, Richard.</i>	<i>Buckley, Pat.</i>
<i>Gannon, Gary.</i>	<i>Burke, Colm.</i>	<i>Carthy, Matt.</i>
<i>Harkin, Marian.</i>	<i>Cahill, Jackie.</i>	<i>Conway-Walsh, Rose.</i>
<i>Howlin, Brendan.</i>	<i>Calleary, Dara.</i>	<i>Cronin, Réada.</i>

<i>Kelly, Alan.</i>	<i>Canney, Seán.</i>	<i>Crowe, Seán.</i>
<i>Kenny, Gino.</i>	<i>Cannon, Ciarán.</i>	<i>Cullinane, David.</i>
<i>McNamara, Michael.</i>	<i>Carey, Joe.</i>	<i>Daly, Pa.</i>
<i>Murphy, Catherine.</i>	<i>Carroll MacNeill, Jennifer.</i>	<i>Doherty, Pearse.</i>
<i>Murphy, Paul.</i>	<i>Chambers, Jack.</i>	<i>Donnelly, Paul.</i>
<i>Naughten, Denis.</i>	<i>Collins, Michael.</i>	<i>Ellis, Dessie.</i>
<i>O'Callaghan, Cian.</i>	<i>Costello, Patrick.</i>	<i>Farrell, Mairéad.</i>
<i>Ó Ríordáin, Aodhán.</i>	<i>Coveney, Simon.</i>	<i>Funchion, Kathleen.</i>
<i>Pringle, Thomas.</i>	<i>Cowen, Barry.</i>	<i>Guirke, Johnny.</i>
<i>Shortall, Róisín.</i>	<i>Crowe, Cathal.</i>	<i>Kenny, Martin.</i>
<i>Smith, Bríd.</i>	<i>Devlin, Cormac.</i>	<i>Kerrane, Claire.</i>
<i>Smith, Duncan.</i>	<i>Dillon, Alan.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Whitmore, Jennifer.</i>	<i>Donnelly, Stephen.</i>	<i>McDonald, Mary Lou.</i>
	<i>Donohoe, Paschal.</i>	<i>Munster, Imelda.</i>
	<i>Duffy, Francis Noel.</i>	<i>Mythen, Johnny.</i>
	<i>Durkan, Bernard J.</i>	<i>O'Rourke, Darren.</i>
	<i>English, Damien.</i>	<i>Ó Broin, Eoin.</i>
	<i>Farrell, Alan.</i>	<i>Ó Laoghaire, Donnchadh.</i>
	<i>Feighan, Frankie.</i>	<i>Ó Murchú, Ruairí.</i>
	<i>Fitzpatrick, Peter.</i>	<i>Quinlivan, Maurice.</i>
	<i>Flaherty, Joe.</i>	<i>Ryan, Patricia.</i>
	<i>Flanagan, Charles.</i>	<i>Stanley, Brian.</i>
	<i>Fleming, Sean.</i>	<i>Tully, Pauline.</i>
	<i>Foley, Norma.</i>	<i>Ward, Mark.</i>
	<i>Griffin, Brendan.</i>	
	<i>Harris, Simon.</i>	
	<i>Haughey, Seán.</i>	
	<i>Healy-Rae, Danny.</i>	
	<i>Healy-Rae, Michael.</i>	
	<i>Heydon, Martin.</i>	
	<i>Higgins, Emer.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Lahart, John.</i>	
	<i>Lawless, James.</i>	
	<i>Leddin, Brian.</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>McEntee, Helen.</i>	
	<i>McGrath, Michael.</i>	

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	<i>McHugh, Joe.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Nolan, Carol.</i>	
	<i>Noonan, Malcolm.</i>	
	<i>O'Brien, Darragh.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connor, James.</i>	
	<i>O'Donnell, Kieran.</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 Catherine Murphy and Cian O'Callaghan; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

Deputy Brendan Griffin: Given the number of abstentions on this vote-----

An Leas-Cheann Comhairle: Gabh mo leithscéal, Deputy. I am in the middle of giving the result of the vote on the amendment to the motion.

Deputy Brendan Griffin: There is a very high level of abstentions in the vote on this very important issue.

An Leas-Cheann Comhairle: This is totally out of order.

Deputy Robert Troy: Why is it out of order?

An Leas-Cheann Comhairle: I am in the middle of giving the result of the vote. Tá buaite ar an gceist.

Deputy Brendan Griffin: Given the very high level of abstentions on the division on this very important matter relating to the Special Criminal Court, I call for a vote on the amendment other than by electronic means. A huge proportion of the Members of this Parliament have abstained on a vote concerning the Special Criminal Court.

(Interruptions).

Deputy Richard Boyd Barrett: The difference between the “Tá” and “Níl” votes is greater than ten.

(Interruptions).

An Leas-Cheann Comhairle: I ask Deputies for their co-operation and a little respect for the Chair. The question has been put that we have a vote on the amendment by other than electronic means. There is no provision for that because the difference in the votes is greater than ten. I am moving on to the motion. The question is, “That the motion be agreed to.”

Question put: “That the motion be agreed to.”

<i>The Dáil divided: Tá, 90; Níl, 7; Staon, 31.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Barry, Mick.</i>	<i>Andrews, Chris.</i>
<i>Berry, Cathal.</i>	<i>Boyd Barrett, Richard.</i>	<i>Brady, John.</i>
<i>Brophy, Colm.</i>	<i>Kenny, Gino.</i>	<i>Browne, Martin.</i>
<i>Browne, James.</i>	<i>McNamara, Michael.</i>	<i>Buckley, Pat.</i>
<i>Bruton, Richard.</i>	<i>Murphy, Paul.</i>	<i>Carthy, Matt.</i>
<i>Burke, Colm.</i>	<i>Pringle, Thomas.</i>	<i>Conway-Walsh, Rose.</i>
<i>Cahill, Jackie.</i>	<i>Smith, Bríd.</i>	<i>Cronin, Réada.</i>
<i>Cairns, Holly.</i>		<i>Crowe, Seán.</i>
<i>Calleary, Dara.</i>		<i>Cullinane, David.</i>
<i>Canney, Seán.</i>		<i>Daly, Pa.</i>
<i>Cannon, Ciarán.</i>		<i>Doherty, Pearse.</i>
<i>Carey, Joe.</i>		<i>Donnelly, Paul.</i>
<i>Carroll MacNeill, Jennifer.</i>		<i>Ellis, Dessie.</i>
<i>Chambers, Jack.</i>		<i>Farrell, Mairéad.</i>
<i>Collins, Michael.</i>		<i>Funchion, Kathleen.</i>
<i>Costello, Patrick.</i>		<i>Guirke, Johnny.</i>
<i>Coveney, Simon.</i>		<i>Kenny, Martin.</i>
<i>Cowen, Barry.</i>		<i>Kerrane, Claire.</i>
<i>Crowe, Cathal.</i>		<i>Mac Lochlainn, Pádraig.</i>
<i>Devlin, Cormac.</i>		<i>McDonald, Mary Lou.</i>
<i>Dillon, Alan.</i>		<i>Munster, Imelda.</i>
<i>Donnelly, Stephen.</i>		<i>Mythen, Johnny.</i>

<i>Donohoe, Paschal.</i>		<i>O'Rourke, Darren.</i>
<i>Duffy, Francis Noel.</i>		<i>Ó Broin, Eoin.</i>
<i>Durkan, Bernard J.</i>		<i>Ó Laoghaire, Donnchadh.</i>
<i>English, Damien.</i>		<i>Ó Murchú, Ruairí.</i>
<i>Farrell, Alan.</i>		<i>Quinlivan, Maurice.</i>
<i>Feighan, Frankie.</i>		<i>Ryan, Patricia.</i>
<i>Fitzpatrick, Peter.</i>		<i>Stanley, Brian.</i>
<i>Flaherty, Joe.</i>		<i>Tully, Pauline.</i>
<i>Flanagan, Charles.</i>		<i>Ward, Mark.</i>
<i>Fleming, Sean.</i>		
<i>Foley, Norma.</i>		
<i>Gannon, Gary.</i>		
<i>Griffin, Brendan.</i>		
<i>Harkin, Marian.</i>		
<i>Harris, Simon.</i>		
<i>Haughey, Seán.</i>		
<i>Healy-Rae, Danny.</i>		
<i>Healy-Rae, Michael.</i>		
<i>Heydon, Martin.</i>		
<i>Higgins, Emer.</i>		
<i>Howlin, Brendan.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelly, Alan.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Leddin, Brian.</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>McEntee, Helen.</i>		
<i>McGrath, Michael.</i>		
<i>McHugh, Joe.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murphy, Catherine.</i>		
<i>Naughton, Hildegarde.</i>		
<i>Nolan, Carol.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Callaghan, Cian.</i>		

<i>O'Callaghan, Jim.</i>		
<i>O'Connor, James.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donoghue, Richard.</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>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 Richard Boyd Barrett and Thomas Pringle.

Question declared carried.

Deputy Brendan Griffin: As 31 Members of Dáil Éireann have abstained on the vote on a motion regarding the Special Criminal Court, I ask that the vote be carried out by other than electronic means.

Deputy Dessie Ellis: Does Deputy Griffin not know the rules?

Deputy Paul Kehoe: The rules certainly would be broken if Sinn Féin is ever in government.

A Deputy: Great timing, Dessie.

(Interruptions).

An Leas-Cheann Comhairle: If there is no co-operation, I will abandon the rest of the voting. I have heard comments from the back of the Chamber that are not to be repeated.

Deputy Richard Boyd Barrett: The Fine Gael Deputies are rowdy.

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the motion regarding the Criminal Justice (Amendment) Act 2009-----

Deputy Brendan Griffin: I asked the Leas-Cheann Comhairle a question but did not receive an answer from her.

An Leas-Cheann Comhairle: Will you please resume your seat, Deputy?

Deputy Brendan Griffin: As a Whip and a teller, I asked a question of the Chair and did not receive an answer.

An Leas-Cheann Comhairle: I answered you, Deputy.

Deputy Brendan Griffin: You did not.

Deputy Martin Browne: Respect the Chair, Deputy Griffin.

An Leas-Cheann Comhairle: The question has been put. There is no provision for a vote by other than electronic means. I am repeating what I already told Deputy Griffin and I ask for his co-operation. I am now moving on.

Deputy Brendan Griffin: Will the Leas-Cheann Comhairle please clarify? She did not answer me.

An Leas-Cheann Comhairle: There is no provision for taking the vote in the manner the Deputy has requested, given the result of the electronic vote.

Deputy Brendan Griffin: I want to record my disgust that 31 Members of Dáil Éireann abstained in a vote on a motion on the Special Criminal Court.

Criminal Justice (Amendment) Act 2009: Motion (Resumed)

The following motion was moved by the Minister for Justice on Wednesday, 29 June 2022:

That Dáil Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30th June, 2022 and ending on 29th June, 2023.

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the motion regarding the Criminal Justice (Amendment) Act 2009. On Wednesday, 29 June 2022, on the question, "That the motion be agreed to", a division was claimed and in accordance with Standing Order 80(2), that division must be taken now.

Question put: : “That the motion be agreed to.”

<i>The Dáil divided: Tá, 89; Níl, 6; Staon, 31.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bacik, Ivana.</i>	<i>Barry, Mick.</i>	<i>Andrews, Chris.</i>
<i>Berry, Cathal.</i>	<i>Boyd Barrett, Richard.</i>	<i>Brady, John.</i>
<i>Brophy, Colm.</i>	<i>Kenny, Gino.</i>	<i>Browne, Martin.</i>
<i>Browne, James.</i>	<i>Murphy, Paul.</i>	<i>Buckley, Pat.</i>
<i>Bruton, Richard.</i>	<i>Pringle, Thomas.</i>	<i>Carthy, Matt.</i>
<i>Burke, Colm.</i>	<i>Smith, Bríd.</i>	<i>Conway-Walsh, Rose.</i>
<i>Cahill, Jackie.</i>		<i>Cronin, Réada.</i>
<i>Cairns, Holly.</i>		<i>Crowe, Seán.</i>
<i>Calleary, Dara.</i>		<i>Cullinane, David.</i>
<i>Canney, Seán.</i>		<i>Daly, Pa.</i>
<i>Cannon, Ciarán.</i>		<i>Doherty, Pearse.</i>
<i>Carey, Joe.</i>		<i>Donnelly, Paul.</i>
<i>Carroll MacNeill, Jennifer.</i>		<i>Ellis, Dessie.</i>
<i>Chambers, Jack.</i>		<i>Farrell, Mairéad.</i>
<i>Collins, Michael.</i>		<i>Funchion, Kathleen.</i>
<i>Costello, Patrick.</i>		<i>Guirke, Johnny.</i>
<i>Coveney, Simon.</i>		<i>Kenny, Martin.</i>
<i>Cowen, Barry.</i>		<i>Kerrane, Claire.</i>
<i>Crowe, Cathal.</i>		<i>Mac Lochlainn, Pádraig.</i>
<i>Devlin, Cormac.</i>		<i>McDonald, Mary Lou.</i>
<i>Dillon, Alan.</i>		<i>Munster, Imelda.</i>
<i>Donnelly, Stephen.</i>		<i>Mythen, Johnny.</i>
<i>Donohoe, Paschal.</i>		<i>O'Rourke, Darren.</i>
<i>Duffy, Francis Noel.</i>		<i>Ó Broin, Eoin.</i>
<i>Durkan, Bernard J.</i>		<i>Ó Laoghaire, Donnchadh.</i>
<i>English, Damien.</i>		<i>Ó Murchú, Ruairí.</i>
<i>Farrell, Alan.</i>		<i>Quinlivan, Maurice.</i>
<i>Feighan, Frankie.</i>		<i>Ryan, Patricia.</i>
<i>Fitzpatrick, Peter.</i>		<i>Stanley, Brian.</i>
<i>Flaherty, Joe.</i>		<i>Tully, Pauline.</i>
<i>Flanagan, Charles.</i>		<i>Ward, Mark.</i>
<i>Fleming, Sean.</i>		
<i>Foley, Norma.</i>		
<i>Gannon, Gary.</i>		
<i>Griffin, Brendan.</i>		
<i>Harkin, Marian.</i>		
<i>Harris, Simon.</i>		
<i>Haughey, Seán.</i>		
<i>Healy-Rae, Danny.</i>		

<i>Healy-Rae, Michael.</i>		
<i>Heydon, Martin.</i>		
<i>Higgins, Emer.</i>		
<i>Howlin, Brendan.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelly, Alan.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Leddin, Brian.</i>		
<i>Madigan, Josepha.</i>		
<i>Martin, Catherine.</i>		
<i>Matthews, Steven.</i>		
<i>McAuliffe, Paul.</i>		
<i>McConalogue, Charlie.</i>		
<i>McEntee, Helen.</i>		
<i>McGrath, Michael.</i>		
<i>McHugh, Joe.</i>		
<i>McNamara, Michael.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murphy, Catherine.</i>		
<i>Naughton, Hildegard.</i>		
<i>Nolan, Carol.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Callaghan, Cian.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connor, James.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donoghue, Richard.</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 Riordáin, Aodhán.</i>		
<i>Phelan, John Paul.</i>		
<i>Rabbinette, Anne.</i>		
<i>Richmond, Neale.</i>		
<i>Ring, Michael.</i>		
<i>Ryan, Eamon.</i>		
<i>Shortall, Róisín.</i>		

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<i>Smith, Brendan.</i>		
<i>Smith, Duncan.</i>		
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		
<i>Stanton, David.</i>		
<i>Varadkar, Leo.</i>		
<i>Whitmore, Jennifer.</i>		

Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies Paul Murphy and Thomas Pringle.

Question declared carried.

Deputy Brendan Griffin: As 31 Members of Dáil Eireann seem to have no view on gangland crime in this country, I ask that we have a vote other than by electronic means.

An Leas-Cheann Comhairle: I find what the Deputy is doing vexatious.

Deputy Paul Kehoe: The Leas-Cheann Comhairle cannot reprimand a Deputy like that.

An Leas-Cheann Comhairle: There is no provision for carrying out a vote in that manner.

Deputy Brendan Griffin: That was quite a vexatious remark, a Leas-Cheann Comhairle.

An Leas-Cheann Comhairle: These are very serious matters we are voting on.

Deputy Brendan Griffin: Therefore, Members should not be abstaining.

An Leas-Cheann Comhairle: I am moving on.

European Council Decision: Motion (Resumed)

The following motion was moved by the Minister of State at the Department of Justice on Wednesday, 29 June 2022:

That Dáil Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the Treaty on the Functioning of

the European Union,

a copy of which was laid before Dáil Éireann on 20th June, 2022.

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the motion regarding a European Council decision. On Wednesday, 29 June 2022, on the question, “That the motion be agreed to”, a division was claimed and in accordance with Standing Order 80(2), that division must be taken now.

Question put: : “That the motion be agreed to.”

<i>The Dáil divided: Tá, 118; Níl, 6; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Barry, Mick.</i>	
<i>Bacik, Ivana.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Berry, Cathal.</i>	<i>Kenny, Gino.</i>	
<i>Brady, John.</i>	<i>Murphy, Paul.</i>	
<i>Brophy, Colm.</i>	<i>Pringle, Thomas.</i>	
<i>Browne, James.</i>	<i>Smith, Bríd.</i>	
<i>Browne, Martin.</i>		
<i>Bruton, Richard.</i>		
<i>Buckley, Pat.</i>		
<i>Burke, Colm.</i>		
<i>Cahill, Jackie.</i>		
<i>Cairns, Holly.</i>		
<i>Calleary, Dara.</i>		
<i>Canney, Seán.</i>		
<i>Cannon, Ciarán.</i>		
<i>Carey, Joe.</i>		
<i>Carroll MacNeill, Jennifer.</i>		
<i>Carthy, Matt.</i>		
<i>Chambers, Jack.</i>		
<i>Collins, Michael.</i>		
<i>Conway-Walsh, Rose.</i>		
<i>Costello, Patrick.</i>		
<i>Coveney, Simon.</i>		
<i>Cowen, Barry.</i>		
<i>Cronin, Réada.</i>		
<i>Crowe, Cathal.</i>		
<i>Crowe, Seán.</i>		
<i>Cullinane, David.</i>		
<i>Daly, Pa.</i>		
<i>Devlin, Cormac.</i>		
<i>Dillon, Alan.</i>		
<i>Doherty, Pearse.</i>		

<i>Donnelly, Paul.</i>		
<i>Donnelly, Stephen.</i>		
<i>Donohoe, Paschal.</i>		
<i>Duffy, Francis Noel.</i>		
<i>Durkan, Bernard J.</i>		
<i>Ellis, Dessie.</i>		
<i>English, Damien.</i>		
<i>Farrell, Alan.</i>		
<i>Farrell, Mairéad.</i>		
<i>Feighan, Frankie.</i>		
<i>Fitzpatrick, Peter.</i>		
<i>Flaherty, Joe.</i>		
<i>Flanagan, Charles.</i>		
<i>Fleming, Sean.</i>		
<i>Foley, Norma.</i>		
<i>Funchion, Kathleen.</i>		
<i>Gannon, Gary.</i>		
<i>Griffin, Brendan.</i>		
<i>Guirke, Johnny.</i>		
<i>Harkin, Marian.</i>		
<i>Harris, Simon.</i>		
<i>Haughey, Seán.</i>		
<i>Healy-Rae, Danny.</i>		
<i>Healy-Rae, Michael.</i>		
<i>Heydon, Martin.</i>		
<i>Higgins, Emer.</i>		
<i>Howlin, Brendan.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelly, Alan.</i>		
<i>Kenny, Martin.</i>		
<i>Kerrane, Claire.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Leddin, Brian.</i>		
<i>Mac Lochlainn, Pádraig.</i>		
<i>Martin, Catherine.</i>		
<i>Matthews, Steven.</i>		
<i>McAuliffe, Paul.</i>		
<i>McConalogue, Charlie.</i>		
<i>McDonald, Mary Lou.</i>		
<i>McEntee, Helen.</i>		
<i>McGrath, Michael.</i>		
<i>McHugh, Joe.</i>		

<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Munster, Imelda.</i>		
<i>Murphy, Catherine.</i>		
<i>Mythen, Johnny.</i>		
<i>Naughton, Hildegarde.</i>		
<i>Nolan, Carol.</i>		
<i>Noonan, Malcolm.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Callaghan, Cian.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connor, James.</i>		
<i>O'Donnell, Kieran.</i>		
<i>O'Donoghue, Richard.</i>		
<i>O'Dowd, Fergus.</i>		
<i>O'Gorman, Roderic.</i>		
<i>O'Rourke, Darren.</i>		
<i>O'Sullivan, Christopher.</i>		
<i>O'Sullivan, Pádraig.</i>		
<i>Ó Broin, Eoin.</i>		
<i>Ó Cathasaigh, Marc.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Laoghaire, Donnchadh.</i>		
<i>Ó Murchú, Ruairí.</i>		
<i>Ó Ríordáin, Aodhán.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Rabbitte, Anne.</i>		
<i>Richmond, Neale.</i>		
<i>Ring, Michael.</i>		
<i>Ryan, Eamon.</i>		
<i>Ryan, Patricia.</i>		
<i>Shortall, Róisín.</i>		
<i>Smith, Brendan.</i>		
<i>Smith, Duncan.</i>		
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		
<i>Stanley, Brian.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Tully, Pauline.</i>		
<i>Varadkar, Leo.</i>		
<i>Ward, Mark.</i>		
<i>Whitmore, Jennifer.</i>		

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Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies Paul Murphy and Bríd Smith.

Question declared carried.

Cuireadh an Dáil ar athló ar 11.47 p.m. go dtí 9 a.m., Déardaoin, an 30 Meitheamh 2022.

The Dáil adjourned at 11.47 p.m. until 9 a.m. on Thursday, 30 June 2022.