



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 6 Iúil 2022

Wednesday, 6 July 2022

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.12 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 37 and the name of the Member in each case: (1) Deputy Paul Murphy - to discuss the redeployment of Defence Forces staff to Dublin Airport; (2) Deputy Pauline Tully - to discuss adding spinal muscular atrophy to the medical conditions tested for in the newborn heel prick test; (3) Deputy Jennifer Murnane O'Connor - to discuss the lack of occupational therapists in local authority grant sections; (4) Deputy Michael Moynihan - to discuss an update on infrastructure works at Castlemagner, County Cork; (5) Deputy Colm Burke - to discuss action to assist health staff who suffer from long Covid-19 and had State supports withdrawn; (6) Deputies Éamon Ó Cuív and Mairéad Farrell - to discuss progress on an ambulance base for Connemara, County Galway; (7) Deputy Verona Murphy - to discuss challenges facing the scallop fishing sector; (8) Deputy Michael Healy-Rae - to discuss the crisis in University Hospital Kerry; (9) Deputy Brian Stanley - to discuss the lack of dental services for children and difficulties with the dental treatment services scheme in counties Laois and Offaly; (10) Deputy Carol Nolan - to discuss provision of a new school building for Gaelscoil na Laochra, Birr, County Offaly; (11) Deputies Mark Ward and Pat Buckley - to discuss the 2022 report from the Mental Health Commission; (12) Deputy Kieran O'Donnell - to discuss extending the roll-out of the 20% reduction in public transport fares to all bus services; (13) Deputy Christopher O'Sullivan - to discuss the position on neurology nurses; (14) Deputy Michael Ring - to discuss funding for four new consultant anaesthesiology posts at Mayo University Hospital; (15) Deputy David Stanton - to discuss a system to accommodate Irish students training on foreign registered cruise liners; (16) an Teachta Aindrias Moynihan - chun an fholúntais leanúnach i leith sáirsint i mBaile Mhuirne a phlé; (17) Deputy Pádraig O'Sullivan - to discuss recruitment challenges in the health service; (18) Deputy Neale Richmond - to discuss the allocation of public health nurses in Dublin 18; (19) Deputy Maurice Quinlivan - to discuss the HIQA report of the inspection of the emergency department at University Hospital Limerick; (20) Deputy Danny Healy-Rae - to discuss funding to deal with the provision of section 39 services by Kerry Parents and Friends Association; and (21) Deputy Donnchadh Ó Laoghaire - to discuss delays in furnishing families affected by the disposal of

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perinatal organs at Cork University Maternity Hospital with the report of the review team.

The matters raised by Deputies Paul Murphy; Michael Healy-Rae; Deputy Ó Laoghaire; Deputy Moynihan have been selected for discussion.

Saincheisteanna Tráthúla - Topical Issue Debate

Defence Forces

Deputy Paul Murphy: We have seen complete chaos at Dublin Airport in recent months. On 29 May, more than 1,000 passengers missed their flights. That chaos flows directly from the actions of the management of Dublin Airport Authority, DAA, two years ago. It chose to slash staff numbers and drive wages and conditions down taking advantage of the pandemic to drive through a shock doctrine. That is what it did. We have been warning about this from the moment it happened. However, the Minister for Transport, Deputy Eamon Ryan, would not listen. He knew that the DAA, while receiving huge amounts of public funding during the pandemic, was using the pandemic as an excuse to cut directly employed, unionised workers and replace them with workers on low wages and poor contracts. The Government allowed the DAA to get away with that. When the DAA announced plans to sack hundreds of workers, I spoke out multiple times in the Dáil and warned that it would be disastrous. I talked to many workers in the DAA who told me that it would be a disaster. They also told me of the terror tactics that were being used by the company to drive people out. Real fear was put into workers by telling them they had the option of voluntary severance, a career break of up to five years, reduced hours or, alternatively, remaining in their jobs and agreeing so-called new ways of working that involved big changes in terms of contracts, roles and a threat of pay reductions of up to 60%. It was clear, and we warned at the time, that these workers would be needed again in the future but the DAA, being run on a commercial basis by a guy on close to €400,000 a year, including pension entitlements, was focused on getting rid of unionised, directly employed workers and replacing them with contracted agency staff on lower wages and less favourable conditions.

In regard to security workers, the DAA got rid of 248 workers out of a pre-pandemic total search and security workforce of 858. Close to a quarter of the total workforce was let go. That is why we are in the current crisis in terms of the massive queues. The crisis in regard to cleaning the airport is the consequence of a similar approach. The DAA has been advertising to hire new security staff who must be available 40 hours a week but who are only guaranteed 20 hours' work a week on a salary of €14.14 an hour. The weekly salary for 20 hours' work at that rate amounts to just €283. The company has not been able to get the staff on that basis, and the result is the disaster we have seen.

The Government's answer is to send in the Army. This is papering over the problems that are consequences of the DAA's decisions. It is a short-term approach that could temporarily deal with the issues but at the cost of long-term problems. The issue is the poor wages and conditions offered by the DAA and the need to have more directly employed, full-time security staff. In effect it is a further attack on workers. The Government, which stood by and let DAA put profit before workers and the efficient operation of the airport, is planning to compound that attack by allowing the Army to do the work that directly employed workers had done prior to, in effect, being made redundant. It is ironic that the Government's response to problems caused

by low pay and poor conditions is to bring in other workers on low pay and with poor conditions. Some 85% of Irish Defence Forces personnel earn less than the average industrial wage. It adds insult to injury. I welcome the reports that security staff at Dublin Airport are warning that they will resist attempts to use the Army at the airport. I offer them our full support.

Minister of State at the Department of Transport (Deputy Hildegard Naughton): I welcome the opportunity to update the House on this topic. As Deputies are aware, the Government last week supported a request for members of the Defence Forces to undergo appropriate training and certification to enable them to be on standby to assist the DAA with security activities at Dublin Airport, if required, over the coming peak summer weeks. Putting this emergency contingency measure in place does not mean that members of the Defence Forces will automatically be deployed to the airport. Instead, they will be ready for deployment if required by the DAA. This decision comes on foot of a proposal from the DAA for the potential deployment of the Defence Forces as a prudent step primarily because of the risk of the resurgence of Covid-19 and the effect that could have on its staff and the operations at this exceptionally busy time. During the Omicron wave in early 2022, more than one in four Dublin Airport security staff were absent. Given the high numbers going through the airport every day any recurrence of such high absence levels could have a significant impact on the airport's continued ability to process passengers through security.

The programme for Government acknowledges the value of aviation in supporting economic development, international connectivity and tourism via our airports. In view of this the Government is committed to do what is necessary to ensure that flights do not need to be cancelled at Dublin Airport, as has been the case at other European airports, and that passengers have the assurance that they will not miss their holidays or other travel arrangements where they arrive at the airport within the advised timeframes.

On foot of the Government decision, the Defence Forces will be available on standby from this week for a defined period over the peak summer months. This is a short-term emergency-related contingency measure to protect passengers' travel arrangements as well as to avoid reputational damage to Ireland's aviation sector. Training and certification of the Defence Forces will be appropriate to the assigned aviation security tasks but will take account of the existing training and skills of Defence Force personnel. If deployed, members of the Defence Forces will be involved in specific, non-public-facing roles, relieving DAA staff for security and screening duties in the main terminals. In the event of significant staff shortages due to Covid-19 it is envisaged that the Defence Forces personnel could be deployed to operate the external gate posts into the security-restricted area of Dublin Airport, thereby potentially freeing up approximately 100 staff who could be deployed to the main terminals. The exact number of Defence Force personnel who will be trained and available to undertake these roles is being finalised. It is expected that 130 personnel will be involved. As this is purely a contingency measure, while members of the Defence Forces will be deployed, they will only be deployed to Dublin Airport if requested by the DAA and in a scenario where there is a significant deterioration in passenger queuing times, with a risk of large numbers of passengers missing their flights.

Regarding longer-term security resourcing at Dublin Airport, I reassure Deputies that this emergency measure will not take away from the DAA's plans for the recruitment and training of additional security staff. The DAA is continuing in this regard, with the expectation that optimal staffing levels will be realised by August. The DAA has advised that, by that time, 480 new security staff will have commenced employment at the airport since October 2021. As a precautionary measure, particularly in the context of the ongoing uncertainty regarding the

impact of Covid-19 on the availability of staff, this level of resourcing includes additional staff over and above the 2019 staffing levels. Passenger numbers at Dublin Airport are now at over 90% of the 2019 levels, and it is expected that approximately 50,000 people will travel through Dublin Airport every day during the coming peak period. The DAA's ongoing recruitment campaign, supported by this emergency contingency measure, will ensure that passengers can travel safely through Dublin Airport over the busy summer period ahead.

Deputy Paul Murphy: Has the Government learned any lessons from this situation? Does it acknowledge that it was a mistake not to oppose the DAA slashing the terms and conditions of workers, slashing the numbers of workers and using the pandemic in the way that it did? Has the Government investigated why we have this shortage of staff? Why is it that the DAA cannot recruit the security staff it needs? Why does the Government think that the company will be able to have 480 new security staff in place? From talking to workers, the answer seems to be very simple. It will be found to be very difficult to recruit workers with a requirement for them to be available to work for up to 40 hours a week, while they may actually only get 20 hours a week at a rate of €14 an hour. It is not possible to make a life on that basis. It will not be possible for people to commit to pay a mortgage or for childcare, and particularly so in the context of the cost-of-living crisis. That is not an attractive prospect for workers.

The problem with the Government's approach in respect of sending in the Army personnel, who are also low-paid workers, is that it is letting the DAA away with what it is doing and with not addressing the central issue here. This is that the company used the pandemic to attack wages and conditions. It is not now able to attract staff and will still not be able to do so unless it offers decent terms and conditions. Will the Government be asking the DAA to ensure that people will be guaranteed 40 hours a week to enable them to build a life around that? Will the Government be asking the DAA to restore decent pay and conditions? Will the Government be opposing the attempts by the DAA, and we are also hearing news in this context about Aer Lingus, in respect of plans to freeze workers' pay for five years? Right throughout the aviation industry we have seen attempts to use the pandemic to undermine the terms and conditions of workers. This has been negatively affecting not only the workers, but society at large, in respect of everybody who has been attempting to go on holidays, etc.

Deputy Hildegarde Naughton: Regarding pay and conditions, these are matters for the DAA to address directly with the trade unions. When we look at what the CEO said to the Joint Committee on Transport and Communications several weeks ago regarding the projections concerning aviation passenger numbers, if he knew then what he knows now regarding the pickup in the numbers of passengers travelling, then he would have made different decisions.

Additionally, since the removal of Covid-19-related travel restrictions in March 2022, there has been a significant recovery in aviation passenger numbers throughout Europe. Between January and June 2022, passenger numbers at Dublin Airport have increased from approximately 200,000 per week to almost 650,000 per week, which represents a 220% increase in passenger traffic over five months. As of last week, the airport has been processing almost 90% of 2019 passenger levels. While welcome, the pace of recovery is proving to be extremely challenging operationally for the aviation industry. Industry forecasts had predicted that this level of recovery would not occur until 2024 or 2025. I reiterate, however, that the Government is committed to doing what is necessary to ensure that passengers' expectations are met in the coming weeks and that they do not miss flights due to security queues at Dublin Airport.

As part of the planning of any potential deployment of the members of the Defence Forces,

a service level agreement will be agreed between the Department of Defence and the DAA. The envisaged remit of the deployment is for non-public-facing security gate duties, to free up approximately 100 existing DAA personnel for a proposed six-week timeframe. The DAA will pay the Department of Defence the entire and related costs of this service provision, including costs for salaries, training, certification and management, as well as the costs associated with having the Defence Forces personnel on standby. I also assure Deputies that the full details of this agreement are currently being worked out between the Department of Defence, the Defence Forces and the DAA.

Hospital Services

Deputy Michael Healy-Rae: I thank the Ceann Comhairle and his office for selecting this matter. I also thank the Minister of State, Deputy Feighan, for being here, but I must ask where the Minister for Health, Deputy Stephen Donnelly, is. Where is he and could he please come out? He came to County Kerry like a thief in the night. He stood in for a couple of quick pictures and then disappeared. He did nothing for University Hospital Kerry, UHK, when he came and did nothing for it when he left.

Why is it acceptable in Ireland that if a cow, a bullock or a dog has an injury, it can be quite safe to assume that, within two hours, a vet, a qualified person, will be giving care to that animal and providing treatment, and rightly so? Why does it seem acceptable in the Ireland of today that older people can break hips or sustain other fractures or that children can suffer injuries and have to go to accident and emergency departments, but that they might not be seen that day, never mind within the hour? It could be the following morning or the day after that they would be seen. Why have we come to this state of affairs in respect of healthcare? It is not an exaggeration to say that the family pet can get quicker and more immediate healthcare treatment than a grandparent, a mother, a father, a son or a daughter. This is not acceptable and it is not right.

In his absence, I would like to direct a question to the Minister for Health. I thank the Minister of State, and I respect him very much, as he knows I do, but he will see why I am pointing out these facts. Yesterday, the Minister was notified that University Hospital Kerry was going to be discussed on the floor of Dáil Éireann. He failed to turn up here today to answer questions, but he has failed to turn up for that hospital since he became a Minister. Therefore, I am not surprised that he is not here, because he is not interested in his portfolio. He is not interested in our hospital. He is not interested in our community hospitals. He is not interested in the GP network that is crumbling in County Kerry because we cannot recruit staff. I wish to raise these issues with the Minister.

We need a recruitment drive for nurses and incentives for them to come back to work in County Kerry. I would like to ask the Minister why it was that 16 were waiting for beds last night and why was there no capacity in the relevant department. Why was it the case yesterday that there was no orthopaedic bed for a person who fractured his or her hip in County Kerry? It has been proven that a direct result and consequence of prolonged trolley waits is an increase in mortality and morbidity rates, and, consequently, also longer average lengths of stay in hospital. We need more GP access in County Kerry to try to steer people away from having to go to our accident and emergency department. We need two new candidate advanced nurse practitioners as a matter of urgency. We need a new acute floor model and surgical assessment system in County Kerry. We need to advertise for two new consultant microbiologists, posts in which

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there seems to be no interest in at present. What is the plan for new management in our university hospital in County Kerry if the current management regime is changing?

Turning to our ambulance service, the men and women there provide an excellent service and do their jobs to the best of their ability, but we need more ambulances in County Kerry because of the geography and size of the county. We seem to be relying more and more on private ambulances and taxis. This is not the proper way to run a healthcare service. Again, we need to incentivise the recruitment of nurses and of other staff for our hospital. I appreciate so much the maintenance people, the catering people, the nurses on the wards and all the people who diligently go about their work. Shame, shame, shame on the Minister for not turning up for our hospital and for not turning up here today.

An Leas-Cheann Comhairle: Regarding personal comments and robust debate, I do not know why the Minister is not here.

Deputy Michael Healy-Rae: Because he is both ashamed and a disgrace.

An Leas-Cheann Comhairle: I do not know why he is not here, but we will avoid personal comments.

Deputy Michael Healy-Rae: Tell that to the people waiting in-----

An Leas-Cheann Comhairle: I am sorry, we are over time. I call the Minister of State.

Minister of State at the Department of Health (Deputy Frankie Feighan): I thank Deputy Healy-Rae, on behalf of the Minister, Deputy Stephen Donnelly, for the opportunity to update the House on this very important matter.

First, I want to acknowledge the hard work and commitment of the staff of University Hospital Kerry, UHK, in the provision of services during the Covid-19 emergency and in managing many difficult cases presenting in very challenging circumstances. These challenges have continued to hamper UHK's efforts to provide safe, timely and effective care for its patients. At certain periods, elective surgeries have had to be cancelled, high numbers of patients have been recorded on trolleys and staff shortages have been ongoing.

Direct action has been taken since September to address these issues. As an immediate response, the South/South West Hospital Group interim chief operations officer has been onsite at the hospital directly supporting management and clinicians, initially on a two days a week commitment. This process has focused on identifying delays as well as solutions within UHK patient flow streams. Furthermore, the HSE has confirmed that the South/South West Hospital Group management team are also providing support to the various members of the UHK management team on an ongoing basis. The national director for acute operations and members of the South/South West Hospital Group management team also met with the executive management board of UHK, clinical directors, representatives of the consultant group and other key stakeholders in November 2021 in UHK to discuss the challenges facing the hospital.

A HSE review team was established comprising members from HSE acute operations, the special delivery unit, the national integrated care programme for older persons and representatives from the South/South West Hospital Group, and it has been asked to report on its findings. As part of its work, the HSE review team was on site in UHK and engaged with stakeholders in the hospital. I am pleased to confirm that the report, which is to set out the priorities and related

critical dependencies, has been completed and its recommendations are being considered at a local level.

Two further measures being undertaken by the South/South West Hospital Group are also worth noting at this point. First, a health planning process, which is being overseen by a steering group comprising key stakeholders, is nearing completion. This report examines current and future infrastructural capacity requirements over the next 15 years and will align future investment with evidence of demand factors. Second, the South/South West Hospital Group has also engaged the expertise of an external consultancy group to assist with the development of a strategic plan. All staff have had the opportunity to have their say and I look forward to watching these developments.

The Deputy also raised several other issues and I will bring them back directly to the Minister today.

Deputy Michael Healy-Rae: I thank the Minister of State. I again ask what the Minister has done for the hospital since the day of his visit, when he came to stand for silly, stupid picture. What actions has he taken to improve the situation for people in accident and emergency? I will ask and ask until this stops. Why is it acceptable for people to say to a person who has gone to accident and emergency: “How many hours or days were you there waiting to be admitted?” That is wrong. That is not the fault of the staff who work so diligently and hard, late into the night and in the early morning, and who are worn to a thread from trying their best. Management is the problem. HSE management is the problem. The Minister is the problem. If University Hospital Kerry was a private company and he was the CEO, he would have been sacked long ago and he would be gone down the road with a P45 in his pocket having been told “We no longer require your services.” If you are not fit for a job, if you are not fit for purpose, you should move left and get off the stage because you are either able to do your function, you are either able to do your job, or you are not.

Again, when the vets of County Kerry can give more direct and immediate attention to animals than we can give to people, something has to stop. The buck stops with the Government. It does not stop with a nurse or a doctor. It is the people in charge. The taxpayers of Ireland are putting so much money into the healthcare service and it is failing despite this.

I again highlight the fact that we need to encourage more GPs into our rural communities. We need more ambulances, more nurses, more help and we need a positive recruitment campaign. However, if someone was a young nurse in England or Australia, when they hear what is happening in University Hospital Kerry, why would they want to come there? How could it be attractive for them? It is a shame and a disgrace to think that this Topical Issue debate went on today in the absence of the Minister for Health. Shame on him. He is leaving the people of County Kerry down.

Deputy Frankie Feighan: I again thank the Deputy for raising this issue. I want to reassure the Deputy that the Health Service Executive has confirmed that every effort is being taken to support, stabilise and urgently address identified risks at the hospital. To provide that reassurance, a number of actions have been taken by the South/South West Hospital Group and the group’s interim chief operations officer has been onsite at the hospital, as I said, directly supporting management and clinicians on a two days a week basis. A HSE review team has been established to identify priorities and related critical dependencies, as well as to provide recommendations to be considered at a local level. The hospital group, in conjunction with HSE

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Estates, has also commissioned a planning process to strategically examine current and future infrastructural capacity requirements. The HSE is committed to strengthening the governance, leadership and management arrangement at UHK and it is confident that implementing the findings from the review team, as well as new actions, such as initiating a health planning process, will all help to provide the necessary direction and supports required.

There have been huge challenges since the Covid-19 pandemic. I again thank the hard-working and committed staff of UHK and all staff around the country for the provision of services during the Covid-19 pandemic. I hope the findings of this review team that was established comprising all of the various stakeholders will be addressed.

Health Services

Deputy Donnchadh Ó Laoghaire: I recently attended a protest by some of the families who have been affected by the fact their babies' remains were incinerated without their consent. It was held outside the gates of the Cork University Maternity Hospital, CUMH. I spoke to several of the fathers and mothers, and they are absolutely at a loss. It is worth stating, and I am sure the Minister of State will understand, that these are parents who had already suffered significant pain, significant trauma and significant loss. Some of these babies were stillborn and some died a day or two after being born due to complications. There were various different tragedies and losses, with a very particular kind of pain for those parents. We must add to that the sense of betrayal and hurt they felt after they discovered what happened to their babies' remains. That is now compounded by the fact they have not been able to get answers, despite being promised this numerous times.

This first came into the public eye in September 2021, when an "RTÉ Investigates" programme outlined that 18 families whose babies' remains had been incinerated in Europe had been contacted by CUMH. This had primarily happened around March and April 2020 and CUMH said it was confined to that period. Having said that, it appears another mother has come forward to say something similar happened in 2018.

To give an example, one family, in trying to find meaning for the loss they had suffered, had donated their baby's remains and organs for medical research but were to get the remains back for burial. It was an enormous pain to them that they found out this had not happened and that their baby's remains had been incinerated. In all instances, the parents understood that the protocol that should have been in place was that they were to be contacted to give consent. We have also found out in the past week that this has potentially happened in other locations, such as the maternity hospital at University Hospital Limerick.

The report was first promised in November. Then it was promised in the spring and now we are not sure when the parents will get it. These parents deserve answers. It is two years since this happened. It is nine months since the report was first due to come out. When will the parents get the report? When will they have answers? At present, they have no sense when the report will be published. Surely the minimum they deserve is to know why this happened, to have it ensured it will never happen again and to get the truth. There should be accountability for what happened to them and the trauma they suffered on top of the trauma of pregnancy loss and the loss of their babies.

Deputy Frankie Feighan: I thank the Deputy for raising this very difficult issue, which

has been the subject of much discussion in the House. I express my sympathy to the families in Cork who, having experienced the tragedy of losing a beloved child, then had the difficult experience of learning that the organs of the child were disposed of without their consent. The Department is advised that the HSE, the South/South West Hospital Group, Cork University Hospital and Cork University Maternity Hospital have apologised to the bereaved families and very much regret the incident.

The HSE and the Minister are committed to ensuring there is learning across the health service to prevent such events happening again. The HSE advises that the systems analysis review being undertaken by the South/South West Hospital Group is still under way and will act on any recommendations. The review team has been engaging with the families affected. The Department of Health was informed that open disclosure occurred with the parents, and, in line with the HSE's incident management framework, the families have been encouraged to participate in the ongoing review process to ensure their experience is incorporated and there is learning and improvement from this incident.

This incident was originally advised to the Department via the patient safety communications protocol on 12 May 2020. Since this time, following requests from the Department, 18 updates have been received from the HSE, with the most recent update provided on 14 June 2022. The HSE advises that the review team is engaging legal opinion on the draft report before sending it to participants, in accordance with factual accuracy checking and fair procedures. Once this process is complete the final draft will be shared with the families for input on factual accuracy checking. The HSE advises that communication was issued to the families on 16 May advising of a delay to the anticipated time frame of mid-May for sharing the final draft report. I understand the further delay in completion of this review is very upsetting for the families affected. The Department is continuing to engage with the HSE on progress on this matter.

Deputy Donnchadh Ó Laoghaire: The Minister of State has just given a timeline of the occasions on which these parents have already been disappointed. We are none the wiser as to when this will come to pass. A total of 18 updates have been received from the HSE. All the updates said, more or less, is that the HSE did not have the report ready. That is all the parents have learned. They are still no wiser. Even if the Minister of State cannot give me a date, can he give me a sense of when it will be published? Will it be published in the third quarter of the year? Will it be published before October? Can he give me any kind of timeline for when the parents will have an answer? What is happening is really not good enough. The others concern that many have, seeing as legal advice seems to be part of the delay, is that what they will get will be heavily redacted and that even when the report is published they will not get the full truth as to what happened. Will the Minister of State give me a response on this?

I appreciate that the Minister for Health is busy, but it is a matter of regret that he does not have an opportunity to contribute to this debate. Many parents listening to the debate will be at a loss. They do not know where things will go from here. They do not know when they will have answers. They do not know where the process will lead. We could be back here at Christmas at the rate the HSE is going. It simply is not good enough. I know this goes far beyond the Minister of State but I urge him please to take this up with the Minister and the HSE and get answers for these parents. It is the least they deserve. I appeal to the Minister of State. Is there any insight he can give me as to when we will learn more? I ask for a bit of respect for the parents who have suffered so considerably.

Deputy Frankie Feighan: I thank the Deputy. I understand that the further delay in com-

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pletion of the review is very upsetting for the families affected. I express my sympathy to the bereaved families. I acknowledge the distress that has been caused to them. I am cognisant of the paramount importance of dignity and respect for these parents who have experienced the loss of a child.

The Department continues to engage with the HSE on progress on this matter. It is advised that the HSE South/South West Hospital Group, Cork University Hospital and Cork University Maternity Hospital have apologised to the bereaved families and very much regret this incident. A systems analysis review of the incident is ongoing. The review team continues to have ongoing engagement with the affected families. The health services in the area where an incident occurs are responsible for ensuring that it is appropriately investigated in order that those involved can learn from what went wrong and improve services in future.

The Deputy asked for a timeline. I do not have one, but I will bring his concerns and views to the attention of the Minister to see whether we can get a timeline as quickly as possible. The Department is working on making progress on this matter. I will bring the views of the Deputy to the Minister's attention.

An Garda Síochána

Deputy Aindrias Moynihan: Tá an folúntas seo ann ó d'éirigh an sáirsint as in 2019 i mBaile Bhuirne. Bhí réamheolas ag an am sin ag na gardaí toisc go raibh an sáirsint ag druidim le haois faoi leith agus go mbeadh air éirí as. Tuigim go raibh iarrachtaí éagsúla déanta chun duine a fháil don phost ach níor éirigh leo ar feadh i bhfad. Tá roinnt mhaith plé déanta ag an gcomhchoiste póilíneachta, JPC, thar na blianta, mar gheall ar fholúntas Bhaile Bhuirne a líonadh. Aithnítear gur chóir do Ghaeilgeoir a bheith ann. Dar ndóigh, aon uair a bhíonn aon phlé ar an ábhar, feicimid go gcuireann na gardaí Gaeilgeoir chun cinn i gcónaí d'aon fholúntas sa cheantar agus sin mar ba chóir dó a bheith.

Is amhlaidh go raibh comórtas ann an geimhreadh seo caite chun daoine a roghnú mar sháirsintí. Tá painéal curtha le chéile ón gheimhreadh seo caite chun daoine a ainmniú mar sháirsintí. Is amhlaidh gur tosaíodh le ceapacháin in áiteanna éagsúla le linn an earraigh. Dar ndóigh, ní raibh aon duine ceaptha i mBaile Bhuirne. Is stáisiún beag é Baile Bhuirne agus Béal Átha an Ghaorthaidh agus nuair atá duine amháin tógtha as an áireamh ansin, cuireann sé níos mó brú ar an bhfoireann. Ní bhíonn gardaí ar fáil chun freastal ar an bpobal nuair atá duine as triúr in easnamh.

Léiríonn sé chomh maith an dearcadh atá ag na gardaí go bhfuil an dream sin all right agus níl siad ag freastal orthu. Níl sé sin sásúil. Tá an Coimisinéir Teanga tar éis tuairisc a dhéanamh ar an tslí go bhfuil teipthe ar na gardaí freastal ar phobal na Gaelainne. De bharr frustrachais leanúnaigh thar chúpla bliain, tá sé tar éis na tuairisce sin a leagan os comhair an Oireachtais. Is é sin an chéim is airde gur féidir leis an gCoimisinéir Teanga a dhéanamh. Tháinig Coimisinéir an Gharda Síochána os comhair an choiste Gaelainne chun an t-ábhar sin a phlé. Léirigh sé an deacracht atá ann daoine a fháil le Gaelainn. Ghlac sé leis go raibh fadhb ann agus go rachaidh na gardaí i ngleic leis agus gheall sé go gcuirfidís faoi. Ina ainneoin sin, tá an folúntas i mBaile Bhuirne ag druidim le trí bliana faoin tráth seo agus in ainneoin gur roghnaíodh painéal daoine an geimhreadh seo caite. Tá dul chun cinn déanta ar cheapacháin eile ón earrach in ainneoin an ráitis ón gcoimisinéir go bhfuil muintir na Gaelainne tábhachtach. Tá folúntas leanúnach ann agus tá sé níos glórmhaire ná aon ghealltanas ó údaráis an Gharda nó ó Choimisinéir an

Gharda Síochána é féin. Is mithid do na gardaí brú ar aghaidh agus beart a dhéanamh de réir a mbriathair. Is mithid do na gardaí faoin tráth seo sáirsint nua a ainmniú do Bhaile Bhuirne agus brú ar aghaidh leis.

Deputy Frankie Feighan: I thank the Deputy for raising this issue. As he will be aware, in accordance with the Garda Síochána Act 2005, as amended, the Garda Commissioner is responsible for the management and administration of An Garda Síochána. This includes responsibility for the deployment of Garda members throughout the State. The Minister for Justice has no role in the matter.

The district of Macroom, which includes Baile Bhuirne station, has a total of 74 serving gardaí stationed over ten stations. The Minister has been assured that Garda management keeps the distribution of resources under continual review in the context of policing priorities and crime trends in order to ensure their optimal use. The Minister understands it is a matter for the divisional chief superintendent to determine the distribution of duties among the personnel available to them, while having regard to the profile of each area within the division and its specific needs.

The Government is committed to ensuring that An Garda Síochána has the resources it needs, with an unprecedented allocation provided in budget 2022 of more than €2 billion. The Deputy will be aware that there was a very strong interest in the recent Garda recruitment campaign, with more than 11,000 people applying to become a member. The recruitment process is continuing to identify candidates to enter the Garda College over the coming period. I again thank the Deputy for raising the issue. I will bring his view back to the Minister.

Deputy Aindrias Moynihan: Ní fheadar cad a déarfadh mé. Is í an deacracht is mó ná go bhfuil daoine roghnaithe ar an bpainéal. Tá na ceapacháin ullmhaithe le scaoileadh ach arís is arís eile feicimid go bhfuil áiteanna eile á gcur chun tosaigh agus nach bhfuiltear ag freastal ar mhuintir na Gaeltachta. Tá sé seo luaite arís agus arís eile ag an gCoimisinéir Teanga. Glacann Coimisinéir an Gharda Síochána go bhfuil gá leis. Nuair atá painéal ar fáil, ba chóir dóibh brú ar aghaidh agus an folúntas sin a líonadh.

When the panel has been selected and people are ready for appointment, it makes no sense to withhold the appointment when there has been a vacancy of almost three years.

Ba mhór an trua é nach raibh aon tagairt sa fhreagra mar gheall ar riachtanais nó dualgais na ngardaí maidir le freastal ar phobal na Gaelainne agus ba chóir go mbeadh. Is bunábhar é sin. An féidir leis an Aire Stáit tréimhse ama a leagan amach? Will the Minister of State outline a timeline as to when those appointments will be released, as the panel is already in place?

..Dar ndóigh, tá folúntas nua tagtha chun cinn i gceantar Mhaigh Chromtha idir an dá linn agus feicimid go mbeidh brú breise sa cheantar. Gan dabht, beidh an stáisiún i Maigh Chromtha mar cheanncheathrú amach anseo. Má tá aon eolas ag an Aire Stáit ar an gceanncheathrú do Chorcaigh bheinn buíoch. Más féidir aon eolas a thabhairt ar Macroom's new Garda station bheadh sé sin úsáideach chomh maith.

Deputy Frankie Feighan: The Minister would like to thank the Deputy for raising this issue and to reassure the public An Garda Síochána remains committed to the Irish language. Studies in the Irish language remain part of the policing BA delivered to all trainee gardaí at the Garda College, Templemore.

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A new Irish language strategy has been developed by An Garda Síochána and will be launched early in 2022. The strategy aims to strengthen the Irish language services within the organisation and ensure compliance with the statutory language obligations.

The Minister has been informed by An Garda Síochána that a directive issued in 2018 to ensure only members with the appropriate Irish language skills would transfer to Gaeltacht stations, with a view to increasing the number of bilingual personnel in these stations. An Irish language proficiency panel has also been established under the same directive and includes members recruited through the Irish language stream as well as members who wish to be transferred to Gaeltacht stations, provided they have obtained the requisite result in the Irish oral assessment. One of the Irish language strategy goals is to increase the number of members on the Irish language proficiency panel by establishing a working group to examine incentives for members to request a transfer to Gaeltacht stations.

The Deputy raised the issue of a timeline and two to three years seems quite a long time to wait for that appointment. I will bring his concerns and views back to the Minister and see can we get a definite answer on a timeline. I again thank him for raising this very important issue.

Cuireadh an Dáil ar fionraí ar 9.57 a.m. agus cuireadh tús leis arís ar 10 a.m.

Sitting suspended at 9.57 a.m. and resumed at 10 a.m.

Cost of Disability: Motion [Private Members]

Deputy Holly Cairns: I move:

That Dáil Éireann:

notes that:

- Ireland signed the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007, and ratified it in 2018;

- in ratifying the UNCRPD, Ireland has committed to providing the highest attainable standard of healthcare for people with disabilities and to the provision of comprehensive housing and rehabilitation services, to enable disabled people to attain or regain maximum independence; and

- approximately one in seven people in Ireland has a disability, as defined under Article 1 of the UNCRPD;

acknowledges that:

- disabled people are among those who most acutely experience the cost-of-living crisis;

- the report entitled “The Cost of Disability in Ireland” was published on 7th December, 2021, and found that the additional cost of disability ranged between €8,700 and €12,300 per annum;

- the report found that meeting these higher costs was particularly difficult for the

152,000 people on the disability allowance, which is paid at a rate of just €208 per week;

- an Economic and Social Research Institute report entitled “Headline Poverty Target Reduction in Ireland and the Role of Work and Social Welfare”, published on 13th June, 2022, found that lone parents and working-age adults with disabilities experience “distinctively high rates of income poverty, deprivation and consistent poverty”;

- a major component of the additional costs faced by disabled people, and the families of children with disabilities, relate to grossly inadequate education, health-care, social welfare and housing services;

- the Disability Capacity Review to 2032 - A Review of Disability Social Care Demand and Capacity Requirements up to 2032 (the Disability Capacity Review) was published on 15th July, 2021;

- the Disability Capacity Review found “significant levels of unmet need” in the provision of disability services, including a shortfall of up to 2,300 residential care places;

- on 5th April, 2022, the Minister for Health, Deputy Stephen Donnelly, informed the Dáil that a working group tasked with implementing the findings of the Disability Capacity Review, by developing an action plan for the period 2022 to 2025, had completed its work and an action plan was being finalised;

- nearly three months later, that action plan has not yet been published; and

- any action plan must be accompanied by the resourcing required to address the urgent and critical needs identified in the disability capacity review, including a substantial plan in budget 2023; and

calls on the Government to:

- introduce a cost of disability payment in budget 2023 of at least €20 per week, as a first step to addressing the significant additional costs of having a disability;

- increase the disability allowance by at least €15 per week;

- publish the action plan to implement the disability capacity review, including setting out a plan to fill the 732 vacant posts for therapists providing services for children with disabilities;

- publish the action plan to implement the Cost of Disability in Ireland report;

- honour the commitment in the Programme for Government: Our Shared Future to use the findings of the Cost of Disability in Ireland report to “inform the direction of future policy”; and

- guarantee an appropriate school place for every child with a disability.

I acknowledge the people and organisations in the Gallery and those watching at home this morning. Today is another day we discuss policy that deeply affects their lives. There are few

groups in society whose opportunities and quality of life is so profoundly shaped by the Government. Decisions voted on in this House can provide or restrict healthcare, facilitate or deny employment and assign payments that keep people in poverty or allow them to live with dignity. Even more significant is the fact that individuals and cohorts most impacted have the least say.

We try to do things differently in the Social Democrats. Our motion is based on engagement with the Oireachtas disability group, which has helped us understand the specific and large policy context. Disabled people, their representative organisations and advocates are the experts. At all stages, our decisions on disability matters should be guided by them. I hope this motion shows to those in the Gallery and watching online that the Social Democrats are serious about evidence-based policy directly informed by the lived experience of those affected by those policies.

Today we are going to talk about different statistics. Each of these is necessary and important but we must remember there are individuals, groups and families behind these figures. Each number hides the lived experience of almost 750,000 people, not to mind their families, partners, carers and communities. This morning's discussion will highlight that disabled people are three times more likely to live in consistent poverty, that Ireland has the lowest employment rate for disabled people in the EU at 32% and that families have to fundraise for basic equipment and vehicle adaptations the State should be providing.

Statistics and examples only hint at the lived experience of a person being denied the right to full participation in society. Numbers do not represent the stories of capable, complex humans who want to contribute to society and who want to live independent lives. They do not relate the stories of parents who have had to fight for every basic State service from the moment their child was born. Each one of these cases is about rights. Appropriate payments, healthcare, education, housing and employment opportunities are not optional. They are not charity. They are the basics each person is entitled to.

The United Nations Convention on the Rights of People with Disabilities, UNCRPD, guarantees the right to equal treatment, access to services and to participate in decision making. Every week at the disability matters committee, the Oireachtas committee that oversees the implementation of the UNCRPD, we hear about how the State is failing to meet its obligations. Nearly one in four people did not use the personal assistance public service as it was not available or suitable. The most recent figures I received from the HSE indicate that more than 1,700 children were overdue an assessment of need, itself a system that has been thrown further into further disarray after the recent High Court ruling on its inadequacies. More than 1,300 people under 65 years are living in nursing homes because of a lack of suitable supported housing.

Crucially, this is not just about a breach of rights and these examples are part of a system that creates disability. Our understanding of the UNCRPD is through a social model lens that shows us how people are disabled by barriers in society, not by their capacities or differences. An extreme lack of accessible toilets and changing places restricts people from being able to socialise and leave home and an absence of flexible work arrangements prevents people from entering employment, with vastly insufficient social protection payments trapping people in poverty and worsening conditions. Until Ministers, Departments and State bodies demonstrate that they understand what a rights-based approach and the social model is, these fundamental issues will continue, creating and compounding disability.

Disabled persons' organisations, advocacy and support organisations, and local campaign

groups, such as West Cork Special School, Families Unite for Special Services, FUSS, and the Parents Cork Advocacy Network help illustrate state failures. They reveal the daily breaching of rights and predominance of the medicalised model of disability in public bodies and paternalistic treatment of disabled people.

Significantly, the scale of the issues are catalogued by two Government reports. The first is the disability capacity review, published just under a year ago, which quantifies the current and future need for disability support services. One of the key issues highlighted is:

significant levels of unmet need for disability services, and that changes in the size and age profile of the disability service population will add to unmet need over the coming decade. Addressing demographic change alone would not be sufficient, as the current level of unmet need is not sustainable.

There is a need to spend between €550 million to €1 billion extra each year to meet the needs of the growing and aging population between now and 2032. This funding is needed for residential services and supported housing, adult day programmes, multidisciplinary therapy services, personal assistance and respite. The disability capacity review outlines the position and it is up to the Government to respond quickly and sufficiently. Unfortunately, despite this report being published almost 12 months ago and being with the Department of Health for substantial time before then, there is no clear plan.

On 5 April, the Minister for Health informed the Dáil that a working group, tasked with developing an action plan for the period 2022 to 2025, had completed its work. Nearly three months later, that action plan has not yet been published. Where is the plan? Where is the urgency to meet current unmet need not to mind future need? Our motion is calling for the immediate publishing of this plan, which must be supported by adequate resourcing and a commitment to implementation.

It is not just a matter of funding announcements. There is a massive gap between Government press releases and services on the ground. Recent cases of eating disorder treatment funding and other mental health programmes show us that funding can be reassigned and unspent. There is ambiguity around how HSE budgets are allocated and spent. For example, I and many other Deputies deal with cases where individuals are granted home support hours but only get a fraction of what they should. There is also the question of staffing. No service can happen without staff, including doctors, nurses, therapists, clinicians and management and support staff. Children's disability network team places are unfilled. Our motion has to specifically ask for a plan to fill the 732 vacant posts for therapists providing services for children with disabilities.

It is important to say that the failure of progressing disability services is not a representation of the amazing staff working in these teams; we simply need more of them. There is a pressing need to address retention and recruitment. Excellent people who want to help people and who chose a caring profession are leaving because of the poor conditions, low pay and plummeting morale. Students in healthcare, especially nursing and therapies, receive little to no remuneration and their first experience of working in the Irish health service is off-putting straight away. We also must have greater recognition and support for the role of healthcare assistants. Any action plan in response to the disability capacity review must include a comprehensive strategy and accompanying packages to recruit and retain staff.

The second key Government document is the Cost of Disability in Ireland report, published

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in December and only after considerable pressure from disability organisations and Opposition parties. It found that actual costs faced by individuals ranged between €8,700 and €12,300 every year. This is worth repeating. It can cost more than €12,000 annually to have a disability in Ireland. Combine that with systemic underemployment of disabled people and the massive unmet needs in care, and it is no wonder we have disgracefully high rates of consistent poverty and social isolation among disabled people.

The Cost of Disability in Ireland report, written before the cost-of-living crisis, stated that households, including a member with a disability spent over 8% more on food and almost 10% more on fuel and electricity. This has been exacerbated by skyrocketing energy and food prices. Disabled people are among those who most acutely experience the cost-of-living crisis. This is not to take away for one second from the challenges and sacrifices of other families, but we know that households with a disabled member are feeling this much more. There is a glaring need for an action plan to address this crisis. After working with the Oireachtas disability group and looking at all the information available to us, we are pushing for an effective comprehensive course of action today. Money needs to be put into the pockets of people with disabilities. The Government must introduce a cost of disability payment in budget 2023 of at least €20 per week as well as an increase in the disability allowance of at least €15 per week. For a more long-term response, we want an action plan on the cost of disability report that outlines increased social protection and health payments, and introduces tax breaks for disabled individuals and their families. We also need the promised action plan to implement the disability capacity review to provide the public services required to help people live full independent lives.

We know what needs to be done. We are calling on the Government to bring in the necessary short-term and long-term changes to help people exercise their rights and live with dignity.

Deputy Gary Gannon: I thank Deputy Cairns for bringing forward this motion and acknowledge those in the Visitors Gallery who have travelled here today to stand once again for their basic rights. In particular I acknowledge my friend, Emilie Conway, from the Disabled Artists & Disabled Academics Group and her colleague, Jackie Conboy, who for the second week have come to the Dáil to demand basic service provision and respect. One in seven people in this country has a disability. That is 13.5% of our overall population. All of us will have a family member or friend with a disability. It is a very normal part of the human condition. It can be challenging at times, for sure, but disability can and should be celebrated too. In that vein, July is one of those times and I take a moment to wish everyone in this community a happy Disability Pride Month.

Disability in all its forms and inflections should unite us in common solidarity, yet people with disabilities continue to battle shame, stigma, discrimination and equality that is forced on them by an uncaring State. The pace of change is far too slow as a result of systematic failure and successive Governments choosing not to prioritise people with disabilities and their families. We have a real way to go before people will be able to access and participate fully in all aspects of our society. A good start would be supporting and acting on our motion today, which calls for the urgent establishment of a universal cost of disability payment. This would constitute a step in the right direction, acknowledging what people with a disability have been telling us for many years, that they are living in crisis and need action now. Let us be very clear that a payment would only begin to acknowledge this extra cost of disability. It is not charity. It is not because we feel sorry for people with disabilities and their families. The extra costs simply would not exist if our world was more accessible.

We stand with people with disabilities and demand that all barriers be broken down. There is much work to do if we are to reimagine and redesign a more equal and inclusive society. A cost of disability payment would be a very strong start in that regard. Our vision and hope in bringing forward this motion today is that this payment would be expanded and improved significantly over time. The programme for Government acknowledges the extra costs that are an issue. The Department of Social Protection commissioned a comprehensive Cost of Disability in Ireland report, which was published last December. It provides a very detailed yet stark picture of the challenges and struggles of day-to-day life for people with a disability and their families. Disabled people are more likely to be living in poverty and to be unemployed. The extra cost of disability can range between €167 and €237 every week. This does not add up. It is not sustainable for any household. It is shameful that more is not being done urgently to address this gaping inequality. The people with disabilities community have spoken about this issue for years.

Members will have read the European Disability Forum report from 2020 that examined the extent of poverty and social exclusion among disabled people. It looked at European countries and it will come as no surprise that Ireland did not score very well at all but was fifth worst on the list. It found that almost 40% of people with a disability in Ireland are at risk of poverty and social exclusion. That is a massive number by any standard and indicates that disability becomes the basis of a person's poverty. The report also tells us that during austerity times our disability community suffered more than most. It was and remains incredibly difficult to access appropriate housing suitable to their needs. They lost jobs and educational opportunities, like so many others. They felt the brunt again when public services were slashed, healthcare and transport to name but a few. They experienced direct cuts to disability supports and payments and, while the economy recovered for many over the intervening years, people with disabilities remain in a crisis situation as the report states. That is why the Visitors Gallery is full today.

Already on the back foot, since 2020 the community has faced the chaos of a global pandemic, the war in Ukraine, inflationary pressures and a cost-of-living crisis that by any standard is raging out of control. All of these additional stresses have imposed unprecedented and impossible challenges on a community that has absolutely no more to give. The Minister of State must see that this issue needs to be addressed as a matter of urgency. However, that does not appear to be the case. The Minister for Social Protection was asked in February of this year for an update on progressing action on the cost of disability report. The response was that the findings will inform the direction of future policy. The same wording is in the programme for Government. Like the programme for Government, there was no timeline given, no budget, commitments or promises, just the statement that a whole-of-government approach is required. We understand the words are there but not the actions to go with them. Given the seriousness of the report, the Minister's response at the time was insulting to those who are barely keeping their heads above water. People with disabilities are drowning. We know why they are drowning and they are going to be the ones who drown first but there does not seem to be any urgency. Why is no one listening to the lived experience of people with disabilities, their families, the disabled persons organisations, DPOs, the NGOs, the academics and other experts? The Minister of State should make no mistake that doing nothing is a policy choice and everyone can see it is the one that has been made.

Deputy Catherine Murphy: I acknowledge our guests in the Visitors Gallery this morning. We know that a cost of disability payment is not a new concept. To achieve equality for people with disabilities, it is fundamental that the additional costs that come with disability are

not paid by them alone. It is the responsibility of the State to cover those additional costs. The payment was originally recommended in 1996 and again in 2004, that is 26 years. It is a lot of Governments and a lot of time in which action has not been taken. The Cost of Disability report published last December revealed the amount that is required. It also found that meeting these higher costs is particularly difficult for the 152,000 people dependent on the disability allowance of €203 per week. The way in which social welfare payments are currently allocated is also a complete barrier to employment and financial independence. Supports such as disability allowance, invalidity pension, and the blind pension are reduced as soon as the person in question earns more than €140 a week, and for some that would also mean the loss of a medical card. That has to be looked at and changes have to be made. The more they earn, the more they lose.

The disability capacity review was published in July 2021 and is still awaiting an action plan. These reviews provide valuable information but without an action plan, nothing will change. It is past time for change. There has been a historical underspend in disability support services. We know that services are fragmented, there is a postcode lottery. We know all of that. There is a major job that needs to happen. All future investment into disability support services needs to be personalised and person-centred in line with the UNCRPD. It is a badly needed and massive increase in expenditure and it will not be achieved without a roadmap. Can the Minister of State be clear with us today on when exactly this action plan will be published? We need to see action this year. Last year, people were disappointed because the plan was revealed but there was nothing in the budget. We need to see action in the budget this year.

I acknowledge the section 38 employees who are out on strike today. There is an issue there that must be addressed. On services, we know from dealing with people just how threadbare are the services. One ends up with emergency responses rather than a planned system. Emergency responses can be more expensive and chaotic. We cannot keep going on in that way. We need action on those two plans. We need to see action in the budget this year.

Minister of State at the Department of Health (Deputy Mary Butler): I welcome the opportunity to address the House on the important matter of the cost of disability. I, along with my colleague the Minister of State, Deputy Rabbitte, welcome all those who have travelled here this morning. They had an early start.

At the outset, it is important to state that this issue spans government and several Departments. Several Departments have contributed to the Government response to the motion and that is indicative of the breadth of cross-departmental working involved in addressing this issue. As Minister of State with responsibility for mental health and older people, I am acutely aware of these challenges across my brief. One of the things we learned very quickly in the context of our new policy for mental health, Sharing the Vision, is that responsibility for people with mental health difficulties, in the same way as that for people with disabilities, does not only lie with the Department of Health. It is important that we have input from the Departments of Social Protection, Housing, Local Government and Heritage, and Education. It lies across all the different briefs. It does not only rest with the Department of Health, although a significant part of it does. We certainly need that cross-departmental support for people, whether that is in the context of disability or mental health.

It is important to state that the Government is committed to informing future policy on disability through research such as that on the cost of disability, which touches on many aspects of the life of persons with a disability and the lives of their families. That was mentioned earlier. This is why a whole-of-government approach is required. It is why the cost of disability in Ire-

land research report was commissioned and published by the Government in December 2021. The report provides important and much-needed research that enables a better understanding of the extent and composition of these costs, and the ways in which they affect disabled people. The cost of disability report, prepared by Indecon international research economists, identified that additional costs of disability run across a number of areas of public expenditure. Those costs includes housing, equipment, aids and appliances, care and assistance services, mobility, transport, communications, medicines and additional living expenses. Furthermore, Indecon found that there is not a single typical cost of disability. Rather, there is a spectrum from low to high additional costs of disability, depending on individual circumstances. The analysis showed that, on average, the costs faced by individuals with profound disabilities range from €9,600 to €12,300 per annum, while for those with limited disabilities they range from €8,700 to €10,000 per annum. Although some of the costs reported through the survey are already met by the State, further improvements cannot be delivered through income supports alone. Indecon identified that solutions will require a multifaceted and broader perspective, covering areas such as housing, transport, education and health.

As the findings of the research have implications for many areas of public policy, a whole-of-government perspective is needed to address the cost of disability. That is why the Government referred the report to the national disability inclusion strategy steering group chaired by my colleague, the Minister of State with responsibility for disability, Deputy Rabbitte. The group comprises relevant Departments and agencies, a disability stakeholder group and disabled people themselves. It will consider and monitor recommended actions required by the various Departments on a biannual basis. In light of these findings, I can confirm to the House that all options will be explored during the preparation of budget 2023 measures.

Another of the conclusions reached by Indecon is that any additional supports should be targeted at those who are most in need and face the greatest additional costs of disability. Given this conclusion, and in line with the Government's roadmap for social inclusion and the Pathways to Work strategy, the Minister for Social Protection, Deputy Humphreys, and her Department have committed to developing and consulting on a strawman proposal for the restructuring of long-term disability payments. The main objective is to simplify the system, remove anomalies, take account of the continuum of disability and support employment. A public consultation on the strawman will commence at the end of this year or early in 2023.

In July 2021, the disability capacity review to 2032 was published by the Government. This report outlines how levels of service provision will have to be increased to meet growing demand into the future, as well as the necessity to address levels of unmet need that currently exist. It contains invaluable data that shine a light on the level of need for disability services which we, as a country, have a duty to address. It allows us to plan for increased capacity in our services and ensure that we meet the needs of those requiring specialist disability supports and services now and into the future. In the programme for Government, we committed to working towards the recommendations of the capacity review as its findings are simply too urgent. That is why we published the framework action plan alongside the capacity review and established an interdepartmental working group to develop a detailed action plan to put the capacity review findings into practice. This working group comprised senior officials from the Health Service Executive, the Department of Health, the Department of Children, Equality, Disability, Integration and Youth, the Department of Social Protection, the Department of Further and Higher Education, Research, Innovation and Science, and the Department of Housing, Local Government and Heritage.

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As I said, the cross-government approach to this work is, and was, key. Ensuring appropriate supports and services for our citizens with disabilities is not simply a health matter, but one that reaches across the whole of government, ensuring that the totality of the individual is taken into account. It is also key that we listen to the voices of those directly affected, namely, those who use disability services and their families and carers. That is an important point. In order to achieve this, an extensive consultation was undertaken which attracted participation from almost 800 people, including people with disabilities, their families and carers, people who work in disability services, and umbrella and representative organisations. This information was then fed into the working group in order to inform its work on the action plan. The feedback received from the consultation was invaluable and I wish to take this opportunity to thank of all those who contributed their time and effort and helped make this such a collaborative piece of work. The working group has now concluded its work and the action plan is currently being progressed through the appropriate channels in the Department of Health for finalisation. The Minister of State, Deputy Rabbitte, will be in a position to publish it and begin acting on its recommendations in the near future.

I wish to pick up on a couple of points raised by Deputy Cairns. She is totally right in respect of home care and how important it is to older people and people with disabilities. I currently have a budget of €672 million to deliver home care supports. Unfortunately, there are challenges. Some 55,000 people receive home care daily, but there are 5,000 other people waiting. Their package is funded but we do not have the staff to deliver it. In that regard, I put in place a strategic workforce planning group that made interim recommendations to me last week. I will be in a position to publish that document very soon. It addresses different measures we will take to try to support more people to move into home care and to see it as an attractive career choice. I am working closely with the office of the Tánaiste, as well as the Minister of State, Deputy English, to consider whether it is possible to allow permits be issued to people living outside the EU to come to Ireland to deliver home care. That is already being done in the context of nursing homes. The problem is that 75% of those who work in home care do so part time. In order to meet the conditions of the permit, the employer would have to guarantee a minimum working salary of €27,000 per year and also guarantee two years of work. I am anxious to progress this, even as a pilot programme, to see whether it is worthwhile. We are moving on that at the moment. I will be bringing forward a Bill on standards in home care, regardless of whether they are delivered through public, private or voluntary means, fairly soon in quarter three and coming into quarter four. I look forward to the support of the House on that matter.

We had a very good debate two weeks ago in the Dáil on respite care and older people. I know the Leas-Cheann Comhairle will be interested in this. I have undertaken a review of the number of respite beds across all nine community healthcare organisations, CHOs, to see where we are. Not all of them have reopened since Covid and I am very anxious to get all that up and running to support older people, people with disabilities and their carers.

Deputy Cian O’Callaghan: I welcome the motion and thank my colleague, Deputy Cairns, for bringing it forward. I welcome everyone watching today in the Gallery and elsewhere. This is a very important motion highlighting the huge inequalities, injustices and exclusion faced by people with disabilities. All of us as Deputies are hugely aware of the impact of this on people with disabilities. We hear from people with disabilities and parents of children with disabilities all the time who have been let down badly. We hear about children waiting for assessments for years before they can get any supports, children who when they finally get their assessments get

minimal levels of support, parents who cannot afford to get private support for their children being woefully left behind and parents being left in the dark and not getting the information they need to support their children. All too often, we hear from families trying their best to support their family members with disabilities who face other challenges. I was contacted recently, for example, by a parent who is struggling to get supports for her child and who is living in a single room in her mother's house with her partner and two children because they cannot afford to rent privately at the moment.

As the Social Democrats' housing spokesperson, I will focus on the impact of the lack of proper financial supports for people with disabilities on housing. Deputy Cairns referenced earlier the excellent report by the Ombudsman, *Wasted Lives: Time for a better future for younger people in Nursing Homes*, which found that more than 1,300 people with disabilities aged under 65 are living in nursing homes that are completely inappropriate for their needs. One of the key findings of the report was that personal finance was one of the key issues facing people with disabilities living in nursing homes. The report said that disposable income of people with disabilities fell by 7.4% between 2010 and 2015, a drop of more than €1,000. I will list a few examples from that report regarding how this directly affects people. The report states:

Charles is a 53 year old man with a progressive neurological condition. He has been in a nursing home for just under two years. Prior to this, he was living in council accommodation. Because he is unhappy in the nursing home, he continues to pay rent for his council accommodation, even though it is not wheelchair accessible.

It goes on to state, "He says that he has very little disposable income and his parents assist him with expenses such as clothing". This is a 53-year-old man.

The report goes on to highlight the case of Liam, a 52 year old man with a rare progressive neurological condition. It states:

Liam had been attending swimming outside the nursing home and he enjoyed this but he said that he had to pay for the swimming pool and for transport to and from the pool. He stopped going as he felt that he could not afford this. His activities are now very limited.

The report continued with the example of Rose, a 52-year-old woman with a brain injury. The report stated:

When my Office visited Rose, she was visibly in a lot of pain and she said that she had hurt her lower back. Her advocate was present and suggested that she attend the Accident and Emergency Department. She said that she could not afford this. The nursing home had assessed her and told her that she would need to be accompanied by an escort if she left the nursing home, due to difficulties with her mobility. The nursing home charged €23 per hour for this escort [which she could not afford].

Another example in the report is the case of Leah, a 49-year-old woman with multiple complex diagnoses including physical disability, intellectual disability and cancer. The report states:

Her wheelchair is too big for wheelchair taxis and so she needs a minibus to get to hospital appointments. This costs €300 or €500 per trip, depending on where her appointment is. ... Leah's mother advised my Office that she had to subsidise Leah but this was difficult as she was in receipt of an old age pension ... Leah is [therefore] restricted to her room.

That is the lived reality of some people with disabilities in nursing homes who should not be there. One person was paying their rent to the council for social housing they could not physically access. Another person who was in pain and needed medical care was unable to access that because of transport costs.

Yesterday, the Tánaiste said that there should not be time in the Dáil to discuss motions like this. That is what he said. I want to say in the strongest possible terms that these motions are needed. We do need time in the Dáil to discuss these issues and highlight this. We need action from Government on this because it is just not acceptable in a modern republic that people with disabilities who need medical treatment cannot afford to get it and that a person had to stop the one activity he was enjoying, namely, going swimming, because he was not getting sufficient financial support for that. That is not acceptable.

Deputy Jennifer Whitmore: I also thank Deputy Cairns for bringing forward this motion and welcome all those in the Gallery and those looking in today. We have all heard the saying that a disability does not disable someone; society disables people. It is an important point to acknowledge today because it is clear that the skyrocketing cost of living everyone is seeing at the moment is making life very difficult, particularly for people with disabilities. We want the Government to step in and support those people. Disabled people are among those who experience the cost of living crisis most acutely. The cost of disability in Ireland report published on 7 December 2021 found that the additional cost of disability ranges from €8,700 to €12,300 per annum. As a result of this cost, the gap is widening between the standard of living a disabled person will experience compared to that of someone without a disability.

Over the past number of months, the Social Democrats have raised the cost of cancer, back-to-school costs and the rising cost of living in many of our Dáil contributions. People across Ireland are all experiencing financial hardship but the added cost of disability on top of this really makes this struggle very deep to the point of impossibility for many.

In ratifying the UNCRPD, Ireland committed to providing the highest attainable standard of healthcare for people with disabilities and comprehensive housing and rehabilitation services to enable disabled people attain or regain maximum independence. The living experience of any single person with a disability in Ireland, however, shows that we are very far from attaining that vision.

I want to discuss the cost of disability in the context of our substandard healthcare service and how this takes away from the maximum independence we have committed to attaining for disabled people. I have worked with a number of constituents in Wicklow who are struggling to get the basics, that is, new wheelchairs when their existing ones are broken down. The system in the HSE for getting a replacement wheelchair is long and arduous meaning those waiting are less independent and more isolated from society. Only this week, I received a letter from a local man who is a wheelchair user. He has been waiting over five months to hear back from the HSE about a new wheelchair as his current one is broken. He says he no longer feels safe when using his wheelchair and told me “this wheelchair may not mean much to you” - meaning the HSE - “but it is my freedom, my way of getting into the community. It is my legs.” I also want to mention Leo Dixon, a brave and inspiring young boy from Arklow who was forced to travel to Leinster House with his family to ask for a wheelchair. I find it very hard that we are forcing people whose focus should be primarily on their families and looking after each other to come to the Dáil to ask for basic services. We need to move away from that and the investment needs to be there to ensure they do not have to do that because there are many stories like that of Leo

Dixon and the man I mentioned. It is happening all across the country because the Government has failed to put in the systems to make sure that costly equipment like wheelchairs is provided in a timely way in order that people can get on with their lives. We need to radically improve health and care services for people with disabilities in this country.

In terms of implementing disability policy, the Government is incredibly slow to ensure that the rights of disabled people are vindicated. Just drafting disability legislation or policy or signing up to a UN convention is not enough. We need State-backed resources to ensure these policies are implemented. Disability organisations, including Sunbeam House in Wicklow, are expressing their deep concern at the pace of planning for the implementation of the disability capacity review to 2032. This plan was due to be completed in December 2021. No publication is in sight, despite the budgetary process being under way. An action plan is urgently needed to make sure that the important recommendations in the review are carried out.

The action plan to implement the cost of disability report still has not been published. Furthermore, Ireland still has not signed up to the optional protocol, which would enable further accountability of the Government on disability rights on services. Now is the time for a clear commitment and a roadmap by the Government on the publication, implementation and resourcing of these crucial policies.

I also want to briefly mention, as spokesperson for climate action, that as we start moving towards a zero-carbon society, we need to make sure that those who are least able to make those the actions that we require are supported. That includes people with disabilities. I have mentioned this to the Minister for the Environment, Climate and Communications. Policies and legislation need to be done in conjunction with people with disabilities and with those who have lived experiences in order that the policies can best reflect what they need.

I hope that the Government can speak to all those who are attending the Gallery today and that it has something concrete and tangible to contribute. We are asking for action in this area. I want to acknowledge the hard work that has been done by many disability activists who have been campaigning for an equal footing and for an equal standard of living, to which they are entitled.

Deputy Pauline Tully: I also wish to acknowledge the people in the Gallery and pay tribute to the work they do in advocating for equality and inclusion. I thank the Social Democrats for tabling this motion and for providing the opportunity to speak on the challenges that disabled people face with additional cost of disability and the level of unmet need.

The Indecon cost of disability report confirmed what was widely known but frequently not acknowledged, namely, that there is a significant additional cost to disability. This is the extra spending that a disabled person faces in dealing with day-to-day life that non-disabled people do not, in order to achieve the same standard of living. The cost of disability report states that the average additional cost of disability for a person with a disability, depending on its severity, is anywhere from €8,700 to €12,300 per annum.

Currently, the rate of poverty and social exclusion for disabled people in Ireland is one of the highest in the EU. We also have the lowest employment rate of persons with disabilities in the EU. Why is this the case? It is because disabled people fear the loss of, or severe reduction in, their core payments and secondary benefits if they take up employment. The loss of the medical card is especially worrying for disabled people. This is a disincentive to work. It keeps

disabled people in a poverty trap.

One woman who came into my constituency office this week said that she had been told by the Department of Social Protection that she would not lose her reduced disability payment if she returned to work for one or two days per week. Guess what? She lost it. She ended up receiving the same income from work as she lost from the social protection payment. Yet, she had the extra cost of transport to get to work. There is therefore no incentive to work.

Disabled entrepreneurs and disabled artists are particularly discriminated against, because the entitlements to employ a disabled person are not afforded to the self-employed to employ themselves. They deal with the loss of payments on a continual basis. There needs to be a cost of disability payment immediately.

A year ago I, and indeed others, called for the publication of the capacity review. We all welcomed it when it was published. This identified the scale of unmet need, which is significant. We were informed in April 2022 that an action plan for implementation was being finalised. We are now three months on and there is no sign of this action plan.

The United Nations Convention on the Rights of Persons with Disabilities was ratified in this country in 2018. This underpins the rights that individuals should expect to have realised, irrespective of the nature or the complexity of their disability. However, children are not being supported, whether this is through primary care or the children's disability network teams. There is an insufficient number of places for children with additional needs in our schools and, in particular, for autistic children. The right to live independently with the choice of where and who to live with is extremely important. It is underpinned within the UNCRPD. However, thousands of people are still living in congregated settings, despite a Government commitment to transfer all of those people into accommodation within the community. Approximately 1,300 people under the age of 65 are living in nursing homes. The practice of putting people into nursing homes continues. In addition, there is an unquantifiable number of adults living with aged parents in the family home. They have no choice but to remain there. Many of these adults have been on social housing lists for perhaps ten to 15 years. They have no prospect of being housed any time soon. The parents are anxious from the time the child is born until they are in their 80s or 90s about what will happen to their son or daughter when they pass. This is because proper provision has not been made for the person to live independently and to be supported in their community, as is their wish and their right.

I know of one woman whose daughter was in her 40s. She had complex needs. She was on the social housing list for years. When her mother became ill and ended up in hospital, she spent her time doing the lottery. She was hoping against hope that a win would mean she could provide for her daughter after her day. Suitable accommodation is not provided when the disabled person is young. Instead, it is left to this emergency situation, when the person is trying to deal with the grief of the loss of a parent, as well as coping with moving into an unfamiliar setting.

A number of issues require addressing immediately. One of them is workforce planning, because the level of recruitment and retention within disability services is dismal. There is an urgent need for pay parity within section 39 organisations. There has to be cross-departmental co-operation between Departments, but particularly between local authorities and the Department of Housing, Local Government and Heritage, with the Department of Health and the HSE, to provide suitable accommodation for disabled people who wish to live independently. Per-

sonal assistance service needs to be made statutory and needs to be properly funded.

I have limited time to speak on these issues. I feel that I am not doing the people affected by this issues justice, because I could speak for hours about any one of them. Yet, words are not important; action is needed here. I fully support the motion but we need action on these issues.

Deputy Pa Daly: If ever there was a case which showed that the two-tier system of providing healthcare in Ireland, as well as the lack of Government dealing with an issue, it is the case of Alexis O'Mahony, who is a six-year-old girl living in Killarney. She has a pyruvate dehydrogenase, PDH, deficiency. She has a brain injury. She has cerebral palsy quadriplegia. She has visual impairment, the subluxation of her hip and a high risk of aspiration. Her family applied for a grant from the local authority. They were told that because of a Government decision a number of years ago, the local authority can fund the structural works in the rafters but cannot fund the equipment for a ceiling track hoist in order that she can be lifted. She needs daily washing and turning to avoid her getting bedsores. This is taking a massive physical toll on her family. In April 2021, they asked about this and were told that negotiations are ongoing between the Department of Health and the Department of Housing, Local Government and Heritage. They asked again in July and got the same answer. They asked again in October and got the same answer.

In May of this year, we submitted a parliamentary question, to which I have the reply to hand on my phone. It starts off by saying that the HSE and the Government are committed to providing disability services. It concludes by saying that they will reply directly as soon as possible on whether she can be helped. There is still no reply. There has been no decision. Somebody needs to grasp the nettle on this. Negotiations are ongoing between various Departments. In the meantime, her family have to lift her and turn her five, six or seven times per day.

I commend the Social Democrats on tabling the motion to allow us to put extra pressure on the Government in this regard. This is an issue whereby people who are not directly affected and who can afford the extra €8,700 per year, as stated in the motion, come to my office and tell me that while they can afford it, an awful lot of people cannot and they would like to advocate on their behalf. This is therefore an issue whereby people are so upset by the lack of the development and the lack of services being provided to other people that they come to us to ask if we can help to sort them out. The case of Alexis O'Mahony shows that nothing is being done about it.

I note that the Economic and Social Research Institute, ESRI, states that lone parents who cannot afford it, and working-age adults with disability have higher rates of poverty, deprivation and consistent poverty. They are more likely to have urgent housing needs. They are more likely to have intensive healthcare treatments and because of those costs they are falling behind.

Deputy Claire Kerrane: I too commend Deputy Cairns and the Social Democrats on tabling this motion.

The latest data we have from the survey on income and living conditions were published in May. While the Minister of State was quick to welcome the reductions nationally across the rates for the key social inclusion indicators, those same data alarmingly show increases across the board for people with longstanding health issues, as the Central Statistics Office, CSO, calls it. The figures relating to who is at risk of poverty are up to 39%. The deprivation rate is up to 39.6%. The rate of consistent poverty was up to 19.2%. Almost one fifth of people in Ireland

today with a disability live in consistent poverty in one of the richest countries on the globe. That is a shameful reality in this day and age. It is more shameful that the income supports on which these individuals rely are set well below the poverty line. As was mentioned already this morning, the low levels of employment are typically due to the simple fact that there is a real fear about losing those income supports and, in particular, losing the medical card

We got an insight into that last week when disabled artists and academics presented to us in the audiovisual room. They are afraid to display their talents and gifts for fear of losing their income supports. If they win money in prizes or bursaries, it impacts their disability allowance. All work and income from that work hugely impacts people when it comes to the disability allowance as regards holding on to the medical card, to give one example. If someone with a disability is offered more hours or a promotion at work, that person actually has to step back and think about whether he or she can take that promotion. People could be doing really well at work but must ask themselves whether they can take it because they will lose their additional supports. That is not a position into which anyone should ever be put.

The cost of disability in Ireland report is really important. It was published seven months ago and we still have not seen that implementation plan. Of course, this is not the first cost of disability plan to be published. Indecon published one 18 years ago. There was one published 36 years ago in 1986. This upcoming budget cannot leave out the cost of disability payment and a recognition of that. I welcome what was said about restructuring the long-term disability payments. Domiciliary care allowance needs to be included in that review.

Deputy Mark Ward: I commend and thank Deputy Cairns and the Social Democrats for bringing forward this important motion. The Opposition is united on this issue. However, here we are again having a debate on another motion. What the people in the Gallery demand and need today is to see the urgent action that is required to help people with disabilities to have a better quality of life.

As was said already, the average cost for a person living with a disability is between €9,000 and €12,500 per year. This is just the average cost. Some people are paying much more. Currently, the rate of poverty and social exclusion for people with disabilities in Ireland is one of the highest in the EU. We also have one of the lowest employment rates for people with disabilities in the EU. Institutionalised barriers to education have resulted in disproportionately lower academic attainment for people with disabilities.

I speak as person who is living with a disability. The Minister of State and I had this conversation previously. I can testify that I have had to face many of these barriers to get the basic services and supports I need just so I can get on with my life and have an improved quality of life.

The marginal increases that were introduced in the budget in 2022 for disabled people have been wiped out by inflation. Additional expenses to living with a disability are not recognised by the State, which means that people with disabilities are often caught in a poverty trap. The lack of public services for children with disabilities is also pushing people into poverty. In my area, for example, as the Minister of State knows, there are huge waiting lists for people trying to get occupational therapy, speech and language therapy, psychology and dietetics.

We heard from representatives from the Quarryvale Family Resource Centre from my area when they appeared before the Committee on Children, Disability, Equality and Integration this year. They spoke about how parents are accessing the food bank in the area because they

have to get the supports privately that they should be getting publicly, and it is pushing them into poverty. A figure of 17% of people who used the food bank to feed their families cited the reason for doing so as increased health costs, including having to pay for private assessment needs and speech and language therapies. Imagine having to put yourself into debt simply so that your child has a chance to reach his or her developmental milestones.

Deputy Johnny Mythen: I welcome the guests in the Gallery. I thank the Social Democrats and Deputy Cairns for bringing forward this important motion, which we will be supporting. It is one of the many motions on legislation on the rights of people with disabilities we have debated recently in the House. Far too often, these life-changing issues are raised before the Dáil but to no avail. If the Government will not listen to the Deputies who raise these issues on a daily basis then it must listen to the 150,000 people on disability allowance and, indeed, the people in the Gallery today.

Currently, the rate of poverty and social exclusion for people with disabilities in Ireland is one of the highest in the European Union, resting currently at 38.1% and rising. People with chronic illnesses or disabilities are more than twice as likely to be at risk of poverty than other adults and approximately twice as likely to experience basic deprivation and constant poverty. From employment to sport to accessing transport, people with disabilities face additional risks of social isolation and discrimination. The hardship and pain caused by these barriers is socially and morally unjustified. We also fail to value the skills, talents and resilience of people with disabilities and what they bring to the table.

I have spoken many times about the Families Unite for Services and Support, FUSS, group in County Wexford, which campaigns for their children's rights. When will that group and the 445 children awaiting disability services in County Wexford see proper services provided to them? When will we see the vacancies in occupational therapy, speech therapy and psychiatry in the county filled? This motion calls for a plan to fill the 732 vacant posts for therapists and provide a service for children with disabilities. I cannot stress enough today how urgent this work is. The services and those trying to hold them together are worn out. They cannot continue like this. Then, there are also services like Windmill in Wexford town, which supports 55 people with intellectual disabilities and their families. It contacted me last week to outline how important the publication and resourcing of the action plan to implement the cost of disability in Ireland report is, for which this motion calls.

It is imperative that the Minister of State gives a clear and concise commitment today on this publication and a decisive timeframe for delivery. When we speak about these issues, we often miss the most important things of all. We are missing out on the supports needed for children to flourish. We are missing out on the adult who just needs that little bit of extra support to be able to live independently and take his or her rightful place in society. We are missing out on the potential of artists with disabilities - musicians, painters, writers - and our Paralympic athletes. Recognising the rights of people with disabilities and providing support is an essential part of all our well-being. Let us do that today by supporting this motion before the House today on the cost of disability.

Deputy Pat Buckley: I welcome the opportunity to speak on this motion this morning. I commend Deputy Cairns and the Social Democrats on bringing this motion forward. I also welcome the people in the Gallery. I remember being here in 2018 when we ratified the UN-CRPD, although the optional protocol was kind of left out of it.

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I listened to all the speakers today. From my own experience, unfortunately, a disability is just a label for people because this is not about what condition a person has; it is about what rights a person should have. That is the difference. We are not giving resources to those people who need extra sources and, therefore, they are labelled, tagged and tucked into a corner.

I spoke in the previous Dáil about a gentleman in his 60s who is a double amputee. Like one of the other speakers said earlier, people often have to come here to the Dáil to get something. This gentleman had an electric wheelchair but it was broken. The HSE said it did not have a budget to fix it. We actually went on local radio to raise awareness and a fabricating company in west Cork said it would fix it. The HSE said it would not stand over it because of insurance. That man spent six months in a reclining chair before we had to come in here and raise the issue with a particular Minister before things were done. That is not the way to do business for people who want fairness, respect and equality all in one go.

I wish to mention a good friend of mine who was involved in politics on the other side for many years, who through her own life experiences started up a summer camp. That will be 30 years ago this year. It started with three or four children and they now have more than 250 children and nearly 400 volunteers. They run a summer camp every year in Midleton. Ms Margaret Trundle deserves a massive amount of praise for her work with friends and families of people with intellectual difficulties.

Going back to this motion, unfortunately, we are in the Chamber again discussing people with disabilities. As the Minister of State mentioned earlier, it is about having a bit of joined-up thinking and engaging with all the services but also with local authorities. Another gentleman in his 60s, who asked not to be named or identified because of embarrassment, is in receipt of the housing assistance payment, HAP. We sometimes hear Government members say we have great increases in disability allowance or the invalidity pension or whatever but this gentleman pointed something out.

11 o'clock

I will read what he said:

Cork County Council obliges me to notify them of any changes of my circumstances. Whereas my bank statements have shown the council that I nonetheless did experience a pertinent material change in circumstances in the last annual budget the Government increased my weekly disability allowance by €5. When the council scalded me by phone for not advising them earlier of this change of circumstances I said I was unaware that central Government welfare increases counted. Taking account of the €5 increase in my disability allowance, the council increased my official weekly rent contribution by exactly €5.

That is giving with one hand and taking with the other. Now, with inflation going up, these people are going backwards.

I have spoken to many people and have listened to them. When I was on the town council we brought in service users to discuss mobility. When we did our streetscape, and it is not finished yet believe it or not, the section we completed won a European mobility award. That was because we listened to everybody and took account of what everybody needs. That is how it should be and that is what this motion is about. It is based on the needs of people. However, it is not even just the needs, it is the fairness that is missing here that is really annoying. I look at the Gallery and I see each of the people there. It is all about being treated with respect. In this

day and age, why should any of those people have to beg for what should be an initial right? Everything should be given to them on the basis of their needs, not on the basis of their means. I support the motion.

Deputy Duncan Smith: I thank Deputy Cairns and the Social Democrats for tabling this timely and important motion. I also welcome our visitors in the Gallery for this debate.

In the last few days, when I became aware of this motion being brought forward and after engaging with groups I have been speaking with for many months, I asked them what areas they would like me to focus on in my contribution. The response was the disability capacity review and the action plan therein, as well as the section 39 workers in the area. We fully support the cost of disability requests in the motion. The argument for them is unanswerable, and I will not repeat what has been said previously.

I will focus on the disability capacity review action plan and the residential supports therein. What is galling everybody about this and the lack of progress on an action plan is that the disability capacity review was not put together by organisations represented in the Gallery or by Sinn Féin, the Social Democrats, the Labour Party or some independent group. This report is the Government's report. It was published nearly a year ago; we are nine days shy of the first year anniversary of when it was published. We were supposed to have an action plan by the end of 2021. There was an announcement in April that a plan would be published but, nigh on a year later, it has not been published. The figures in the capacity review are massive and they are not being contested. Nobody here or in the Gallery is contesting the figures. They are huge. The figures for unmet need are through the roof across the range of services - residential services, day services, PA home help, therapies, respite care and community services.

The lack of an action plan being published, debated and, most importantly, being delivered is a source of unbelievable frustration and increasing anger, particularly now as we are again in the midst of a cramped and crowded Dáil schedule as we hurtle towards another Dáil recess. Even if this is published within the next nine days, the Dáil will go into recess. It will be back in September and then we will have a budget that is being brought forward to 27 September, which means that it will be cramped to have time to debate it then. Time for much-needed debate on this is eking away. In fact, this two-hour debate is the most time we will get to spend debating this issue between now and the recess and probably before the next budget, which is why this is so important.

With regard to the budget, and I ask the Minister of State to hear this loud and clear, can it be an accessible budget announcement for people with disabilities, so individuals with disabilities, their supporters and the groups can understand how many existing and new supports, be they residential, day places or respite supports, will be provided in budget 2023? Do not bamboozle us on the day with grand announcements on workers, therapists and places and not make it clear in the announcements what are existing and what are new. Most importantly, the Government has to tell us how it is going to deliver them. It is no use saying the Government is going to allocate €500 million for 200 residential supports or X amount of therapies when we know the workers are not there. Let this budget be a new departure in terms of how it is announced, how it is published and how it is discussed. None of us, whether we are in the Chamber, in the Gallery or at a work desk at home, wants to be scrambling around amidst a very deliberate forest of misinformation.

I would like to see something clear regarding residential supports within the action plan. In

its submission to the Department on this, the National Federation of Voluntary Service Providers has set out clearly what needs to be done and what recommendations should be included in the action plan. Last Friday, I visited an Irish Wheelchair Association day service in Balbriggan. A young man there, Conor Dillon, just before we had our conversation, wanted to know about his long-term housing needs. As a man and a human being he needs to know, but he does not know what is going to happen when his parents pass away. He is young and his parents are still relatively young, but that is what he is thinking about now. As I said, we had not even settled into the discussion we were about to have, which was the most powerful two hours I have ever spent in the company of any other human being. I was with Conor, Naomi and Louis that day. We cannot articulate any louder or clearer the need for the action plan to be published. The Minister of State knows the groups and the individuals that have to be consulted on this, who will be able to talk to the many disabled people and their family support networks. They need the information from the Minister of State as soon as possible.

Yesterday, workers in the Irish Wheelchair Association were out on strike. It is a section 39 organisation. This is going to be the start of what I believe will be a summer, autumn, winter and beyond of discontent if the Government and the HSE do not take real control of this. These are the Minister of State's workers in every meaningful way. When someone presents to the State as a disabled person and says he or she needs assistance, respite care, a day service, a night service or a therapy, the State goes to these companies or organisations. The State cannot provide the services through the HSE service so it asks them to provide them, and they step in with their workers, who are on brutal pay and brutal conditions. The organisations are unable to keep staff. The staff are going to the HSE. The HSE is then unable to keep staff because the staff are either going to private healthcare providers, who, by the way, are coming around back into the sector to provide services because of the emergency element to the care that is provided, or they are going abroad to work elsewhere or they are going to other sectors. We are losing staff everywhere.

The Minister of State cannot wash her hands of this. These are her workers, except when it comes to pay and conditions. That is when the Government says "No" and that it is down to the organisations themselves. When I met Prosper Fingal this week with Deputy Bacik, that was its ask, as well as the disability capacity review. This organisation is just one provider of disability services for intellectual disability in my constituency. It is struggling to get much-needed workers and struggling to retain them. This is a blue ribbon organisation, one of many that exist throughout this country. If it or the Irish Wheelchair Association or the other organisations did not exist tomorrow, our health service, which is already in crisis, would absolutely flounder on the floor, and the people who would suffer are disabled people and their families and support networks. The Minister of State and everybody here know this, yet we remain without an action plan and we retain a hands-off approach to sections 38 and 39 organisations. In a cost-of-living crisis and in every other crisis, we are happy to allow them to flounder and struggle in an environment that is absolutely crippling them. It has to stop.

Deputy Gino Kenny: I thank the Social Democrats for tabling this motion. It is very worthwhile to debate what is going on with disability services. As the Minister of State knows, people who have a disability are twice as likely to face discrimination than me and her. That is a fact. They will face discrimination in respect of consistent poverty, deprivation, isolation, employment, access to public services and housing. Those who have a disability who try to access housing is one of the key issues. There is a dearth of housing in South Dublin County Council for those who have a disability. I could tell many horror stories regarding those who have a dis-

ability who cannot get access to proper housing. The situation in South Dublin County Council is not an isolated one. I am sure it is the same throughout the State.

On income and disability, the disability allowance is €208 per week. I always found it very weird that during the pandemic the vast majority of people got €350. That was the bar at which most people could live. The disability allowance should be far more than €208; it should be up to the level of €350. That should be looked at in the context of the budget. The cost-of-living crisis is having a major affect on those who are living with a disability. That has to be heeded.

I will touch on the local authority housing adaptation grants. The income thresholds for those grants are far too low. The cost of adaptations goes far beyond the grant that is currently available. There is also a knock-on effect as regards the cost of living. I know families who just cannot afford the adaptation they need for their children or themselves. The thresholds for the grants, whether someone is in a public local authority house or owns his or her home, are far too small. They have to be looked at because families are going into debt. Families simply cannot afford the adaptation, or have to cut back on certain modifications, and sometimes it takes a long time to get these grants. I would like the Minister of State to look into that because it is very important for families, adults and so forth.

There are many other matters I could mention. I do not understand why we have not ratified the protocol to the UN Convention on the Rights of Persons with Disabilities, CRPD. Only two other countries in the European Union have not ratified it. The action plan needs to be published without delay. That is very important. As I said, the income for those who are on disability or illness benefits has to be reviewed. That is probably out of the Minister of State's remit, but she will understand where I am coming from. For somebody who is on such payments for a considerable time, it is not a huge amount of money in the context of the cost of living in Ireland. It is actually very small. Some people want to contribute but sometimes, because of circumstances, they cannot, due to their disability. The disability allowance should be looked at. It should be much further north of €208 and closer to the level of payments made during the pandemic.

Deputy Seán Canney: I welcome the opportunity to speak on this very important matter. I compliment my colleague on the Joint Committee on Disability Matters, Deputy Cairns, on tabling this motion. It follows on from a motion the Regional Group tabled a number of months ago. It is important we keep this matter on the agenda. Since this debate began, we have heard the Minister of State say that the Indecon report set out that the cost of living, above and beyond normal living, for people with disabilities is in the region of up to €12,000 per annum. That report was done some time ago. Increases in the cost of living mean that sum is probably more now.

The question is how we will address this in a meaningful way. Disabilities are very complex. We cannot just have one-size-fits-all. The Minister of State will be aware of Councillor Gabe Cronnelly in County Galway. He lives in Athenry and is a local county councillor serving on Galway County Council. He is an amputee. Of the 900-odd county councillors in the country, he is the only one serving who is an amputee. As he is getting a salary from the county council, he is unable to get any support to replace his prosthetic limb when he needs to do that. Last week, he got a quotation of €38,000 to replace the prosthetic limb. It is guaranteed for five years. It will, therefore, cost him €7,600 per year, in addition to the maintenance cost to maintain that limb. He has to pay for that himself. The reason he has to do so is he is over the income threshold to get a medical card. One of the questions he keeps asking me is how the

discretionary medical card is defined. How is it defined? How do people know whether they are entitled to one on a discretionary basis? It seems to be open-ended without any particular way of adjudicating on it, other than being left to discretion. That is it.

Anybody who has a disability should be entitled to a medical card, full stop. Somebody who has a permanent disability, such as an amputee, should be entitled to a medical card for life. As Councillor Cronnelly often says to me, his leg will never grow back, therefore, he should get the medical card. It is as simple as that. If people who are amputees were given medical cards, the cost of the prosthetic Councillor Cronnelly needs to get this year would be borne by the State. We are supposed to encourage people from the disability sector into politics and public life. This is a case where Councillor Cronnelly cannot afford to get involved in politics because any money coming in from the few pounds he gets as a councillor is actually penalising him. It will cost him €38,000 over the next five years to get the prosthetic limb in place, which he needs. The parts are guaranteed for six months, while the prosthetic overall is guaranteed for five years. In the meantime, he has to pay for any maintenance or any parts that break after five years. When we talk about the cost of living with a disability being in the region of €12,000, that is a generalisation. We need to individualise all this to make sure people who really need assistance get what they are entitled to under the UN agreement.

I welcome Jackie and Emilie who are in the Gallery with others to listen to the debate. They are people who are living with the experience of disability and their families. It is important to state that over the past two years the Joint Committee on Disability Matters has heard from people with disabilities and their families who have recounted their experiences, which are not very good and are not improving. Money is going in but the output is not coming around. The results are not there.

Disabled Artists & Disabled Academics, DADA, is a particular group. When a disabled artist applies for a grant or bursary to do some project, their disability allowances are taken as means. That is absolutely wrong. If we are to encourage people back into work, and to use the skillset and special skills they have, we should encourage them by giving them, possibly, a double bursary and not touch their disability allowances. These should not be touched when we give people a bursary, support or grant. A scheme for disabled artists with disabilities should remove income earning limits and allow them - this is from the artists themselves - to keep their core payment, such as the blind pension, disability allowance or invalidity allowance, to pay for their disability and compensate them for reduced earning powers. Anything like that, where people with disabilities get support and allowances, should not be touched. These people are very fearful as to whether they will retain their medical cards when they apply for certain grants or for bursaries to enable them to do projects. As a result, we should be safeguarding the provision of medical cards on the basis of medical need rather than income thresholds. That is most important. Discretionary medical cards are causing major problems.

It is important that we look at how we can help people with disabilities who want to help themselves and engage in living their lives and being independent, whether it is through employment, self-employment, music or the arts. We must encourage them. We should not put barriers in the way of their progress. We must ensure that disabled artists can perform in front of people and can spend time completing whatever works they need to enable them to live independently. We must ensure that any grants provided to people with disabilities are treated as something that they are using to give back to society.

We have put many barriers in the way of people with disabilities. We need to strip all that

back, whether it is in the area of social welfare, arts grants or disability payments for housing adaptations. We must front-load supports in order to give people the opportunity to complete the necessary works to enable them to live independently. I know of a young woman in Tuam. She was a child when I first met her and is now 18 or 19 years of age. She is still awaiting the completion of an extension to her council house. She is in a wheelchair and cannot have her friends round to visit because there is not enough space in the house. There is a kitchen and a living room, and that is about it. We must ensure that we treat people equally and with respect. The Minister of State has been active in getting things done. I ask her to listen to disabled artists and Gabe Connolly. We must make changes now that will have a good effect on people.

Deputy Danny Healy-Rae: I thank Deputy Cairns and the Social Democrats for bringing forward this most important motion in such a timely fashion. In particular, I wish to highlight the plight of the Kerry Parents and Friends Association, which is based in the Old Monastery in Killarney and which is run by Ms Marie Linehan. I pay tribute to Mr. Tony Darmody, who gave so much of his time to the organisation over the years. I am asking for the immediate publication of the action plan on the disability capacity review and its inclusion in budget 2023 to ensure that another year does not pass with families and individuals left without any indication of when or how the urgent needs that they are experiencing will be met. An accessible disability budget must be announced in order that individuals with disabilities and their families can understand how many existing and new residential supports, day-care places and respite supports will be provided for in budget 2023, and how this relates to the needs set out in the capacity review. The Kerry Parents and Friends Association is classed as a section 39 organisation. It receives a lot less funding for the organisation and its workers than it would if it were a section 38 organisation, even though it is doing the same work. The association is helping people with disabilities in places like Gneeves, Gullane and Faha whose parents are now in their 70s and 80s. If it were not for this wonderful association, these people would be completely lost. I ask the Minister of State to publish the action plan on the capacity review as soon as possible, so that people know where they are at.

Deputy Michael Healy-Rae: Ms Marie Linehan, the excellent CEO of the Kerry Parents and Friends Association, contacted all of the Oireachtas Members in County Kerry with regard to this much-needed action plan, which the Minister of State knows needs to be published as a matter of urgency. The roadmap and schedule of works, as it were, must be published. It is urgently needed for both the service users and the parents of service users in County Kerry. I wish to highlight the excellent facility at St. Mary of the Angels in Beaufort, and the fact that it is being closed by stealth. We have discussed the matter previously. As the Minister of State is aware, no new residents are being admitted to the facility. This beautiful facility was created many decades ago by the very generous Beaufort family, who gave over their land for the provision of services for disabled persons. It is a centre of excellence, and I have regarded it as such for many years. I ask the Minister of State to keep this centre of excellence open for the great people from Beaufort, Killorglin, Killarney, Faha and Fieries who have worked there for generations and who provide great services there. It is a dedication and a vocation. I ask that the centre remains open and is not closed by stealth, which is what is happening currently.

I also want the Minister of State to address the fact that we desperately need respite services for people who have disabilities and are being cared for, in many cases, by aging parents who need a break. We need more respite facilities in south Kerry. A certain number of services are provided in north Kerry, but it is not enough. We need more. People must be taken care of. More funding must be provided for disabled persons grants to allow people to remain at home,

whether it is for adaptation grants for bathrooms and bedrooms, stair lifts or grants for the provision of mobility aids. The facilities must be provided to enable people to remain in their own homes. We also need more people working on the ground to deliver healthcare to people with disabilities who are living at home.

Deputy Mattie McGrath: I welcome our guests in the Gallery. They are making a special effort. Tá fáilte rompu.

I thank the Social Democrats for bringing forward this important motion. I think of the words of the Tánaiste, the iar-Thaoiseach, who said that we are wasting time in here. He wants to shut down debate and deny the good people in the Gallery and their families all over the country the right to be heard. He said we should not be wasting time on debates like this. It is a very valuable and important debate. Our guests do not want to listen to empty words from me or anyone else; they want the services to which they are entitled. People with disabilities do not want to be discriminated against when they get a job or employment, or when they get a gig as an artist. I welcome Mr. Jackie Conboy, of the Music and Entertainment Association of Ireland, MEAI, to the Gallery. That is what we need. Has this country got to the stage now that it will not provide services? The Minister of State has failed utterly to provide any services. Yet, the Tánaiste lectures us and states that we should not even raise these issues in the House. Should we just shut down this Chamber and forget the people all together? The order to go to hell or to Connacht is back again.

There are many families on disability benefits. We heard earlier about the €5 increase in disability allowance and the €5 increase in the weekly rent contribution for a claimant on social welfare benefits. How cruel-hearted and cruel-minded have we become? The system is so unwieldy. I have read stories of families waiting for ten years to get supports. Deputy Verona Murphy recently highlighted the case of a child in County Wexford who does not have a wheelchair that is suitable for him. We know about Cara Darmody from Ardfinnan, who fund-raised for Ardfinnan National School and Scoil Chormaic Special School to provide access to services and therapies for students with additional needs. I salute the volunteer groups around the country, and, in particular, Positive Steps Together in Caisleán Nua. The organisation has set out on a journey to fundraise for a respite unit for the local people. These organisations do not want us to pay lip service to them; they want support. They want us, as advocates for them, to raise these issues here in the Parliament to which we are elected. We should not be shut down by the Tánaiste or anybody else.

Deputy Michael Collins: I thank the Social Democrats for putting forward this motion, which I fully support. Indecon International produced a report on behalf of the Department of Social Protection looking at detail of all of the extra day-to-day costs faced by people with disabilities. An extensive survey, incorporating feedback from thousands of disabled people across Ireland, was completed by consultants from Indecon in early 2021 and a report was submitted to the Government. We have been told that each Department has since examined the report. However, it appears that the report has not yet been presented to Cabinet by the Minister for Social Protection, as promised. Four years after the research was first announced, not a single additional financial support has been made available to people with disabilities in Ireland. As every day passes, disabled people can justifiably feel that they are being left behind and that their inclusion is not important. Failure by the Government to publish and act upon the report prior to budget 2022 meant that the disabled people were not properly factored into the financial planning for 2022. Only for families trying their best to get support and put pressure on every Department, one wonders where people with disabilities, such as Mr. Jim O'Mahony

from Kilbrittain and others, would end up.

The people of west Cork are trying to put together local funding to build an autism centre in the area. I must acknowledge what the Minister of State has done for the people in the area in fairness and the fact that she continues to engage with them to help them further their cause. They greatly appreciate that. This is a major issue in west Cork. I would appreciate it if the Minister of State would continue with the good work she has been doing there so far.

We have other problems in the context of adults with disabilities who are growing up and living with their elderly parents in some cases, through no fault of their, own getting aggressive with their elderly parents. There should be services available for these situations. I can inform the Minister of State about some of them in my area. While Ireland is a great country for so-called inclusion, we should be ashamed of how our disabled people and families are treated here. The Parkinson's Association of Ireland will be before us today. Parkinson's is a disability in its own right. The association is looking for specialised nurses. It will be in the audiovisual room at 1.30 p.m. fighting that cause. It has had an uphill battle in this regard. I was contacted by a lady from Bantry this morning who has a child availing of services offered by CoAction. She has been looking for respite for four years and cannot get it. These are the issues people are facing on a daily basis. This is a difficult matter and it needs to be resolved.

Deputy Catherine Connolly: Cuirim fáilte roimh na cuairteoirí thuas staighre agus gabhaim buíochas leis an Teachta Cairns as ucht an rúin seo a chur os comhair na Dála. I welcome and thank the people in the Gallery. Their work on the ground is recognised and is not wasted. There are more and more voices on their side in the Dáil. I know it is slow, but they are making progress.

This motion is a basic one. I understand that the Government is accepting it and that there is no amendment to it. The motion notes our legal obligations, it acknowledges what has been done so far with the reports, the capacity review and the cost of disability in Ireland and it asks for four specific things, which are very basic. The first is to introduce a cost of disability payment of at least €20 per week, which I will come back to. The second is to increase the disability allowance. The third is to publish an action plan pursuant to the disability capacity review, and that should be a basic action for the Government. The Government should also publish an action plan to implement the cost of disability. The fourth is to honour the programme for Government commitment to make the results of the cost of disability report part of Government policy.

Theoretically, we have made great strides. I will use Galway as an example. The Barcelona Declaration was agreed 20 years ago in order that we would stop the division and discrimination. We adapted the motto that good design enables and bad design disables and we passed the Barcelona Declaration. Theoretically, that was a brilliant step forward but the declaration was not implemented in full. When Covid came, it was simply thrown aside when we placed a major emphasis on businesses operating outdoors. The Barcelona Declaration has gone by the wayside. The same happened with the UNCRPD. A huge amount of time has passed since we signed it, although we have not ratified the protocol. The language in that document is wonderful, but we are still going on the basis of a piecemeal approach and charity as opposed to making that language a reality. As a practical example, if we had really embraced the Barcelona Declaration, it would have been uppermost when the Government encouraged businesses to move their operations out into public spaces.

The Indecon report was published in December. There is a background to that, as has been set out. Deputy Catherine Murphy mentioned a report from 1996. The one I have is from 2004. That report, also compiled by Indecon, related to the National Disability Authority. An estimated cost of €143 per week was outlined in it. In 2015, the Cullinan and Lyons report used the data from the survey on income and living and found that the average additional weekly cost was €207. Then we have the Indecon report. I will run out of time, but Indecon says that there is no single cost of disability due to a wide range in the severity of disabilities and so on. However, the figures are astronomical. They go up to €16,000 per year for those who have severe limitations as a result of their disabilities. The Indecon report goes on to say that income supports will not be sufficient and that there is a need for a multifaceted approach, which I fully agree with. I am worried that in the lovely speech made earlier, there was no commitment to an action plan, to production and publication and to making this a reality. I welcome that as I was getting out of my chair the Minister of State, Deputy Butler, announced that she intends to carry out an audit of respite services. She might clarify that point.

Deputy Anne Rabbitte: She does.

Deputy Catherine Connolly: That is positive news. Respite went to the wind during Covid. A waiting list was not even kept.

Deputy Marian Harkin: I thank Deputy Cairns and the Social Democrats for bringing forward this motion. When we refer to the cost of disability, what are we talking about? We are talking about the extra costs that a person with a disability incurs in their day-to-day lives simply because they have a disability. There is something deeply unfair about that because having a disability in the first place is often a massive extra challenge for that person. In addition, they face extra financial costs. In most cases these are costs that they cannot afford. As I said, there is just something deeply unfair about that.

In the Indecon report on the cost of disability to which many previous speakers referred, an important point is made about the participation of people with disabilities in the labour market. The level of such participation is one of the lowest in Europe. Therefore, we have a double-edged sword because of the extra costs that people incur on foot of their disabilities. Due to the fact that the vast majority of them are not able to access employment, they cannot cover those extra costs. While it is not mentioned in this motion and while it is a separate issue, the fact that the number of people with disabilities in Ireland participating in the labour market is among the lowest in Europe is an extremely important issue. Not having access to work denies people the chance to be independent.

Because of the situation we are in, the State has to step in. It must represent society and the common good and provide the extra assistance that is asked for in this motion. I fully support the call for a disability payment of at least €20 per week in budget 2023 and for an increase in the disability allowance of at least €15 per week. Those are short-term measures that can be brought in when we get to September. Longer-term measures are outlined in the motion, which calls on the Government to look at the Cost of Disability in Ireland report and ensure that will inform policy decisions in the future, particularly as it is based on good information. The Indecon report tells us that households where a member has a disability spend an average of an additional €9,000 per year.

I was privileged to launch a report on the cost of disability with Family Carers Ireland and the Vincentian Partnership for Social Justice a few months ago in the audiovisual room. The

report looked at the minimum essential standard of living for a two-parent household caring for an adolescent child who had a profound intellectual disability. It found that the extra cost - and this was detailed work - was approximately €12,000 per annum. As Deputy Connolly stated, extra costs vary across different types of disability. If people look at the Indecon report and its granular detail, they will see that families spend a higher proportion of their incomes on food, clothing, fuel, light, transport and household goods. We all know that the price of food, fuel, electricity and transport have significantly increased in the past 12 months. Households that have a member who has a disability are being hit harder by inflation and cost-of-living increases. That is just another reason why I fully support the motion tabled by Deputy Cairns.

Deputy Michael Moynihan: I welcome the opportunity to speak on Deputy Cairns' motion. I also welcome the motion. I want to raise three issues. Week after week, the witnesses who come before the Joint Committee on Disability Matters talk about the medical card and the possibilities for people with disabilities if they were to get outside incomes. The medical card is gold for a person with a disability. Their fear is secondary benefits would be removed for disabled artists, writers, photographers or whatever. It is hugely important that that is protected. We need a serious discussion on how medical cards are provided for people with disabilities and how they can be guaranteed into the future and not have to come back looking for information year after year.

Section 39 organisations and pay parity constitute a major stumbling block for people with disabilities and the lack of services. As we see regarding recruitment for section 39 organisations the length and breadth of the country, pay parity has to be a huge priority for Government because unless we get that rectified, we have an unbalanced system and a difficulty.

I refer to residential care for people with disabilities who have been on five days' care but, because family circumstances have changed, now need seven-day care. These are people who are getting on in years, as are their parents. I have had instances recently where some people in the HSE said when it comes to a crisis point, they would then look at it. Does everything have to come to a crisis point before a decision is taken? We have seen that in relation to many decisions. I made the point to the official that it is going to emerge as a crisis point, so why not avert it? It will have to be made anyway, but we have to have this crisis at every level. It is grossly unfair on the person, the families and the system to expect we have to go to a crisis at every stage. Why are we not dealing with it?

I have looked at the disability allowance and the income disregard and reached out to different groups. An innovative scheme, the rural social scheme, was developed some 20 years ago. There were income disregards in that to make sure people kept their entitlement to it. The disability allowance needs to be looked at in a major way to see what income disregards can be put in place. What can be done to ensure persons can keep their disability allowance even if they get therapeutic work, which it is in many instances? The model of income disregards in the rural social scheme can be used and should be looked at by Departments to ensure there is a better system. I could talk all day but time is up.

Minister of State at the Department of Health (Deputy Anne Rabbitte): I acknowledge Gary Carney, John Dolan, CEO of DFI, and my good friend Jackie Conboy from Portumna, along with Emilie, who represents DADA. I thank the Social Democrats, particularly Deputy Cairns, for giving me the platform to have a conversation about this on the floor of the Dáil. The ongoing cost-of-living debate has a tendency to focus on other aspects of society but Deputy Cairns can be assured that I, as Minister of State for disability, and all my ministerial col-

leagues across Government are acutely aware of the significant cost, both financial and human, to disabled people and their families and how critical that is in the current context. The key to all of this is to look at all these issues through the lens of the UNCRPD. Disability is not just a health issue, but affects all aspects of one's life and the issues must be addressed holistically across Government.

In the time I have, I have to get to the nub of it in relation to Deputy Cairns' asks from Government. One ask is to publish the action plan and implement the disability capacity review, including setting out a plan to fill the 732 vacant posts for therapists providing services for children with disability. I will do that. I am within three or four weeks of providing that action plan around 732 posts. That will be done.

In relation to the cost of disability, I have signed off on it. It has gone to the Minister, Deputy Donnelly, and is with him. My officials beside me are meeting with the Department of Public Expenditure and Reform tomorrow on it. We are within weeks of having it published. It is not just an action plan; it is backed with money.

I have mulled over it for some time and think it talks to the piece that Deputy Duncan Smith spoke about, making sure we have proper signposting signage to tell us exactly where we can. I have put in extra pieces from early years right through to the older person to ensure that when we talk about residential care and respite, it is the whole package and, when one enters services, one can transition; and to ensure that when we look at respite, we also look at alternative respite and at what that looks like. When we look at transitioning to residential, what does residential look like? Is it supported and independent? Is it the complex residential piece?

Deputy Michael Moynihan is so right that not everything has to come to a crisis but, at the moment, there is not that forward-planning and capacity-building in the system and we need to have it. In the same way, when children hit the age of 17 they exit children's services but fall off a cliff and go nowhere. They have been used to respite and now go into adult services and there is no respite available for them. We need to look at that 18-25 piece, which I call the transitioning care piece, and that is put into it. I am putting in a proper ladder so when a parent gets the news they have a child with a disability or complex needs, parents know how the State supports them and how it can be done. This capacity review has it.

I take responsibility for the fact that it has been too long in publication, but there was a lot missing within in. There is no point in having a number such as that we need 800 emergency residential places today. How can we achieve that and build it in? How can we ensure we have equity of access, whether one is in Dublin, Cork, Limerick, Galway or Donegal? Everybody has to have it. Every county council has to have the same message. That is why in the publication of the disability policy within housing there is an acknowledgement that it is not working. However, when you start going forward, you have a UDA. Is it UDA-plus or is it plus-plus? Has that been built into it? Every county manager talks on the same page so there is no difference and when they take on a Part V, we talk about social, affordable and disability. It should not be limited. That is the piece I talk about regarding housing.

I do not want to give figures out but I know I need 740 houses today to stand still and move forward in relation to disability houses. It is the requirement in the health budget to provide the funding to ensure people have the supported independent piece or the complete 24-hour service. Then you are creating capacity. We need to start creating capacity at all levels, from the early years. The earlier you make the intervention, the longer you have and the less of a need on that

critical piece because families do not get burned out or feel let down. We can only implement it if we have the money so the money is being sought as part of the Estimates process.

The motion calls on the Government to “honour the commitment in the Programme for Government: Our Shared Future to use the findings of the Cost of Disability in Ireland report to ‘inform the direction of future policy’”. Absolutely, it has to be. Deputy Canney spoke about prosthesis. Prosthesis is at the second highest level within the cost of disability, in terms of the cost for an amputee who does not have a medical card to replace it. At all times we have to break down barriers preventing people returning to the workforce. While I am only one Minister of State standing here, I have to work with all other Ministers because I have to talk about disabled artists, the disregard, the inclusion of them and how we can encourage positive involvement in the workforce without penalising, putting up barriers and breaking down those barriers. That is why I talked to the Tánaiste, the Minister, Deputy Michael McGrath, the IDA and IBEC to ascertain what the barriers are for people returning to the workforce. I am not talking about the cost of disability from the point of view of the Minister, Deputy Humphreys, in relation to those fundings. From talking to our officials this morning, that is an ongoing conversation within budgetary negotiations.

I have heard under-65s are going into nursing homes. That should not be happening and has been outlawed within the HSE. If a Deputy has a case of it, please tell me and I will take it up. We have put funding in to ensure people can be moved out. While it is slow, we are trying to build that capacity.

In relation to PAs, I did not wait for the development of the disability capacity report for the publication of the PAs, because I put sixfold into it in last year’s budget to ensure we could give people choice to live where they want in the community.

Deputy Róisín Shortall: There is no doubt that disabled people and their families find themselves at the sharp end of the cost-of-living crisis. While all households have been affected by inflation, the fact of the matter is that not everybody starts from the same position. Even before the current increase in the rate of inflation, people with disabilities experienced one of the highest rates of poverty at over three times that of the general population. Too often, the needs of those with disabilities are shamefully neglected and viewed through a very narrow lens. Policy is not based on the voices and experiences of people living with those disabilities and their carers. If we were to shift that focus, it would quickly become clear that it is the way in which State services are structured and inadequately resourced that causes the most exclusion and inequality rather than the disability itself.

The assessment of need process is a clear example of this. The importance of this service cannot be overstated. It is supposed to be the first step in providing children with therapeutic and educational supports but the State constantly reneges on its obligations in this regard. Just yesterday, we heard that 4,000 children are waiting for a diagnostic assessment just to get a school place. This abject neglect has serious consequences. Delays in the assessment of need process not only result in many children being denied access to services, but also frequently mean that these children need more costly and complex interventions down the line as their conditions are allowed to deteriorate. By law, once an assessment of need application has been received, the assessment must start within three months and finish within a further three months but we know that this is simply not the case in practice. Some people have to wait years, and very often three to four years, for that assessment of need. This is a deplorable situation and it is the reason we must urgently ratify the optional protocol to the UN Convention on the Rights

of Persons with Disabilities.

In those areas where early intervention and school age teams are still operating, many children are still waiting to be seen. These services are distinct from the assessment of need system and, crucially, no statutory timelines are set out in the Disability Act. Parents very often do not realise that when filing a complaint until they are told by the HSE. Wide variations in service regionally only add to the frustration for parents and to the sense of unfairness they feel. Access to adequate services should not depend on your address.

The delays in the assessment of need process also brings our two-tier health service into sharp focus. The failure to ensure assessments take place within a reasonable timescale means that many families are forced to go private. These families often have great difficulty in scraping the money together despite making sacrifices and frequently have to borrow the money. For many others, this is just not an option. The money is simply not there. It must be borne in mind that, the more this happens, the greater the pull factor for staff to go into private practice. I was concerned to hear the Minister of State speak at the weekend about her intention to outsource assessments of need. This will inevitably accelerate the creeping privatisation we see right across our health services. In addition to the pull factor I have mentioned, there is low morale among staff because of the high levels of stress and the high number of vacancies. All of that combines to make the job much more challenging. What is needed is a properly functioning and resourced universal public service that is available to all those who require it as of right. Difficulty with recruitment is not an acceptable excuse. It is a central role of a Minister to ensure proper workforce planning.

This stumbling from one crisis to another cannot continue. Instead, we must embed rights-based supports and services for all of those with disabilities. We need action now. This is not just about having a conversation; it is about looking for action from the Minister of State and her ministerial colleagues. We need to see that action as a matter of urgency.

Deputy Holly Cairns: This motion is about taking steps towards providing the changes we need to be a more inclusive and equal society. It is about the budgetary measures and policies that allow people to exercise their rights. The scale and depth of the issues are known. What we need is the political will. This budget must address the cost-of-living crisis but it must also address the cost-of-disability crisis. Even before the current crisis, it cost between €8,700 and €12,300 extra every year to live with a disability in Ireland. These figures are from the Government's own report, which supports everything which the people and organisations in the Gallery and watching at home have been saying for years.

A major component of the additional costs faced by disabled people and the families of children with disabilities relates to grossly inadequate education, healthcare, social welfare and housing services. A core pillar of Social Democrats policy is the provision of public services. In our alternative budget last year, we proposed the idea of universal basic services based on the principle that all people are entitled to a range of public services that are free at the point of use, provided by the State and funded through taxation. Public disability services are required now. They are central to respecting rights and empowering children and adults.

The disability capacity review outlines the considerable unmet needs in the health and care sectors. The review was published almost a year ago. Where is the action plan? Is this plan based on engagement with the disabled persons organisations, advocacy organisations, parents' groups and service providers? Any response to unmet needs in this sector has to work with

the people most affected and service users. For too long, Departments have made decisions for people and not with them. Regrettably, we saw this again last week when the Government rushed through the Assisted Decision-Making (Capacity) (Amendment) Bill 2022 with little or no input from disabled people. We need a comprehensive and resourced action plan that responds to the needs identified and to larger systematic issues around the recruitment and retention of therapists and communication with families. The provision of the services people have a right to would be transformative. It would help children develop, adults gain independence and relieve the unimaginable stress and pressure that parents of all ages are under. The provision of appropriate local school places for children and young people has to be a pillar of this intervention. Members of the West Cork Special School campaign have travelled here today to highlight this key issue.

The cost of disability report also requires an action plan to adequately deal with the substantial range of matters raised. Social protection payments, healthcare grants and other supports need to be tailored to meet the needs of disabled people. This motion calls for a €20 weekly cost-of-disability payment across relevant payments, including domiciliary care allowance, carer's allowance and the invalidity pension, and an additional €15 for the disability allowance. These are the just the most basic increases needed to keep up with skyrocketing inflation. The Government has to outline a costed and long-term plan developed in co-ordination with disabled people to address the systemic and crippling cost-of-disability crisis. The 2023 budget will be focused on the cost-of-living crisis but it will also be crucial for addressing the structural barriers around disability. For too long, people have waited for proper homes, school places, therapies, respite and payments that cover household expenses. Unless there is a significant and impactful change of direction in the budget, the suffering, the exclusion and the denial of rights will continue unabated.

I acknowledge all those tirelessly campaigning for equality. Whether it is people who are disabled themselves, parents, carers, family or friends, there are countless groups and campaigns out there all striving for disability rights. I thank my amazing team, Tara Constantine, Richard Scriven and Claire.

12 o'clock

I extend huge thanks to all the organisations that could make it here today, including Independent Living Movement Ireland, the Disability Federation of Ireland, Inclusion Ireland, Mental Health Reform, the National Disability Services Association, the National Federation of Voluntary Service Providers, AsIAM, Early Onset Parkinson's Disease Ireland, the Down Syndrome Centre Cork, West Cork Special Schools, and the Irish Wheelchair Association. I also thank those who travelled from Cork South-West. Their presence is a testament to the work that needs to be done. The scale of issues and solutions are known. It is now up to the Government to act.

Question put and agreed to.

Ceisteanna ó Cheannairí - Leaders' Questions

Deputy Mary Lou McDonald: I extend a very warm welcome to all the groups in the Public Gallery referred to by Deputy Cairns. Tá fáilte rompu go léir.

Parents across Ireland are under enormous pressure to meet extortionate back to school costs. It is a big source of stress for families every summer but this year is exceptional, given the ever worsening cost-of-living crisis. For weeks, we have been telling the Government that parents face huge back to school costs now and that an autumn budget would be far too late for families. Time and again, Ministers lined up to parrot the Government mantra that budget 2023, which is almost three months away, was the only way for the Government to help. Then, at dinner time yesterday, after weeks of stubbornness and just two hours before a Sinn Féin motion calling on the Government to act, its position changed. Suddenly, it was possible for the Government to step in with an increase in the rate of the back to school allowance for those already in receipt of that payment. The Minister could have saved all those families weeks of worry by making this announcement and taking this decision sooner. However, I welcome the Government's U-turn. I am glad it has finally listened to the Opposition, at least in part. Any extra financial support for families on fixed and low incomes struggling to make it to the end of the week is a very good thing.

There is problem, however. The Government has left behind middle-income families, who are in dire straits. Any family with a household income of €621 a week will not get a red cent of back to school allowance. A household income of €621 a week is modest. These are families who receive very little support from the State but are now fighting to stay afloat. The Government has left behind these families, who struggle to pay the mortgage or rent and who cannot afford to put fuel in the car to get to work or pay extortionate energy bills. These families' grocery bills are through the roof to such an extent that many have started to cut back on basics. Many of these families have used their savings or maxed out their credit cards trying to keep up, and now they have nowhere left to turn. When the Government had an opportunity to make a big difference, it settled instead for half measures. Middle-income parents went out to work this morning feeling let down again. Many of them have no idea where they will get hundreds of euro to send their children back to school in September. When they ask why they have been left out, what will the Minister's answer be?

Ní mór an liúntas éadaí agus coisbhirt don scoilbhliain nua a mhéadú chuig teaghlaigh atá ar mheánioncaim, atá fágtha ina dhiaidh ag an Rialtas. Ní féidir leo na costais ollmhóra a bhaineann lena bpáistí a thabhairt ar ais chuig an seomra ranga i mí Mheán Fómhair a íoc.

I am always amazed at the ability of this Government to refuse to do those things that patently need to be done and to do them correctly and fully. The Dáil will rise for the summer next week so time is running out for us. I am asking the Minister at this juncture to listen to the Opposition again and do the right thing. I am asking him to expand the back to school payment to cover an additional 500,000 children, whose middle-income parents are in desperate need of support. The Minister holds the purse strings. He can make this happen. This is an existing scheme. We want the Government to expand it. We are appealing to the Government not to pack up for the summer having left these families behind.

Minister for Public Expenditure and Reform (Deputy Michael McGrath): I thank Deputy McDonald for raising the issue of back to school costs, which are a serious issue for thousands of families across Ireland at this time. We have said all along, and we are sticking to this position, that the budget will be on 27 September. This week we published the summer economic statement, which sets out what the underlying position is with the public finances. It means we can have a budget package in the autumn of €6.7 billion, €5.7 billion of which will be on the expenditure side, including investment in public services, improvements in public service pay, improvements in social welfare and so on. Another €1 billion will be on the tax side.

We have also given a commitment that, in parallel with that, we will have a separate package of one-off measures that will be focused on the cost-of-living crisis that many families are facing. Not everyone is facing it but some families are and we acknowledge that. They need help. That is why, even outside of the normal budgetary cycle, we have made so many different interventions across this year, including a reduction in VAT on gas and electricity and a reduction in the excise duty on petrol and diesel. Both of those measures continue. The bullet payments on the fuel allowance, the reductions in public transport fares and reductions in the costs of medicines for families are just a few examples of what we have done outside the normal budgetary cycle.

We acknowledge that at this time of year there are extra pressures on families arising from the costs that need to be paid in July and August in the context of going back to school. That is why we have made this further very targeted intervention. These are time-sensitive costs. Waiting until the end of September in respect of these costs is not something we can stand over. That is why we have made an intervention that represents a significant investment, €67 million in total, by increasing the rate of the back to school clothing and footwear allowance to €260 for younger children and €385 for older children. That will benefit more than 260,000 children across over 150,000 families. In the budget, we also made a change to the eligibility criteria by matching the income test for single parents with that that applies to couples. That was an important change that expanded the availability of the allowance for single parents, who have to carry a lot of costs that they cannot share with a partner. We think that was the right move. In addition, we are waiving school transport scheme charges for the coming school year, which will save up to €500 for individual families. That will be particularly welcomed by families in rural Ireland, many of whom rely on the school transport scheme and who otherwise would be facing long journeys and commutes. We all know what the cost of fuel is like at this point in time.

Significantly, we are expanding the free school meals programme to all DEIS schools. In the most recent budget, we added about 300 extra DEIS schools to the programme and we are now extending the free meals programme to DEIS schools across the system, and the hot meals programme to DEIS primary schools. That means an extra 60,000 children will receive a hot meal in school. That is a very important intervention. We all know the value of ensuring children are properly fed so they can avail fully of the potential the education system affords them. This is an important intervention by the Government. Does it go as far as some people would like? Of course it does not. Will it offset all the costs? We never claimed it would. However, it will be of assistance to many thousands of families. These are targeted measures with regard to the back to school allowance and the extension of hot meals to children attending DEIS schools. They are very targeted measures which people will benefit from.

Deputy Mary Lou McDonald: The Government took its time listening to what is just plain common sense by making a move on these matters now in July and putting money in families' pockets when they need it and when it will count. I ask the Minister to take the next step. He is surely not saying to families who have €621 a week that they are home and hosed, and that it is plain sailing for them. We describe these families as middle-income families. It is not; it is a very modest income. As the Minister knows, these families cannot qualify for many of the State supports that others on lower incomes can qualify for. Is the Minister saying to these families that they are on their own? He cannot do that. I appreciate the need for targeted measures. The Minister has borrowed from our proposals and I want him to complete the journey. We proposed a targeted approach. We are with him on that. He has to address the fact that he has left substantial numbers of families and children struggling. I want him to extend this

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scheme to capture those 500,000 children, who need this. Regardless of the Minister not going far enough in the political discourse, this is about families, and I ask him to simply follow the logic of his own argument and do the right thing.

Deputy Michael McGrath: There are income limits associated with this scheme. The Deputy quoted the lowest one. It depends on the number of children a person has. Certain incomes are excluded from consideration and are not reckonable, including housing assistance payment, working family payment, rent supports and so on. The Deputy is now advocating for the very families she believes should be paying 50% income tax rates. These are families earning €700 or €800 per week. In the last budget, the Government gave an individual earning €700 a week an extra €400 and an extra €800 to a couple. I do not think the Deputy's newfound advocacy for these middle-income families will really fool anyone. Anyone looking at Sinn Féin's last pre-budget submission will see it did not propose a single euro of an increase in the back-to-school clothing and footwear allowance. I looked at the three emergency budgets proposed by Sinn Féin in the last weeks. There was no mention of back-to-school or back-to-education costs. Sinn Féin said the package was €1.3 billion, then suddenly it came up with another package of €160 million to tackle back-to-school costs.

Deputy Donnchadh Ó Laoghaire: It is within that envelope.

Deputy Michael McGrath: That is not going to fool anyone. The Government has adopted a coherent strategy.

Deputy Mary Lou McDonald: The Government has left those families behind. It is disgraceful.

Deputy Michael McGrath: This is an important intervention and we will do more in September when the budget comes.

Deputy Pearse Doherty: The Government has abandoned them.

An Ceann Comhairle: I ask Deputies to please calm down.

Deputy Mary Lou McDonald: We are perfectly happy.

Visit of Algerian Delegation

An Ceann Comhairle: I ask the House to welcome the Algerian ambassador, H. E. Mr. Mohammed Belaoura. He is very welcome to the House today.

Ceisteanna ó Cheannairí (Atógáil) - Leaders' Questions (Resumed)

Deputy Ivana Bacik: Families are being desperately squeezed by the cost-of-living crisis, especially the back-to-school costs that so many are facing. We saw a credit union survey this morning showing the cost per child being between €1,100 and €1,500. I spoke with a mother this morning who is budgeting for the school term ahead. She tells me that the cost of sending her two children to school this September has risen by €1,500 compared with this time last year. This is an enormous increase for any family. Amid rising costs of food, fuel, transport, child-care and housing, this price increase will have serious implications and ramifications for her

household budget and the budgets of many households across the country. The credit unions told us that about one third of families go into debt to pay the cost of being back to school. The mother I spoke with joked that between the cost of returning to school and other rising costs, her credit union's loans department will be on speed dial for the rest of this year.

There were welcome concessions from the Government on back-to-school costs last night but they are simply not enough. There was no radical move to introduce the free school books scheme that my colleague, Deputy Ó Ríordáin, proposed. It would cost €40 million but would make a significant difference to many families. There was no move to increase eligibility for the back-to-school allowance, which could be done with the stroke of a pen and would make a real difference. There was no move for real reform of the outdated school transport system either. We need a bigger vision with more substantive change. We have called for a real cost-of-living budget, not one which will introduce mere piecemeal reform. We welcome the date being brought forward, but as my colleague, Deputy Nash, said, it is really a token exercise, because it has only been brought forward by two weeks. We have called for more targeted measures to be introduced now to ensure that families and households have excellent supports as they go through that critical time when children go back to school. Instead, we see suggestions that the Government will introduce vote-winning tax cuts at the expense of real cost-of-living measures to support hard-pressed families and households.

Will the Minister avoid skirting round the edges and make real, substantive changes in the budget, based on a practical way of improving conditions for many families and households? We know the cost-of-living crisis is not an abstract concept. It is felt by households across the country, including households which had incomes which, this time last year, were sufficient and adequate to meet their household expenses and bills, yet they are now facing a desperate situation where they simply cannot afford and are dreading going back to school.

Minister for Public Expenditure and Reform(Deputy Michael McGrath): I would make the case that providing a free hot meal to a child in a DEIS school is real change. This Government has expanded the DEIS programme by the single largest amount ever, to include more than 300 schools. It is the right thing to do. Deputies have all issued press releases with the details of what schools in their constituencies were given DEIS band 1 and band 2 status in recent months, because they know the value of it and the benefits afforded to schools by being given DEIS status. They are given DEIS status because it is warranted. They accommodate children from communities which, in many instances, are disadvantaged, suffer from social deprivation and need extra help. This Government expanded the number of pupils in our school system who will get a free hot meal every day by 60,000. It is an important intervention that represents real change and makes a real difference to the lives of children and parents. We make the case that that is a radical intervention by the Government.

Similarly, school transport is provided for free to those who qualify. All ticket holders availing of the school transport scheme will not face any charge for the 2022-23 school year. In rural Ireland in particular, in the absence of a school transport scheme, parents could face a long commute when fuel costs are high to get their children to and from school. This measure will make a real difference for many families, providing up to €500. It can be spread between two payments, in July and November, but many parents try to pay it in July to get it done. They will not have to do so now.

We are changing the back-to-school clothing and footwear allowance. We acknowledge that it will not go far enough for many, but it is a genuine effort by the Government to help and

to make a difference. It comes on the back of all the other initiatives that we have taken since the last budget to address the cost-of-living crisis, which is not a crisis for everyone, but for many. We have been advised time and again that when we make interventions, they should be targeted at those who need it the most. I do not think anyone can argue that those who qualify for the back-to-school allowance are not those who need it the most. We are giving them extra help. In the budget, we expanded the eligibility criteria, especially for single parents, who will now have the same income test as a couple who are applying for the back-to-school allowance.

Deputy Ivana Bacik: We welcome any targeted interventions that will improve conditions and the situation for struggling families and households but it is simply not enough. There are families and households that had sufficient income last year who now require better, more urgent State intervention to support. As we see in Northern Ireland, the free school books scheme could make a real difference, as could reforms to the school transport system, which has many discrepancies.

We in the Labour Party have been standing in solidarity with the most hard-pressed, including section 39 workers and members of the Irish Wheelchair Association and its staff, who have not seen a pay rise in 14 years. This group needs additional supports to deal with the cost-of-living crisis and they need a pay rise. Ireland needs a pay rise generally. People need more money in their pockets at the end of the week in order that they can meet rising costs for many basic commodities, including housing. Will the Minister engage with section 39 organisations to ensure that their staff get a pay rise? Many of them have been doing much front-line work through the pandemic and continue to do so now but yet, they simply are not earning enough to meet the rising costs we are seeing as we come into the back-to-school season.

Deputy Michael McGrath: For any family looking at costs it feels it cannot meet and that currently is above the income eligibility criteria for the back-to-school clothing and footwear allowance, it should reach out for help to the Department of Social Protection. There is an additional needs payment available there and the cost of returning the child back to school is a qualifying cost. As the Deputy is aware, we have made changes to the eligibility criteria for that additional needs payment. People who are working full time can now qualify. Of course the Department will examine every individual case and this is what we would expect the Department to do. The Department has received a clear signal from the Government that these cases are to be looked at sympathetically, recognising the fact that people are facing extra costs at this time.

The Deputy also raised the issue of the industrial relations dispute. The workers concerned are not directly employed as public service employees, which I believe the Deputy understands and acknowledges. The State provides funding to the Irish Wheelchair Association, and many other section 39 organisations. It is for the employer and the workers to engage and use the industrial relations machinery that is there at the Workplace Relations Commission, WRC, to come to an acceptable agreement on pay. There have been increases in funding from the State to all of these bodies in recent years. It is a matter for the bodies themselves to manage that budget and to make pay arrangements with the workers concerned.

Deputy Richard Boyd Barrett: There are too many aspects to count in this Government's failure to deal with the cost-of-living crisis. Possibly, the worst of them all is the really catastrophic failure of the Government to deal with the housing crisis that is gripping this country. It is a housing "disaster", as Fr. Peter McVerry rightly put it. That failure means that we now have more than 10,300 families, including more than 3,000 children, who are homeless. There

are 120,000 families and households waiting on various housing lists. We also have the vast majority of young and middle-aged working people who simply cannot afford the housing costs they face.

Today we have had further evidence, in a report produced by the Economic and Social Research Institute, ESRI, that this housing crisis is inflicting incredible hardship on people now, being unable to pay the rents being charged and being unable to purchase homes. Moreover, the ESRI is now warning that the current generation of young workers and middle-aged workers are going to be put in a far worse position when they reach pension age than the generations before them. Even though the Government says it is in favour of home ownership, such are the house prices now that huge numbers of people will never ever be able to own their own home. The Government's own housing needs assessment for my area suggests that of the new households to be formed from now on, nobody in my area will be able to afford the house prices. Nobody. This means people will be prey to and trapped in a rental market when they become pensioners. When their income drops, they will be prey to the insecure possibility, even as pensioners, that they could be evicted.

This all comes on top of another ESRI report from just one month ago that stated the number of households in need of support from the Government to provide them with accommodation has increased massively, while the actual level of support has dropped. Whereas 47% of people used to get social housing eligibility or support, this has dropped to 33%, which is a massive stealth cut in housing support made available by the Government. Since last December the Government has sat on a report about raising the income threshold and has refused, despite promises, to give us the outcome of that report. What is the Government going to do in response to the ESRI reports? The ESRI is a Government-funded body. Will the Government listen to it? Will the Government immediately raise income thresholds for social housing support?

An Ceann Comhairle: The Deputy's time is up.

Deputy Richard Boyd Barrett: Will the Government finally bring in some rent controls to control rents so they are affordable? Will the Government start to deliver the social and affordable housing that means people who are working and struggling can afford a secure and affordable roof over their head?

Deputy Michael McGrath: I thank Deputy Boyd Barrett. As a Government, we do fund the ESRI, which does outstanding work. It is important that we have bodies such as the ESRI providing an independent analysis of what the Government is doing about the challenges we face as a country, and we take the output from the ESRI very seriously. The report's key conclusion is that interventions, including increased supply, increased direct provision of social housing, and measures that develop alternative non-market rental cohorts, such as cost rental, will be critical to lowering housing costs for future cohorts. I make the case that we as a Government are pursuing aggressively all of those avenues through the Housing For All plan. We are the Government that is prioritising home ownership. We are introducing new affordable housing initiatives. We will have the launch of the new shared equity first home scheme imminently by the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien. This will provide an opportunity for a lot of people to bridge the gap between what they can currently afford to borrow under market prudential rules and the amount they must pay for a home at this time. It seems to be only the Deputies on this side of the House who see this as an issue and want to help individuals and couples in that situation. In addition, the Land Development Agency, LDA, through its Project Tosaigh is identifying opportunities for development of so-

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cial housing, cost rental housing, and affordable housing. They are moving on site across the country across a range of different schemes.

We also recognise the importance of the fresh start principle, that there are many people who have gone through a divorce or legal separation or who have perhaps lost their home because of bankruptcy or an insolvency procedure. The Minister, Deputy Darragh O'Brien, has adopted this principle so that all of the affordable housing initiatives the Government is rolling out, and the local authority loan scheme that has been approved, are to be made available to people who need that second chance to purchase a home as well.

We are in the middle of the largest public housing programme in the history of the State. This is what the Government is doing. We have committed €4 billion of capital every single year for the next number of years to make sure that we increase the supply of all types of homes, but especially public housing and social housing, whether it is delivered by local authorities or by approved housing bodies. For the first time ever, cost rental housing is now coming on stream in Ireland. For the first time ever, affordable housing is now directly enshrined in stand-alone legislation, which only the Government parties in this House supported. We want to get away from the short-term rental supports. I agree with the Deputy on that point. When I look at what we are paying in housing assistance payments, HAP, which is a €585 million in the budget this year, with the rental accommodation scheme, RAS, costing €133 million and rent supplement costing €80 million, the best way to get away from that is to build homes for our people and that is what this Government is focused on doing.

Deputy Richard Boyd Barrett: Why has the Government not announced the details of the review on the income eligibility thresholds for social housing and social housing support, despite a promise that this would be done before the summer recess? I will tell the House why. It is because the Government is terrified of what it will show about social housing need in this country and the cost to the State. The LDA has been in existence for four years with not one single social or affordable house delivered. I repeat, it is not one single house from the LDA. The first one that will be delivered in my area is not due until 2024. Average house prices in Dublin are €509,000. One would need a salary of €150,000 per year in order to get a mortgage on a property like that. The Government's affordable housing schemes are linked to a discount on that absolutely obscene price. In my area, average house prices are €700,000. A whole future generation of young people and working people will never be able to own their own home and will be prey to obscene rents that are being charged of €2,000 and €2,200 per month.

An Ceann Comhairle: Please, the Deputy's time is up.

Deputy Richard Boyd Barrett: They will never be able to save and they will never be able to aspire to owning their own home. The Government has failed them completely and it will not even give these people eligibility for social housing support. It is obscene.

Deputy Michael McGrath: All of the Government's interventions help people to buy a home. The Deputy has opposed and stood against all of the policy decisions and legislation that the Government has brought forward to support people to buy a home, whether it be the help to buy scheme, the setting up of the Land Development Agency, which had to be put on a statutory footing-----

Deputy Richard Boyd Barrett: Which has not delivered one house in four years - not one.

Deputy Michael McGrath: It is now on a statutory footing and Government has approved

Shanganagh, for example, which will provide almost 600 homes.

Deputy Richard Boyd Barrett: The first house, six years later.

Deputy Michael McGrath: The Deputy has opposed all of the affordable housing initiatives, including the shared-equity first home scheme. He is great at the rhetoric. He comes in here and talks about helping people to buy a home.

Deputy Richard Boyd Barrett: How much will the affordable homes cost in Shanganagh?

An Ceann Comhairle: Deputy, please do not interrupt.

Deputy Michael McGrath: Every time the Government makes an intervention to assist people to buy a home, the Deputy stands against it. That is the reality. This is the only way of addressing this massive challenge that we face as a country. We acknowledge that for many people, home ownership now seems to be out of reach. We have to address that and bridge that gap. We do that through a massive public capital investment programme led by the State. The State is now leading on the housing market. This Government will stand behind that and make sure it is fully funded and delivered for the remainder of our term.

Deputy Joan Collins: The number of renters being obliged to leave their homes is staggering. Last year, 3,038 households renting were served a notice to quit, mainly because the landlord was selling. This is the highest number of tenant evictions to take place in a single year since the foundation of the State. The number of families facing eviction has continued unabated into this year.

Renters are living in fear and insecurity. They are terrified of losing their home and facing the impossible task of finding somewhere else to rent. A quarter of all children are growing up in an insecure private rental sector. That is 281,000 children. For a child, stability and security are fundamental to enable them to develop and grow.

I have two examples of families who came to my constituency office last week. There was a young couple with one young child who got the go-ahead to self-accommodate. The woman was on the phone ringing the hotels around Dublin city. Councillor Pat Dunne was on the phone to the family support unit. She eventually got a room that was available and the family support officer agreed. However, the hotel priced the room at €460 a night, without even breakfast. The officer refused to pay that amount of money and said it was above the amount they could afford.

Another woman with two teenagers will be homeless this week. Councillor Pat Dunne contacted the family support unit, which replied that the person had notified the unit last month. They were eligible for homeless HAP and the family support unit continued to say that she stated the need for two bedrooms. It advised that in emergency accommodation only one bedroom would be provided, if even one was available on the day, as its service was currently at capacity. There was no availability in the hubs. It had three other families on top of these cases, who were resorting to sofa surfing and outstaying their welcome. Families are splitting up children among friends or family. The numbers presenting are greater than the numbers leaving the system at the moment.

Given the prices and unavailability in hotels, bed and breakfasts and hubs, my fear is we will have families back sleeping in cars or going to Garda stations. We advise people who come into us before they actually leave to overhold if they have nowhere to go, and that is stressful in itself

for families. On the radio, one man said he was advised to go to a Garda station.

The housing crisis is scarring a generation of children. Hundreds of thousands of children are growing up in this country not knowing what is like to live in a stable, secure and safe home. In May of last year, official figures showed 928 families and their 2,148 children were homeless. In March of this year, that number rose to 2,811 children, which is a 37% increase in homeless children.

It beyond time for a real housing emergency response from the Government. One major response is the reinstatement of the eviction ban for two years and, at a minimum, to introduce a rent freeze. How does the Government propose to support these families and resolve the crisis, not in the future, but now?

Deputy Michael McGrath: I thank the Deputy for raising the issue. She highlighted a number of individual cases that underline a real crisis for those individuals and families. If she wants to provide the details of those individual cases to the Minister, Deputy Darragh O'Brien, I have no doubt that he will follow up. While the emergency accommodation system is undoubtedly under strain, emergency accommodation will be found for people who really need it.

The real answer for us as a country is to build more public housing. That is what we are back to doing now at scale as a country. There will be about 9,000 direct build social houses this year by our councils and approved housing bodies. That is what will help to provide permanent homes for people who are currently on the housing list and in some cases, unfortunately, are in emergency accommodation because they are effectively homeless. It is an absolute priority for the Government to address that issue. The availability of hotel accommodation at this time, as we all know, is under strain due to various reasons, including the fact that we have accommodated a very large number of refugees who have come to our country fleeing war, which is the right thing to do, and we have obligations to them as well. However, it has placed the system under pressure. There can be no question about that. We are working very closely with a whole range of service providers in this sector. We are providing much funding to different service providers to ensure that people who are in real need are afforded accommodation into the future.

The key thing is to make progress on the supply of new homes across all of the different types, because that is ultimately the best way to relieve some pressure in the system. If we are building more homes and we have a flow of people going from one type of tenure to another, for example, if people on the list are receiving a council home, which are being built now at record numbers, that frees up capacity within the current emergency accommodation system for people who currently do not have accommodation.

We fully understand the scale of this challenge, which for so many people – the more than 10,000 in emergency accommodation - has reached a real crisis point. It is our priority to address that by increasing supply and providing the support from the Exchequer to all of the service providers, local authorities, approved housing bodies and the LDA to provide more cost rental, affordable purchase and social homes. We are making progress on that front. The Minister, Deputy Darragh O'Brien, will be laying out again in the days ahead further steps on affordable housing initiatives.

Deputy Joan Collins: These families are facing this crisis now. People are walking into our constituency office, and I am sure every other Deputy is seeing that in his or her constituency office, with notices to quit and all sorts of housing problems. They have been told by the

family support and emergency accommodation units that they are at capacity - they do not have anywhere to put them.

Either the Government gives a direction to the family support unit to pay whatever the hotels want or demand for accommodation or it suddenly gets vacant housing on board tomorrow. This situation is here and now. It cannot wait until houses are built in two or three years' time.

In our area we are waiting for housing to be built in St. Michael's Estate. That was raised in 2019 and we are still waiting for bricks to be put down on the ground. When the Minister talks about future housing, he is talking about in the future. There is a crisis now in emergency accommodation. The Government needs to address it before it gets worse.

Deputy Michael McGrath: It will be addressed. We acknowledge the strain that is there in relation to the provision of emergency accommodation at this time. I attend all of the housing Cabinet committee meetings where we go into detail on all of the strands of this. The Government is working collectively, using every resource available to us to make sure that accommodation generally is made available to meet all of the needs that are there. If people need emergency accommodation, they will get the support they need.

As I said, we are providing a huge amount of support through short-term rent supports. We want to move away from that because we want people to have security of tenure and we want the State to be getting better value than paying hundreds of millions of euro in short-term rental supports.

We have to acknowledge that the dearth of rental accommodation is in part because of the number of landlords who have been leaving the system. We have to ask ourselves collectively why it is the case that thousands of landlords are making the decision at a time of high rents-----

Deputy Richard Boyd Barrett: Buy the properties.

Deputy Joan Collins: Buy them.

Deputy Michael McGrath: -----to get out of the market. Those are questions that need to be answered as well because we need an adequate supply of rental accommodation, which currently is falling. It falls to us in this House to make decisions that ensure that is a continued adequate supply of rental accommodation in the private sector. It is an important part of the overall system.

Deputy Richard Boyd Barrett: Let us have the debate before the summer recess.

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

An Ceann Comhairle: As we move to Questions on Policy or Legislation, can we please adhere to the maximum one minute per question and one minute per answer?

Deputy Mary Lou McDonald: Everyday, people are asking themselves after a decade of Fianna Fáil and Fine Gael botched policy that favoured private developers and landlords, how is it that in the face of a crisis like no other in housing we are subjected to the same banal rhetoric we have had to listen to for the last ten or 15 minutes. The Minister should ask himself how we have record house prices, record rent levels and record homelessness for families, single

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people and children. Despite his assertion to the contrary, he should ask himself how we find ourselves almost in quicksand. The Government is making beggars of people, of our young, of our families, of our older people-----

An Ceann Comhairle: The Deputy's time is up.

Deputy Mary Lou McDonald: -----for the honour and glory-----

An Ceann Comhairle: The Deputy's time is up. I am afraid we have just one minute per question.

Deputy Mary Lou McDonald: -----of a roof over their heads. Yet, we come in here-----

An Ceann Comhairle: Please, Deputy-----

Deputy Mary Lou McDonald: -----week in and week out and listen to this rubbish from a Government that is failing. I ask the Minister the direct question.

An Ceann Comhairle: Can you adhere to the time please, Deputy?

Deputy Mary Lou McDonald: In the face of the ESRI report, which is just the latest evidence of this catastrophe, does the Government still contend that it is getting it right because it very clearly is not?

An Ceann Comhairle: I have to say that Deputies who will not adhere to the time limit are being disorderly.

Minister for Public Expenditure and Reform (Deputy Michael McGrath): Perhaps if the Deputy adopted a more supportive and less obstructive position when it comes to the initiatives the Government is bringing forward to provide homes for our people, we might be in a better place.

Deputy Mary Lou McDonald: Big bucks for developers.

An Ceann Comhairle: Please let the Minister answer.

Deputy Michael McGrath: Every single major initiative the Government has brought forward the Deputy has sought to block, frustrate and obstruct. You do not want people to be in a position to buy homes. It suits the Deputy politically for the housing crisis to continue.

Deputy Pádraig Mac Lochlainn: Wrong.

Deputy Michael McGrath: It does and you will seek to make maximum political advantage out of it.

Deputy Mary Lou McDonald: The Government has failed.

Deputy Michael McGrath: That is the only logical reason why she comes into this House-----

Deputy Mary Lou McDonald: The Government has failed.

Deputy Michael McGrath: -----consistently to oppose every positive measure the Government looks to bring in to ease the housing challenge. That is the only conclusion I can reach.

Deputy Mary Lou McDonald: Like Croí Cónaithe and €140,000 for developers.

Deputy Ivana Bacik: We know that there is a housing crisis, indeed a housing disaster. We know from today's ESRI report that there is a particular crisis for those who are renting and for those who are now facing the bleak prospect of having to rent at increasingly unaffordable levels right into their older age and therefore face no security of tenure, no security of accommodation. The ESRI report is just the latest in a litany of Government failure on housing. Will the Minister commit to adopting Labour's renters' rights Bill that we proposed constructively last September to provide greater security of tenure to those renting, better conditions for renters and a three-year rent freeze? Will the Government agree to look again at Senator Moynihan's proposal for a rent-to-buy scheme which would constructively seek to address the real needs of those who are facing an old age of renting in an insecure rental market where it is increasingly difficult to find anywhere to rent, let alone anywhere affordable?

Deputy Michael McGrath: The Government has brought in six different rental Acts since coming into office two years ago. We have capped rent increases in rent-pressure zones to 2% per annum. All new tenancies created on or after 11 June this year will become tenancies of unlimited duration after six consecutive months in occupation under the tenancy. Ultimately, the only answer here is for us to build enough homes to ensure that people have options, including cost-rental and affordable purchase, with those who qualify able to get access to a social home. That is what the Government is focused on doing. We can introduce more legislation to restrict rights of landlords and make it more difficult for them to secure vacant possession and sell a home, but more landlords will leave the market and the situation will get worse. There is a balance to be struck here to ensure we have an adequate supply of rental accommodation in the private market.

Deputy Gary Gannon: There is a myth of free education in this country. Yesterday's measures were an acknowledgement of that. They were driven by the level of fear and anxiety from parents contacting all of our offices including the Minister's talking about their dread over the cost of their children returning to school in September. It was estimated that €236 million would provide a fully free primary and secondary education in this country. It would alleviate the fear of the cost of schoolbooks and the voluntary contribution that sees a kid going home from school in October with a note in the bag saying that the parent has not yet paid it. Will the Minister commit to spending €236 million for free primary and secondary education in the budget to truly offset the fear of the return to education? For some it is a cost-of-living crisis. For others it is a cost of survival. That €236 million would go a long way to offset that.

Deputy Michael McGrath: By any objective measure we have made positive developments in education policy over the last couple of years at primary level through successive reductions in the pupil-teacher ratio, the single largest expansion of DEIS places in the history of the State and now an increase in the back-to-school allowance. We now have over 19,000 special needs assistants, SNAs, thank God, and it is the right thing to do. Almost 1,000 extra special education teachers have now been funded and will be appointed for the coming school year. We need to try to meet all the needs that exist across the board and that is before we talk about housing, on which we have just had a long exchange-----

Deputy Gary Gannon: It would take €236 million.

Deputy Michael McGrath: -----or about healthcare policy.

Deputy Gary Gannon: The Government can provide €450 million for developers.

Deputy Michael McGrath: We need to ensure we have adequate resources to make progress on all those issues. We have made real progress on education policy, including with the decisions we made yesterday.

Deputy Richard Boyd Barrett: Because of the Government's failure to address the cost-of-living crisis, the Cost of Living Coalition will hold another protest outside Leinster House next Wednesday before the summer recess and a further protest before the budget on 24 September. If there were not already enough good reasons for those protests, the exceptional needs payment, which the Government has been trumpeting as the solution if people are in difficulties, provides another reason to protest.

A senior citizen came to me yesterday. On foot of all the propaganda about the exceptional needs payment she went to the community welfare officer to replace a 15-year-old broken cooker which would cost about €350. The community welfare officer told her she needed to get an engineer's report to certify that the cooker was actually broken which would cost her about €100, if she could get one. That is outrageous.

Deputy Michael McGrath: The Deputy has raised a specific case. To be fair, I do not have all the facts of that case. The exceptional needs scheme is there to support people for one-off costs like that. I am surprised to hear what he has said. We will ask the Minister, Deputy Humphreys, to look at that if he can provide the details because it sounds like an excessive, inappropriate response. That person should be looked after.

Deputy Cathal Berry: I very much welcome the Government's announcement some months ago about the €1,000 Covid bonus payment. The Government is going to extend it to members of the Defence Forces. The Minister might not be aware that not a single soldier, sailor or flight crew member has received that €1,000 bonus payment yet. Worse still, not only have they not received it, but they have not even applied for it because no mechanism exists to apply. I would be grateful if the Minister could look into this and follow it up with the appropriate line Minister.

Deputy Michael McGrath: I will look into that further. To date almost 62,000 HSE staff have received the payment as have an estimated 14,000 staff in section 38 organisations. Over 75,000 people have been paid to date. When it comes to those who are not directly employed by the State, including those in private nursing homes, hospices as well as members of the Defence Forces who are employed by the State but not by the HSE, the Department of Health is working with the parent employers to put in place a process for that payment to be made as quickly as possible. I will ask the Minister to respond to the Deputy.

Deputy Mattie McGrath: Last Sunday I was at the very successful Clonmel Agriculture Show. I met many farmers whose combine harvesters were oiled and greased ready to start harvesting what looks to be a very promising harvest, thankfully. All we need is the weather. Those farmers who are planning on cutting and harvesting their crops have no idea of next year's requirements under the new Common Agricultural Policy, CAP, proposals. Neither the Irish Farmers Association, IFA, nor anybody else can tell them. When will they know? The day they cut the corn, bale and take the straw off the fields is the day they need to start sowing winter wheat, barley and everything else for next year. Why is there a delay? Why are we trying to hound our farmers out of business by means of frustration and the imposition of punitive

measures? They do not even know what they are supposed to do as regards next year's planting season, what they can grow and what measures they must adopt and adapt to. This is totally unfair to farmers. It is time the Government respected the agricultural industry for what it is, namely, the primary industry in this country.

Minister for Agriculture, Food and the Marine (Deputy Charlie McConalogue): The Deputy is referring to the CAP rules for next year. We are engaging with the European Commission in terms of getting our national CAP plan adopted by the Commission. No country's plan has yet been adopted. I am very hopeful that Ireland will be one of the first to do so because of the really good progress we are making. This will bring the clarity that is required. Supporting the tillage sector and tillage farmers is a key priority of the Government. Last year, for the first time ever, I introduced a strong co-operation measure that is now programmed into the next CAP, will be there for the next five years and will pay €10,000 to each tillage farmer with 100 acres.

Deputy Mattie McGrath: And we know what they can do. They want to work.

Deputy Charlie McConalogue: We also introduced the tillage incentive scheme this year. This pays €400 per hectare for each additional hectare of tillage grown. We will see 200,000 extra tonnes of grain grown as a result of that. This is a reflection of how this Government is backing tillage farmers in this country.

Deputy Mattie McGrath: Tell them what they can do.

Deputy Charlie McConalogue: Part of that will involve bringing clarity on the CAP plan for next year as soon as possible.

Deputy Michael McNamara: The CRH share price is remarkably stable and is outperforming other share prices on the ISEQ index. Is this anything to do with the fact that we are going to pass a Bill in this House this week - it is going to be guillotined - that will transfer all the cost of all the remediation of all the dodgy dealings in quarries for decades in Ireland to the Exchequer? There will be no come back. The Minister for Public Expenditure and Reform has to balance that cost with the cost of providing badly needed funding for University Hospital Limerick, childcare, a matter raised by Deputy Gannon, and many competing needs in our State. Is he happy that the quarries that provided the dodgy materials for profit are going to get away scot-free and that the Exchequer is going to carry all of the cost one more time.? That cost will be will be landed on the Exchequer and off we will go on our holidays. Does the Minister think this is okay?

Deputy Michael McGrath: In the immediate sense, our priority is to get the scheme up and running, and to legislate to ensure that we can start getting homes remediated and rebuilt under what is a much improved scheme. The Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, has appointed a senior counsel to examine the issues raised by the Deputy.

Deputy Michael McNamara: You need to talk about it.

Deputy Michael McGrath: There has to be accountability in respect of the root cause of this issue. The State will do whatever it takes to pursue anyone responsible for what will end up being a very large cost on the Exchequer. The State will explore every avenue to seek recompense in respect of that. In the immediate term, our priority is to get the scheme up and running

and get work done on homes. We will pursue that issue to the end.

Deputy Michael McNamara: That is not what the Bill does.

Deputy Brendan Smith: The Minister will recall that on many occasions in the House and in correspondence I have raise with him the need for the PEACEPLUS programme to be operational as soon as possible. I compliment him on his role in securing €1.1 billion for this North-South programme over the next number of years. We need to build on the good work of the PEACE and INTERREG programmes. These programmes brought much-needed investment, in both social and economic terms, to many disadvantaged communities in the Border region and Northern Ireland. Over the years, I have been privileged to work with many community groups throughout Cavan and Monaghan and statutory agencies locally, which have provided many worthwhile facilities and services arising from that investment. This has been replicated throughout the northern half of our country. Many of the groups need this funding in order to continue programmes that are bringing real benefits to different communities, many of which both North and South have been disadvantaged over the years. I have received queries from groups in my constituency and outside our jurisdiction that are anxious to have some certainty about the timeframe for rolling out this very important programme where €1.1 billion will be invested in communities.

Deputy Michael McGrath: I thank the Deputy for raising the PEACEPLUS programme and acknowledge his consistent advocacy for this very exciting programme, in respect of which over €1.1 billion has been allocated. It was approved by the Governments, North and South, in the autumn of last year and was submitted to the European Commission in March. Work to finalise the financing agreement for PEACEPLUS between the EU, Ireland and the UK is at an advanced stage. All parties are aiming to reach an agreed text in July. The formal launch of PEACEPLUS is anticipated for the autumn. We need to see the approval by the Commission of the PEACEPLUS programme. We are expecting that in the near future and, hopefully, all will be set for a launch in the autumn. A lot of advance work is happening pre application. Support is being put in place by the special EU programmes body and the local authorities in the North and along the Border counties to make sure groups are ready to go with their applications.

Deputy Marc Ó Cathasaigh: I see from media reports yesterday that the Commission on Taxation and Welfare has completed its work and submitted its report, which presumably sits on the Minister's desk at the minute. Again from media reports, I see that it has identified the upcoming hole in the finances that will be caused by decreasing motor tax revenues in the future. It also apparently includes a consideration of site valuation tax. What is the likely timeframe for that report being made more widely available to the public? Will the recommendations it contains be considered in the context of the upcoming budgetary process?

Deputy Michael McGrath: The Commission on Taxation reports to the Minister for Finance, Deputy Donohoe. I am not sure if it has been completed, but I can check. My understanding was that it will be later in the autumn and into the winter. I certainly saw a reference to November of this year being the expected timeline for completion and publication of that report. It may be the case that some or all elements of the report will be available before the budget and can feed into the budgetary process, but I cannot confirm that today.

Deputy Claire Kerrane: Yesterday, researchers from NUI Galway launched the 2022 edition of the local authority finances website. It shows that Galway County Council has a budget of under €144 million for this year, which is equivalent of €802 per person in Galway. If you

look at the counties surrounding Galway, you can see that Mayo has a budget of the equivalent of €1,256 per person, Clare has a budget of €1,167 and Tipperary has a budget of more than €1,200. Galway is bigger than all of these counties and has a population that is far greater. The most recent census shows that 258,000 people live in the county. The policy makes no sense. Galway is the second largest county in Ireland, yet it is at the bottom of the table year on year when it comes to central Government funding. Despite my raising this matter numerous times, nobody can tell me why. It is towns like Ballinasloe and villages from Ahascragh to Ballymoe and the people who in County Galway that are losing out. They do not have the budget to do what they need to do in respect of housing, water and roads. This issue needs to be addressed. This situation does not make any sense and it is affecting staff numbers. Can the Minister look at this?

Deputy Michael McGrath: It has been generally acknowledged by local authority executives and members throughout the country that the Government looked after them well over the course of Covid-19. I include Galway City Council and Galway County Council in that. This was the right thing to do. There was full compensation for rates waivers. Even though local authorities do not always collect 100% of rates, they were refunded 100%. All of this underlines the need to have a sustainable revenue source, including the local property tax, which the Deputy and her colleagues oppose. Taking that away would further erode the revenue base local authorities have.

The Deputy raised a specific issue relating to Galway. I will ask the Minister for Housing, Local Government and Heritage, who is in charge of the allocation of funding across local authorities, to come back to her directly.

Deputy Kieran O'Donnell: The 20% reduction in public transport fares is a great initiative. However, there are unintended consequences in terms of private operators' routes. Route 307 goes to the University of Limerick and covers Castletroy College, while route 308 covers Groody Road and Ballysimon. Dublin Coach has announced that it is pulling that service effective from close of business on Friday. I very much welcome the 50% reduction that has been given across all operators. Has the Government considered the 20% reduction to all operators? The National Transport Authority made a pre-budget submission to the Department of Public Expenditure and Reform looking for €2 million to €3 million to deal with situations where routes are being discontinued by private operators because they are not public service obligation, PSO, routes.

1 o'clock

This is an extremely important issue for Limerick and Castletroy.

Deputy Michael McGrath: I thank the Deputy for raising this issue and for welcoming the reduction in public transport fares. The purpose of that initiative is to support PSO public transport every day throughout the country. That is the way in which it is being applied. We have, over the course of Covid, provided additional support to the private transport sector. I will ask the Minister for Transport, Deputy Eamon Ryan, to respond directly to the Deputy on this specific example he has raised in respect of the private sector.

Deputy Chris Andrews: DEBRA Ireland, an advocacy group for epidermolysis bullosa, EB, or butterfly skin, made its pre-budget submission in Buswells Hotel last week on behalf of the families of those who are living with EB. Emma Fogarty and Liz Collins made a power-

ful presentation on the difficulties and challenges that they face day in and day out. They have three asks in respect of the budget. The first is to create a ring-fenced fund for home nursing care for children and adults with EB. The second is to fund an EB outreach nurse. The third is to fund the clinical psychologist for those living EB. Will the Minister give consideration to their very modest request in the context of September's budget?

Deputy Michael McGrath: I have not yet seen that particular pre-budget submission. The way the process works is that over the coming weeks I will sit down with my colleague, the Minister for Health, Deputy Donnelly, as part of the Estimates process to agree on a settlement for health for 2023. Then, the more micro-decisions relating to the allocation of funds all of the different strands of healthcare will be made by the Minister, in line with the programme for Government priorities and with Government policy. I suggest that Deputy Andrews make the case directly to the Minister for Health.

Deputy Michael Healy-Rae: The Minister recognises that County Kerry is definitely the tourism capital of Ireland. That is an undisputed fact. Yet, we have a problem at the moment, which is workers. Businesses, in particular, small businesses in our tourism sector, such as in pubs, restaurants, shops and hotels have a difficulty. I am sure that difficulty is probably reflected throughout the rest of the country, but I am talking about County Kerry. It may be the cost of going to work that has gone wrong or it may come down to the availability of workers, but we have a situation that I have never seen before. Excellent places that provide an excellent service are now, instead of being open seven days and seven nights, open for three nights or four nights, because they cannot get staff for the other nights. I respectfully ask the Minister and the Government what, if anything, can be done to try to rectify this and put it right. It is a shame to think of businesses that can provide a good service not being able to do so because of a lack of workers.

Deputy Michael McGrath: I assure the Deputy that this is an issue all over the country, and not just in the Kingdom of Kerry. There are staff shortages across a range of sectors. The unemployment rate is now less than 5%. This was confirmed again earlier by the Central Statistics Office. That is good news, but it does create challenges. We are looking at this in the context of different initiatives, such as, for example, the critical skills employment permit. We have dedicated many extra resources there. Applications are now being turned around in under six weeks. That is a major improvement on where we were recently. We are now allowing students to work for extra hours in the summer, and this will not come against them in relation to their Student Universal Support Ireland grants. I have asked my officials, working with their counterparts in other Departments, to identify the blockages in the system that might deter people from taking on extra hours or that might prevent them from taking up jobs. It should be the case that work always pays. Doing more work should always pay. There are issues there in the system that do not always lend themselves to that objective. I have asked that some work would be done to examine those issues quickly.

Deputy Cathal Crowe: All politics is local. Please forgive me for raising an issue related to my local GAA club, Meelick GAA club in south Clare. I played with the club, very poorly, for many years. The club has put a request before the Minister's Department to purchase a piece of State-owned land located at the rear of its stand. This land is not being used for any purpose. It is rough pasture. There was a donkey on it the last time I was down there watching a match. Can the Minister please sign off on the proposal? They want to buy it. They are not looking for a gift. It is with the Department, and the club submitted maps in the springtime. It is not an overly complicated case. The club are really hoping for some good news from the

Minister's Department this summer and from the OPW.

An Ceann Comhairle: Can the Minister guarantee that the donkey will not be evicted?

Deputy Michael McGrath: There will have to be another home him anyway.

Deputy Cathal Crowe: That is an awful thing to say about a GAA player.

Deputy Michael McGrath: I thank the Deputy for raising the issue on behalf of Meelick GAA club. I will look into the issue with the OPW. In general, where State land is adjoining an existing sports club that has ambitions around expansion, and if there is no other intended use for the land, the State, in principle, is supportive of disposing that land, either by a means of a freehold agreement or long-term lease to such a club in order that it can improve on their facilities. I will look into the specific case.

Deputy Paul Murphy: It has been almost two weeks since a horrendous tragedy unfolded at a EU border between Morocco and the Spanish enclave of Melilla, where close to 40 refugees fleeing war and persecution were killed. Some of them were crushed up against the border fences. Others were beaten to death by members of a border force of Morocco that is funded by the European Union. This is a graphic illustration of the two-faced and racist policy of fortress Europe. I asked the Taoiseach about this matter last week. I asked him to condemn the killings and to call for an independent investigation. He did neither of those things. He did not even express condolences with those who were killed. Instead, he accused me of being a propagandist for raising this issue. Since then, the UN Secretary General has made a statement about the matter in which he indicated that he was shocked by the killings and he opposed the excessive use of force. I want to give the Government another chance to oppose the killings, to criticise the killings that happened, to express its condolences and to support the call for an investigation into how this happened.

Deputy Michael McGrath: I do not know all the facts relating to that incident, but of course we convey our condolences to those who have been bereaved. We condemn all violent acts that lead to people being killed. I cannot go beyond that because I do not know all of the facts relating to this terrible incident in which so many people lost their lives. I will ask the Minister for Foreign Affairs, Deputy Coveney, to reflect on what Deputy Paul Murphy has said and come back to him with a formal Government position.

Deputy Johnny Guirke: I want to raise the issue of Our Lady's Hospital, Navan. Following recent developments, 17 consultants wrote to the Minister for Health to voice their concerns about the potential closure of the emergency department in Navan. They stated that they would not be able to cope. They said the hospital will not be able to provide the right care for patients at the right time or in the right place. They proceeded to say that the transfer of risk from the emergency department in Navan to an under-resourced hospital in Drogheda will lead to poorer clinical outcomes for patients. Last month, nearly 10,000 patients left emergency departments across the State without being seen, presumably because they were left waiting too long. More than 630 of those people left the emergency department in Drogheda. This was the second highest number in the State. How can the hospital cope with more with more patients? I ask the Government and the Minister for Health to put resources in place, to stop constantly cutting and chipping away at services in Our Lady's Hospital, Navan and to protect and enhance services that are already there. With the emergency situation throughout the country, it makes sense to do that.

Deputy Michael McGrath: I thank the Deputy for raising this issue. I assure him that the Government has provided the resources to the HSE to address this issue. There will be no change to the services provided at Our Lady's Hospital, Navan, until such time as the HSE can establish that Our Lady of Lourdes Hospital in Drogheda and Connolly Hospital Blanchardstown have the extra capacity to deal with the inevitable increase in the number of patients presenting. No decision regarding the HSE's proposal for a transition of the emergency department in Navan has been agreed by the Minister or the Government at this point.

Deputy David Stanton: We are all aware of the pressure on gas supplies in Europe. As winter approaches, this will probably get worse. The oil and gas strike in Norway is thankfully over, but it shows how precarious our one connection to Scotland is. We have no contingency for gas supplies or for gas storage. We depend on it to cook our food, heat our homes, power our industry and generate electricity. Many reports over the last week from experts have shown concerns about this. Does the Minister agree that it is premature to decommission the Kinsale gas pipeline and the Inch offshore terminal? Could the latter not be used, for instance, as floating liquefied natural gas facility in order to provide energy support during our transition to renewables? Will the Government move to stop that decommissioning straight away?

Deputy Michael McGrath: As the Deputy is aware, we are not directly dependent on a supply of gas from Russia. We get approximately 25% to 30% of our domestic needs from the Corrib. The balance comes in through interconnectors from the UK and Norway. We acknowledge the important role that gas is going to play into the future as both a transition fuel and a backup fuel. Any decision about future policy and about particular facilities should best be made in the context of the energy security review which the Minister, Deputy Ryan, is currently leading. I expect that will come to Government in the coming months.

An Ceann Comhairle: We are out of time. We will, therefore, take 30-second questions from the three remaining Deputies.

Deputy Thomas Pringle: The national review of specialist cardiac services was established in 2018 and is due to report soon, according to Minister for Health. He has been saying this in response to parliamentary questions since the start of the year, however. The terms of reference say that the review is, among other things, to ensure that patients have access to a service based on clinical need rather than geographic location. It is imperative that this is recognised in any recommendations in order that County Donegal will not be left behind. I ask the Minister to make sure the Minister for Health ensures that is based on geographic location.

Deputy Rose Conway-Walsh: Nearly 1,000 people between Castlebar and Athenry who are participating in the rural social scheme and Tús scheme gathered in rooms in the last number of weeks. I acknowledge that Deputy Calleary is also meeting with a group today on the same issue. There are things that need to be sorted.

Will the Minister ask the Minister for Social Protection, Deputy Humphreys, to engage meaningfully with supervisors to implement the very simple changes that are needed? Supervisors' pay has not been reviewed since 2008. We are also giving a top-up of €22.50 per week to these participants. It is a crazy situation. We need to widen the eligibility. The Minister for Social Protection needs to sit down and discuss this further with stakeholders.

Deputy Neale Richmond: As the special joint Committee on International Surrogacy reaches its conclusions, will the Government accept its recommendations? Will the Govern-

ment amend the Health (Assisted Human Reproduction) Bill 2022? More importantly, will the Minister lay out a timetable for the many families, many of whom are outside the gates at the moment, to ensure that they can be seen as truly equal in the eyes of the State as soon as possible?

Deputy Michael McGrath: With regard to Deputy Pringle's question, my understanding is that work is ongoing with regard to the review of cardiac services, which is being led by Professor Philip Nolan. The timeline was impacted by Covid-19 but it is expected to be completed shortly.

I thank Deputy Conway-Walsh for raising the issue of these very important schemes. The Minister, Deputy Humphreys, is examining that issue and has engaged with stakeholders. She will come back to the Deputy further in relation to that issue.

Deputy Richmond raised the issue of international surrogacy. As the Deputy knows, a special committee was established by the Oireachtas to examine this and related issues. Once that work has been concluded and a report brought to Government, we will consider the outcome.

Committee on Standing Orders and Dáil Reform: Motion

Minister of State at the Department of the Taoiseach (Deputy Jack Chambers): I move:

That, notwithstanding the Order of the Dáil of 16th December, 2020, the sequence in which Leaders shall be called upon to put questions between 12th July, 2022, and 8th December, 2022, inclusive, pursuant to Standing Order 36(*ca*), shall be in accordance with the rota contained in the report of the Committee on Standing Orders and Dáil Reform dated 5th July, 2022, entitled "Rota for Leaders' Questions pursuant to Standing Order 36 from 12 July to 8 December 2022", a copy of which was laid before Dáil Éireann on 5th July, 2022.

Question put and agreed to.

Cuireadh an Dáil ar fionraí ar 1.13 p.m. agus cuireadh tús leis arís ar 2.13 p.m.

Sitting suspended at 1.13 p.m. and resumed at 2.13 p.m.

European Parliament and Council Directive on Protecting Persons who engage in Public Participation: Motion

Minister of State at the Department of Further and Higher Education, Research, Innovation and Science (Deputy Niall Collins): 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 Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court

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proceedings (“Strategic lawsuits against public participation”),

a copy of which was laid before Dáil Éireann on 30th May, 2022.

On behalf of the Minister for Justice, Deputy McEntee, I thank the Ceann Comhairle for facilitating this motion. Deputies will be aware that the prior approval of the Oireachtas is required under Article 29.4.7° of the Constitution if Ireland wishes to take part in an EU measure whose legal base falls under Part 3, Title 5 of the Treaty on the Functioning of the European Union, TFEU. The proposed measure before the House today has its legal base under Title 5 and, therefore, it requires such approval. The proposal is for an EU directive on minimum common standards in member states to protect individuals and bodies, particularly journalists and human rights defenders, against the type of manifestly unfounded or abusive court proceedings commonly known as strategic lawsuits against public participation, SLAPP.

The proposal, which was first presented by the European Commission on 27 April 2022, forms part of a number of initiatives by the European Commission to reinforce the application of the Charter of Fundamental Rights of the European Union and to strengthen protection for democracy and the rule of law at EU level. It responds to increasing concerns expressed by the Council of Europe, the European Parliament, the European Commission and NGOs across Europe concerned with press freedom and the protection of human rights about the rising threats to democracy and human rights, particularly in physical and legal threats to media freedom and the safety of journalists. A particular concern has been the SLAPP actions. The proposal defines “SLAPP” as manifestly unfounded or abusive court proceedings brought against those engaging in public participation on matters of public interest in order to deter them from such participation. The objective is less to reach a determination of the main proceedings than to threaten, exhaust and silence the defendant by using procedural strategies such as artificially inflating legal costs, maximising delays, threatening the defendant with exorbitant penalties, making unfounded accusations or issuing multiple proceedings in different jurisdictions.

The proposal explains that the characteristic purpose of SLAPP proceedings is not to seek access to justice, but rather to close down the freedom of expression and the information that is essential in a democracy. SLAPP actions are therefore seen as not only a threat to the defendant but also an abuse of court time and resources and a potential threat to democracy, fundamental rights and the public interest. Obviously, the proposed directive will have to strike a careful balance between the right to freedom of expression and information in the public interest and the rights of access to justice and to an effective remedy. It is important to underline that, under the proposal, whether a particular set of proceedings amounts to SLAPP would remain a decision for the national court. The purpose of the proposed directive is rather to ensure that every member state provides a minimum common toolbox of procedural safeguards to their judges and tribunals in order to protect defendants across the EU against such actions and to prevent these abusive actions from developing and proliferating.

I will outline the main minimum procedural safeguards that are proposed. First is the provision for SLAPP defendants to seek early dismissal of proceedings as manifestly unfounded. In that application the burden of proof falls on the SLAPP plaintiff to show that the action is not manifestly unfounded. If the defendant seeks early dismissal, the main proceedings must be stayed until a final decision is made on the early dismissal application, which must be treated as an accelerated procedure.

Second is the provision for an SLAPP defendant to seek a court order that the SLAPP plain-

tiff provides advance security for the defendant's costs, for example, that the plaintiff lodges money in the court if the court considers that appropriate due to elements indicating abusive proceedings.

Third is the provision that the court may accept third party intervention in the SLAPP proceedings by specialised NGOs on behalf of the defendants. The role of the NGO may be either to provide support to the defendant or to provide relevant information to the court.

Fourth, if the court or tribunal concludes that the proceedings are abusive, it must have power to impose effective, proportionate and dissuasive penalties on the SLAPP plaintiff and to order that the plaintiff bear the full costs of the proceedings. These should include the full costs of legal representation incurred by the SLAPP defendant unless such costs are excessive. Any SLAPP defendant who has suffered harm as a result of the proceedings must be able to claim and obtain full compensation for that harm.

It is proposed that the courts and tribunals in any member state would also have the power to refuse to recognise or enforce the judgment of a non-EU state, if it arises in proceedings which, under the law of the member state, would have been considered a SLAPP. Member states are also required to ensure that if an abusive action is brought in a non-EU country against a defendant domiciled in a member state, that defendant may seek compensation in his or her member state of domicile for damages and costs incurred in the third-country proceedings, irrespective of the SLAPP plaintiff's country of domicile.

Many of these procedural safeguards are already, to a greater or lesser extent, available in our own legal system. It is important to note that the proposed directive is limited to matters of a civil or commercial nature. It does not cover any criminal proceedings. In addition, the proposed directive to apply the proceedings in accordance with the treaty legal base must have cross-border implications. Under the proposal, these are taken to exist where either or both of the parties are not domiciled in the same member state as the court seized of the proceedings; the act of public participation against which the court proceedings have been taken is relevant to more than one member state; or the plaintiff or connected entities have initiated concurrent or previous proceedings against the same or associated defendants in another member state.

It is useful to mention how some of the key terms are defined in the proposed directive. "Public participation" is defined as any statement or activity expressed or carried out in the exercise of the right to freedom of expression or information on a matter of public interest, along with preparatory supporting or assisting activities. A "matter of public interest" is defined as any matter which affects the public to such an extent that it may legitimately take an interest in it in areas such as public health, safety, the environment, climate, or the enjoyment of fundamental rights; activities of a person or entity in the public eye or of public interest; allegations of corruption, fraud or criminality; activities aiming to fight disinformation; and matters under public consideration or review by a legislative, executive or judicial body, or any other public official proceedings. "Manifestly unfounded" proceedings are not defined by the proposal. The Commission considers this a term recognised in member states' legal systems and can be interpreted and applied by national judges at their discretion. "Abusive proceedings" in this context are defined as proceedings that are fully or partially unfounded and have as their purpose to prevent, restrict or penalise public participation. According to the proposal, such proceedings typically involve litigation tactics used in bad faith, such as delaying proceedings, causing disproportionate costs to the defendant in the proceedings, or forum shopping, which are often combined with threats, intimidation or harassment.

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I should of course mention that in Ireland the issue of SLAPPs has already been considered in the report of the review of the Defamation Act 2009, which the Government approved for publication on 1 March 2022. The report noted that while the term SLAPPs is not explicitly used in submissions to the public consultation on reform of the Defamation Act 2009, a number of submissions from journalists, representative bodies and the print and broadcast media raised fears and concerns that echo those typical of SLAPP cases. The key recommendations of the defamation report include a recommendation to introduce a new anti-SLAPP mechanism to allow a person to apply to the court for summary dismissal of the proceedings that he or she believes are a SLAPP. The Minister for Justice has indicated she is preparing and amending the defamation Bill to give effect to the recommendations of the report. Deputies will recall the defamation report was discussed in the House on 11 May and this recommendation was widely supported. However, the proposal in the directive applies both more widely and more narrowly in referring only to proceedings that have cross-border implications.

This is clearly an important proposal. Subject to the approval of both Houses, it appears desirable for Ireland to opt into the proposal at this stage, before its adoption, in order to ensure we can participate fully in the council's deliberations and the final text of the directive takes full account of our legal systems. We therefore recommend the motion to the House and ask Deputies to support it.

Deputy Eoin Ó Broin: I thank the Minister of State. Sinn Féin will support the motion. The issue the motion relates to and the directive itself are enormously important in having an EU-wide set of minimum standards for protecting individuals, journalists, human rights advocates and, more particularly, residents' associations, and environmental and non-governmental organisations, which is vital.

Given the limitation or weakness of the EU directive, namely, that it applies primarily to transboundary or cross-border strategic litigations, I would be more impressed if the Government was to bring forward domestic legislation to tackle the issue of strategic litigations against public participation, which is a growing problem in this country. While the Commission, in its explanatory memorandum to the proposal to the directive, focuses on journalists and human rights defenders, in this State today the central problem is in fact large developers instigating very expensive strategic litigations against public participation against groups with very limited resources to try to, in essence, destroy the good work such groups are trying to do in the courts. I will evidence some of that. While we support the motion, I urge the Minister of State to take back to his colleagues the need for domestic legislation to deal with domestic strategic litigation because that is where the problem is. I am sure I will not be the only Deputy who will raise that.

I will give a couple of examples by way of cases that have already been widely reported in the media. It is important to put them on the Dáil record. In Dublin city centre, a large apartment development, Ivy Exchange, was built during the Celtic tiger with very significant fire safety and structural defects. The apartment owners' management company is trying to avail of the only redress it currently has, which is taking the developer, Cosgrave's, through the courts to remediate the building that would cost the homeowners tens of thousands of euro otherwise. Cosgrave's has initiated a strategic litigation-----

Acting Chairman (Deputy Alan Farrell): I ask the Deputy not to use names.

Deputy Eoin Ó Broin: I will make no apology for this. It is in the public domain, it has been reported in the newspapers and it is a matter before the courts. These are precisely the

kind of cases - I will not name any individuals - where company names have been reported in the public domain. I want to repeat them in the Chamber. I will not go beyond anything that is in the public domain, if that is okay.

Cosgrave's has initiated a strategic litigation against the owners' management company, OMC. It is trying to bankrupt that OMC and deny it the very legitimate right to pursue the developer it believes is responsible for the defects in the courts. In February this year, the *Irish Independent* reported on how a developer was threatening a Tidy Towns group with legal action. Ardstone Homes was reported as the litigant against Ballyboden Tidy Towns group. In May this year, *The Irish Times* also reported proceedings taken by the Marlet Property Group against residents in Killiney, County Dublin, again, to deny them access to the courts. A very reputable legal practice, FP Logue solicitors, which many Members will know, is being subject to legal proceedings by Marlet and threats of legal proceedings by Ardstone among others. I thank the Acting Chairman for his latitude. The reason it is important to name these cases in the House is these are examples of the strategic litigation against public participation that is happening right now in our State. As far as I understand it, there is nothing in the EU directive that will prevent such strategic litigations continuing into the future.

There is also a broader issue here. Under the Aarhus Convention, people have a right to access information, especially about the environment and public health, as well as a right to access to the courts. We are currently having a debate in the Joint Committee on Housing, Local Government and Heritage and the Attorney General is looking at the matter of planning reform. The issue of judicial reviews of planning decisions is back in the newspapers. The important thing about judicial reviews is the issue is not whether one supports the grounds upon which somebody takes a judicial review. It is whether people have a right to access justice under the terms of the Aarhus Convention. It is absolutely the case that judicial reviews take far too long. If we had a dedicated planning and environment court that was adequately staffed with professionals at the back end, we could dispense with them much more quickly. Government is actively considering a set of proposals that were contained in the general scheme of a heads of Bill last year to greatly restrict the grounds upon which citizens or groups, including environmental NGOs, would be able to seek access to justice. It would make no sense, in my view, to sign up to an EU directive that is meant to have a set of common standards to prevent strategic litigation against public participation at the same time as the Government is trying to reduce the grounds upon which people access public participation through the planning process or the courts. That is not an argument against reforming the system. It takes far too long both for public and private developments. The best way to reform the system is not to make it more expensive for people to seek access to justice or to narrow the grounds for taking such cases, but rather to reform the planning and courts system to do it more expediently.

There is also another problem, which was seen most recently in the Kilkenny case involving Glanbia. It is not a planning application that I know anything about. I am not going to comment on the application or consider the merits of it on one side or another. One of the statutory consultees to that planning process, An Taisce, which is a body that is named in legislation as a statutory consultee, was subject to the most appalling public bullying by Government Ministers, Government Deputies and, indeed, some opposition Deputies. I am not saying that what An Taisce was doing is right or wrong. However, under our law, it has a right as a statutory consultee to engage in the planning process and the arising judicial proceedings after that. It seems to me that on the one hand, Government is telling us that it would like to protect citizens and organisations from strategic litigation, yet the very same Government is quite happy to ap-

ply very public and inappropriate pressure on statutory consultees, such as An Taisce, that are simply doing their job. It is absolutely the case that the legal appeals that An Taisce took delayed the process enormously. There is an easier way to deal with that, using the mechanisms I outlined earlier. I know that the Government supports those mechanisms, but it has yet to enact a dedicated planning and environmental court and tighter statutory timelines on decisions by An Bord Pleanála. In fact, in this issue in general very recently, the director for implementation, governance and semester in the Directorate-General for the Environment of the European Commission had some very critical things to say about the Government's poor record in ensuring that citizens and environmental organisations have adequate access to information and justice in our planning process. In some public commentary, Mr. Aurel Ciobanu-Dordea pointed out that in fact this jurisdiction "continues to be the most expensive member state in which to make an environmental claim before the courts". He went on to say that this "has left many environmental litigants unable to predict with any certainty the costs exposure" involved. The reason that I am raising the point is that if we are going to ensure that people, citizens, journalists, human rights defenders, residents' organisations, Tidy Towns groups or environmental NGOs, have full access to public participation in our planning system and in other issues of public interest, then we have to do it across the board. We cannot just support a sensible, albeit very modest, proposal from the European Commission for transboundary minimum standards against strategic litigation against public participation. We must enshrine it in domestic law and in the reforms to our planning system, and ensure that politicians of all parties on both sides of this House, even when they disagree, respect the right of citizens, organisations and statutory consultees to engage in the planning process.

I know this is not the Minister of State's primary area of responsibility. I suspect that other Members may share the following request. I ask that the Minister of State brings these wider concerns directly related to the subject under discussion to the line Minister and for her to correspond with the spokespeople from the various parties on whether or not she has any plans to deal with these wider issues. It would make no sense to sign up to an EU directive and for Government to say that it is not going to enact comparable domestic legislation to deal with strategic litigation against public participation in this jurisdiction. I urge the Government to do so. If it does that, it will certainly have the active support of our party, subject to the detail of any legislative proposals brought forward.

Deputy Brendan Howlin: I have five minutes to speak. It took me longer than five minutes to read the directive. It is a point that I make almost every day now as we go through directives that are important for the lives of people, when we only have a few minutes to participate in the debate. The matter at hand is an important issue because it concerns the functioning of our democracy. I suggest that if we asked people in the street what a strategic lawsuit against public participation, SLAPP, was, the vast majority would have no idea. Certainly, if we used the acronym SLAPP, they would have less of an idea what we are talking about. In fact, it is a hard thing to define. At its core, it is a notion that a powerful individual, company or entity seeks to silence its weaker critics by launching litigation that has no merit, but whose purpose is to cow, bully, intimidate and silence.

Obviously, there are a number of issues that arise. One is the problem that it cannot be determined that a lawsuit has no merit until the case is actually heard in some preliminary form. Obviously, powerful interests are entitled to use the courts, as is every other citizen, company and entity. We need to find solutions for that. My first question is whether this is the solution, or whether should we be dealing with it in our own domestic law. It is quite clear that we should

be dealing with it in our own domestic law. I would go into it in more detail if I had more time, but bluntly, the actual *vires* of the Commission in advocating for this particular directive is on thin enough ground. It has multinational requirements because it is anchored in Article 81 of the Treaty of the Functioning of the EU, TFEU. For that article to apply, there must be a cross-border dimension. Article 81(1) states: “The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases.” In particular, Article 81(2)(f) of the treaty states that the European Parliament and the Council may adopt measures aimed at ensuring “the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States”. If I had more time, I would go into the detail of why I think the underpinning of the directive is thin enough legal grounds. However, it is part of a package of measures that I strongly support from the Commissioner for Justice, Mr. Didier Reynders. He is working on a package of measures aimed at tackling abusive litigation. I am afraid that too often, we see abusive litigation and the intimidation of people who voice their opinions on a range of matters. I must say that it has also been used by politicians to silence journalists by taking pre-emptive legal action. That was mentioned by the Minister of State in his contribution in relation to the report of the review of the Defamation Act 2009. Although the report does not use the term SLAPP directly, a number of submissions were made by journalist representative bodies from the print and broadcast media raising concerns that echoed those raised in relation to the intimidation of voices of criticism.

In essence, I strongly believe in and have no difficulty in supporting this directive, limited and all as it is. However, we really need to enact domestic legislation on the matter. That is my main message to the Minister of State today. Formulating co-operation and joined-up thinking on issues like this at an EU level is important, but if we look at the different legal structures of the member states, they are very different. Some have non-existent protection and others provide for vague enough protection. We must deal with the matter fundamentally in our own domestic legislation first. Let us prove best practice so that we can ensure access to the law, which is the right of every citizen and entity under our Constitution and is a welcome and good thing, is not used as a form of abuse to silence or intimidate voices of criticism. Those with deep pockets can go to the courts, access expensive lawyers and they can prevail, despite the merits of their arguments, over weaker citizens or groups of citizens in our State.

Deputy Catherine Murphy: The purpose of this directive would be to provide protection to individuals and organisations, particularly journalists, whistleblowers, watchdogs and human rights activists, against so-called SLAPP lawsuits. SLAPPs can be described quite simply as privatised censorship. The vast majority of SLAPPs are pursued by wealthy and powerful litigants with the sole purpose to intimidate and silence their critics. They are an abuse of the legal system, an insult to the concept of free speech and freedom of expression and a danger to our democracy. They lack legal merit and once they are presented in court, the vast majority are dismissed. That is not the issue at hand because the damage inflicted by SLAPPs happens a long time before they ever reach the courts. These lawsuits are characterised by lengthy and expensive litigation, crafted solely to drain an individual’s finances, isolate and intimidate them and ultimately silence them. It does that, I have seen it happen and I endorse the points that have been made on developers. I could not believe it the first time I heard of that being used.

I mentioned individuals because in recent years the majority of these lawsuits were directed at individual journalists or activists rather than the organisations they worked for. This is a tac-

tic to isolate them from the automatic legal and financial support they would otherwise be entitled to and to expose them personally to the costs of the cases. The cost of a single court case would bankrupt many small media outlets or human rights organisations and even the larger organisations can only withstand so many. That is before you start talking about the impact it would have on an individual. The financial and legal vulnerabilities of the media sector are well-known and they are exploited in order to suppress stories.

According to research conducted by the Foreign Policy Centre, 73% of investigative journalists in Europe received legal communications as a result of information they had published. Most of these, 71%, had come from corporations or other business entities. We know the courts are favoured by wealthy people and we have seen them used for that purpose in this jurisdiction as well. The defences proposed by the European Commission were dubbed Daphne's law after the Maltese anti-corruption journalist Daphne Caruana Galizia, who was assassinated by a car bomb on 16 October 2017. At the time of her death she was facing more than 40 lawsuits. In advance of her brutal murder she talked about the impact the cases had on her and how they scared other people off from doing what she was doing. This is not just an issue abroad; these lawsuits are incredibly common in Ireland and are especially damaging to journalists and to human rights groups and activists. We are seeing community-based individuals who have a legitimate reason to be concerned, including in the sector of development. Not all developments are good ones and there are developments that must be opposed. Shutting that opposition down does not improve the built environment or our environment. It is obvious that this is happening.

I was contacted this week by a woman who is facing a SLAPP as a result of her human rights activism in Ireland. Before this case was taken against her she did not know what a SLAPP was. She had never spoken to a solicitor in her life outside of getting a mortgage and then suddenly she was sitting in front of a solicitor who was telling her she might need to sell her house in order to afford the case being taken against her by a powerful public person in this State. She said:

The whole process is deeply shaming, terrifying and very, very isolating...the aim is to exhaust you emotionally and it is powerfully effective. I've already had to get two loans from the credit union just to be told I'll be brought to the high court.

That is happening now to an individual in this country.

This directive would provide for common procedural safeguards in EU member states to protect against these lawsuits. The safeguards would include the early dismissal of proceedings, which the Minister of State has already gone into in his opening comments. This is welcome but, as has been said, it only applies to cases that have a cross-border element. We need to replicate these measures in domestic legislation and we need to do so urgently to protect people in this State from legal harassment by powerful individuals and corporations.

Deputy Richard Boyd Barrett: The Watson Killiney Residents Association in my area had a SLAPP taken against it because it sought a judicial review against a decision by An Bord Pleanála to grant permission for a strategic housing development by Atlas GP Ltd., a developer owned by Pat Crean of Marlet Property Group. This information is in the public domain and has been widely reported. That case has been taken against eight members of the residents association in a precise attempt to intimidate them against their legal right to take a judicial review against a strategic housing development on the grounds that it breached a county development plan, did not have a proper environmental impact assessment, EIA, and screening and so

on. These eight individuals include a woman who is 92 years of age and they had agreed to an initial development of 108 apartments. However, they took umbrage when a strategic housing development then jacked that up to 255 apartments, which is a legitimate concern.

That is what these SLAPPs are about. They are widespread across the world and we see them in Ireland where big corporations and wealthy individuals use the money and resources they have at their disposal to try to intimidate communities, environmentalists, human rights activists and journalists from asking questions or challenging their interests. They have to be stopped so we support this directive but, as has been said, it only concerns cross-border issues so it does not help the residents in that situation or in some of the other examples that Deputy Ó Broin gave earlier. Therefore, we need domestic legislation, particularly when we have a Government that often gives out about communities, environmentalists or residents challenging planning decisions. We need domestic legislation to secure the rights of public participation for our citizens.

Deputy Mick Barry: A SLAPP is a groundless or exaggerated lawsuit or other form of legal intimidation initiated by state organs, businesses and corporations, and individuals with power and money etc. against weaker parties, including journalists, civil society organisations, human rights defenders and others that transmit messages that are uncomfortable to those with the power and money. The aim of the SLAPP is not to win the case but to use the procedure to intimidate, tire out and consume the financial and psychological resources of those who have spoken out. They aim to achieve a chilling effect and silence those who would speak out similarly.

The number of SLAPPs across Europe is increasing year on year and it is relatively well-known how they are being used to target newspapers and journalists. I would like to highlight how they are being used to target activists, people who regularly are without great resources, if any, at their disposal, for whom a legal threat can be a scary experience. In this country for example, a SLAPP has been used by a conservative anti-abortion campaigner against a person who campaigns for safe zones outside hospitals where abortions are carried out. Activists within one of the most vulnerable and marginalised communities in our society, our transgender community, have been in touch with my office to register with me the sharp increase in the number of SLAPPs being used against activists in their community who make legitimate comment on issues of pressing concern to that community.

As we are debating a justice issue, I want to take a brief moment to raise a serious matter which highlights the need for sentencing guidelines for certain sensitive cases. The case I raise is the disturbing case of the jailing of a Waterford teenager following the death of her newborn baby.

Acting Chairman (Deputy Alan Farrell): I am sorry-----

Deputy Mick Barry: I am referring to sentencing guidelines in a general sense.

Acting Chairman (Deputy Alan Farrell): I do not see that being in the scope of this debate at all.

Deputy Mick Barry: I ask that the Minister of State communicate this point to the Minister for Justice.

Acting Chairman (Deputy Alan Farrell): I gave a bit of leeway to other Members in rela-

tion to the matter. That is fine. The Deputy can table a parliamentary question on the matter.

Deputy Mick Barry: In that case, I will set aside my other comments and conclude by saying we need compassion and professional help in cases like this. Jail should not be the punishment for young women who give birth in secret and in shock. I call on the Minister to review sentencing guidelines and to call for this woman's release.

Acting Chairman (Deputy Alan Farrell): As we have no other Members present, I ask the Minister of State for his response.

Minister of State at the Department of Further and Higher Education, Research, Innovation and Science (Deputy Niall Collins): I thank all Deputies who have contributed and those who have indicated they intend to support the motion. I will make some specific points and, in doing so, I will underline the importance of the proposal and our opting in to it at this stage. The Government has decided that, subject to the approval of the Dáil and Seanad, Ireland should opt in to the proposal at this stage to ensure we can participate in the discussions on the proposals and that the final text of the directive is shaped to accommodate our common law system as much as possible. There is also a strong reputational aspect to be considered for opting in to this proposal at this stage.

The proposal forms a significant element of the European Commission's European democracy action plan. It also complements other Commission initiatives, for example, the strategy on strengthening the application of the Charter of Fundamental Rights of the European Union and the rule of law reports. Democracy, the rule of law and fundamental rights are the foundations upon which the European Union is based. A cornerstone of a healthy and thriving democracy is a guarantee that people can participate actively in public debate without undue interference. For meaningful participation, people must have access to reliable information and be able to form their own judgment on the basis of that information. It is therefore vital to protect journalists and others engaged in public participation on matters of public interest from manifestly unfounded or abusive court proceedings. It is desirable to demonstrate our support for these important principles by opting in to the proposal at the earliest possible stage.

The proposed directive refers in particular to the right to participate in democratic life contained in Article 10 of the Treaty on European Union, the right to freedom of information and expression contained in Article 11 of the Charter of Fundamental Rights of the European Union, the corresponding right to freedom of expression under Article 10 of the European Convention on Human Rights, the right to respect for private and family life under Article 7 and to protection of personal data under Article 8 of the EU Charter of Fundamental Rights and the right to an effective remedy and a fair trial under article 47 of the Charter of Fundamental Rights of the European Union.

Respect for fundamental rights, including the right of access to justice, will be at the heart of the debate on the proposed directive and its interpretation by the European Court of Justice and national courts. The purpose of the proposal is to protect against unfounded or abusive court proceedings. It is not to prevent or impede access to justice or to prevent a person from protecting his or her good name or reputation, rights protected by our Constitution. The proposal therefore includes procedural safeguards, for example, a case can only be dismissed in full or part at an early stage if the judge considers it is manifestly unfounded; any decision in relation to an early dismissal must be subject to appeal; where a defendant applies for the early dismissal of a case, the main proceedings are stayed until such time as the final decision is

made on the application to have the case dismissed; and if an early dismissal application is not granted, the plaintiff can continue with his or her action.

Furthermore, the safeguards put forward by the proposed directive seek to address specific identified features of SLAPP suits taken by certain parties against journalists and human rights defenders. These include the deliberate issue of proceedings known to be without merit and maximising of delays and ancillary court applications in order to impose highly exaggerated legal costs; ongoing stress and time burdens; the issue of multiple or duplicate proceedings in a single jurisdiction; the issue of proceedings in multiple jurisdictions, often ones to which the parties and the dispute have no real connection; the waste of court time and resources and drag on court systems due to artificially delayed and duplicate proceedings which have no legal merit; often a significant imbalance of power and financial resources, which pressurises the target of the SLAPP action to withdraw from public participation on the issue in dispute, even where the action appears unfounded; and the subsequent weakening of investigative journalism and defence of human rights, together with public participation more widely. The proposed directive is therefore an important response. There is merit in Ireland opting in at this juncture in order to ensure we can participate in shaping it.

In reply to remarks by Deputy Ó Broin, the European Commission has noted publicly that Ireland is among the first four EU members to commit themselves to introducing anti-SLAPP legislation domestically, as the Government has now done in relation to the reform of defamation laws.

Deputy Howlin is correct in noting that the directive refers to matters with a cross-border dimension and, for reasons of its legal competence, the Commissioner who is responsible for the directive has publicly acknowledged this.

Question put and agreed to.

Planning and Development (Amendment) (No. 2) Bill 2022: Second Stage

Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien): I move: "That the Bill be now read a Second Time."

I am grateful for the opportunity to introduce this Bill and thank Members for facilitating the passage of this important substitute consent legislation through the Houses in advance of the summer recess. The purpose of the Bill is to amend the Planning and Development Act 2000, as relating to substitute consent procedures. Substitute consent is a process that concerns applications seeking to regularise existing developments requiring retrospective environmental impact assessment or appropriate assessment in exceptional circumstances. This Bill seeks to streamline the process and provide for a single-stage application process and it achieves this by the deletion of the initial leave to appeal stage.

The amendments in the Bill follow prior amendments introduced by sections 6, 7 and 8 of the Planning and Development, and Residential Tenancies, Act 2020, enacted on 19 December 2020. That legislation was introduced as an initial interim response to the Supreme Court judgment issued on 1 July 2020 in the Ballysax-McQuaid cases, three joined appeal cases relating to two quarries.

3 o'clock

The 2020 Act's amendments ensured that the findings of the judgment were addressed and that the issue of the exceptional circumstances in each substitute consent application case would be considered not only at the initial leave to apply stage, but also at the substantive application stage, where full public participation is involved. In deciding on exceptional circumstances, the board must consider a number of prescribed matters including whether regularisation of the development concerned would circumvent the environmental impact assessment, EIA, or habitats directives and whether the applicant could reasonably have been of the belief that the development was not unauthorised.

I should have said at the start that the Chairman of the Oireachtas joint committee, Deputy Matthews, has been in contact with my office. To let both Members who are present, Deputies Ó Broin and Cian O'Callaghan, know, there will a briefing at official level arranged for Monday, in advance of Committee Stage. The Deputies will be contacted with regard to the specific time.

The 2020 Act's amendments effectively rendered redundant the initial leave to apply stage, which did not involve public participation. In the present Bill's proposed deletion of the redundant leave to apply stage, it has ensured that the 2000 Act retains all of the established the criteria that the board, as the competent authority, is required to consider when determining whether exceptional circumstances exist in substitute consent applications on a case-by-case basis.

Related amendments are proposed to section 34(12) of the 2000 Act to clarify provisions for planning authorities and the board to screen applications for retention permission for EIA and appropriate assessment, AA, and to refuse to consider applications for retention of unauthorised developments where either EIA or AA are screened in, in which case the applicant can only consider the substitute consent process.

Amendments are also proposed to extend section 37L of the Planning and Development Act, which currently allows simultaneous applications for any future development to An Bord Pleanála and applications for substitute consent for certain quarries only. The proposed amendment to section 37L will allow for simultaneous applications to be made in respect of all types of developments. This amendment is to encourage the regularisation and remediation of unauthorised developments, as well as allowing an integrated assessment by the board of such related proposals, which will also be of benefit to the understanding of the public.

Some concerns were expressed in the Seanad with regard to the extension of such applications for future-facing development beyond certain quarries. I am keen for these concerns to be addressed in this House as they were in the Seanad. At the outset, it is important to note that it is a material consideration of An Bord Pleanála in considering whether exceptional circumstances exist in a substitute consent proposal, without which the substitute consent application must be refused, whether the applicant had or could reasonably have had a belief that the development was not unauthorised. There is also the additional material consideration of whether the applicant has complied with previous planning permissions granted or has previously carried out unauthorised development. In other words, the risk of exceptional circumstances not being deemed to exist and an existing development therefore being refused substitute consent is apparent if applicants cannot adequately demonstrate their bona fides that they could reasonably have had a belief that their development was not unauthorised.

Any perceived benefits to section 37L future-facing applications in being able to apply directly to the board rather than having to separately apply to the relevant planning authority first will be significantly outweighed by the inherent vulnerabilities and significant potential financial exposure if the related substitute consent application is refused. In such cases, the relevant planning authority will be statutorily obliged to initiate enforcement proceedings against the unauthorised development seeking remediation of the site. Furthermore, the future-facing planning application on the same site or an adjoining site may also be refused as a result of, for example, it relying on any element of the refused substitute consent proposal. In other words, the legislative provision to allow parallel substitute consent and planning applications is not in any way developer-friendly in focus or scope in light of the significant constraints and vulnerabilities for any developer attaching to progressing a substitute consent proposal. I also note the benefits to the public of allowing a parallel holistic assessment of two related proposals on the same site or adjoining sites to take place at the same time.

The amendments proposed by Government by way of this Bill are intended to act in exceptional circumstances to bring developments that have been determined to be operating outside of environmental planning law back into the planning framework irrespective of the commercial value of the site. In the very rare cases where substitute consent is being sought, this is done after a bona fide mistake has been realised by a developer. However, it should be noted that, if the substitute consent application is refused, the future development proposal must also be refused.

I also wish to inform the House of my intention to introduce Government amendments as the Bill makes its way through the legislative process on Committee Stage. These amendments relate not only to planning legislation, but to other legislation that is within the remit of my Department. It may be of note that four of the six proposed groups of Committee Stage amendments were previously flagged during the Second Stage debate on this Bill in the Seanad. These comprise amendments to the ministerial directions provision contained within section 31 and related sections of the Planning and Development Act, amendments relating to flexibility in planning provisions and judicial review provisions in the Planning and Development Act and amendments to the provisions of the Valuation Act 2001. I will now outline the intended purpose of each of the six groups of amendments I propose to move on Committee Stage, which also include amendments to include provisions on short-term letting in the Planning and Development Act and to make technical amendments to the Maritime Area Planning Act 2021. As I said earlier on, at the request of the Oireachtas joint committee and its Chairman, Deputy Matthews, my officials will brief Deputies in detail on these matters in advance of Committee Stage on Monday.

With regard to short-term lettings, it is further proposed to table amendments on Committee Stage in the Dáil with the aim of strengthening the pre-existing regulatory controls in this area. The detailed operational arrangements and other related ancillary provisions in respect of the certification requirement will be provided for in supplementary regulations which it is intended to make by the end of July, contingent on the enactment of this Bill. These amendments are being proposed in the context of the ongoing accommodation shortage in the private rental sector, particularly in the areas of highest housing demand, specifically the rent pressure zones, with associated knock-on implications for rental prices in these areas. These pressures have been further exacerbated by the recent arrival into the State of large numbers of people fleeing Ukraine who are in need of medium to long-term accommodation, which is likely to continue into the future.

On ministerial directions, I propose to table technical amendments consequent on the establishment of the Office of the Planning Regulator in 2019 and on foot of advice received from the Attorney General. These amendments will ensure that the legislative procedures of section 31 of the Planning and Development Act, including, but not limited to, sections 31AM and 31AN, which relate to development plans and variations, and sections 31AO and 31AP, which relate to local area plans and the relationship between them, are improved. This will be achieved by providing greater clarity in the consistency of procedures and of language to address matters such as correct cross-referencing and notifications for both the draft direction stage and the final direction stage. Amendments are proposed to provide for a timeframe for the office to recommend that a Minister issue a direction. Amendments are also proposed to introduce a new section to set out the process for the Minister to issue a final direction. The intent of these amendments is to clarify this process at final direction stage and to set out a timeline allowing for the inclusion of strategic environmental assessment and appropriate assessment, where appropriate. A further amendment has been provided to set out the procedure involved if the Minister does not agree with the recommendations of the office. This is currently set out at draft direction stage and we therefore believe it is appropriate for this process to be reflected at proposed final direction stage.

The purpose of amendments on flexibility in planning applications is to address a High Court decision from last summer relating to the concept of a design envelope approach in planning applications. Prior to this judgment, while not specifically provided for in legislation, the design envelope approach had been an accepted feature of the Irish planning system and had been successfully applied up to this time. The approach proposed in the legislative amendments involves a pre-application process in which prospective applicants who wish to avail of flexibility in their application request a meeting with the planning authority or An Bord Pleanála in respect of a development of a strategic nature in advance of submitting the planning application.

The meeting request will outline the flexibilities sought and the justifications for same. The planning authority or the board shall determine whether it is satisfied that it is appropriate that the application for permission be made and decided before the prospective applicant has confirmed the specific option and-or the details outlined in the meeting request. Where it is so satisfied, it shall issue an opinion in this respect. The planning authority shall issue a notification where it is not satisfied. The prospective applicant can then submit the opinion with a subsequent planning application and the information requirements for the planning application will be read in accordance with the opinion issued.

In the case of wind energy developments, this approach allows developers to apply for planning permission prior to procuring specific turbines and allows them to detail in the planning applications specific options for turbines or parameters within which the turbine dimension will fall. The applicant will have to submit sufficient information to allow the planning authority or the board to assess the impacts of any type of development that falls within the flexibility sought. For maximum flexibility, it is intended that the amendment would apply to the main land-based applications made under the Planning and Development Act 2000 with appropriate safeguards for the public consultation phase and the environmental assessment.

Judicial review challenges of planning decisions can cause considerable delays in the progression of development proposals, including projects of strategic national importance. To help address some procedural aspects relating to the conduct of judicial review challenges and improve the efficiency and effectiveness of the processes involved, a number of streamlining

amendments are proposed to the judicial review provisions in sections 50 to 50B of the Planning and Development Act. These are primarily streamlining-type proposals aimed at improving the efficiency of the court processes in relation to judicial reviews of planning cases. It is intended that other more substantive reforms to the judicial review provisions in the Planning and Development Act will be addressed in the ongoing planning review being led by the Attorney General which is due to be finalised by the end of the current year.

The purpose of the proposed amendments to the Valuation Acts 2001 to 2020 is to enable the Commissioner of Valuation to defer the revaluation programme until 2023 and 2024 onwards, withdrawing the extant valuation orders for Reval 2021 and Dún Laoghaire-Rathdown. The need for these amendments arises as a consequence of restrictions imposed on businesses during 2020 and 2021 preventing the Valuation Office from inspecting properties. This takes account of the knock-on effect the pandemic had on the property market. As a result, the timing and roll-out of the revaluation programme between now and 2026 is affected.

It is proposed to amend Part 4 of the Maritime Area Planning Act 2021 relating to maritime area consents, MACs, as follows. The granting of a MAC will enable an applicant to occupy a part of the maritime area on the condition that planning permission will be secured. A MAC will set out conditions governing the relationship between the State and the holder in the period up to securing planning permission, and the construction and operation of structures for the lifetime of that maritime area consent, including financial returns to the State, indemnities, achievement of or adherence to key milestones, variation, assignment and decommissioning or reinstatement obligations. The proposed amendments, which are technical in nature, have been recommended and drafted by the Office of the Attorney General following a review of the conditions. Section 56 of the Maritime Area Planning Act 2021 is also proposed to be amended to allow for the appointment of a chief executive officer designate by the Minister ahead of the establishment of the Maritime Area Regulatory Authority, MARA.

Other amendments are required, including ones providing that the continental shelf may be treated as part of the State, a rehabilitation schedule to be attached to a MAC where it has been attached to a development permission to ensure consistency and amendments to provide for governing of the assignment of a MAC by the original holder to another person. New sections and amendments are included concerning provisions granted, licences and conditions attached, civil remedies, judicial review and enforcement and to provide for interest to be payable on money owing to MARA. The amendment of Part XXI of Planning and Development Act 2000 ensures that MARA is a prescribed body for the purposes of Part XXI of that Act.

In concluding the introduction of this Bill to the House, I confirm to Deputies that this Bill, as initiated, is needed to streamline the important substitute consent procedures for applications to regularise existing developments requiring retrospective environmental impact assessments, EIAs, or appropriate assessments, AAs, in exceptional circumstances. Public consultation is a critical component of planning legislation. My Department committed to the Joint Committee on Housing, Local Government and Heritage during the pre-legislative scrutiny process, and further to the Seanad, that we would extend the public consultation period for substitute consent applications from five to eight weeks. This detail is not included in the Bill, as details such as the minimum length of public consultation periods for planning applications are contained in secondary planning regulations. I will amend these regulations to introduce an eight-week consultation period for substitute consent applications later this year, at the same time as the commencement of the enacted Bill. I look forward to debating the Bill's provisions as it moves through the Houses. We will hold a detailed briefing with officials on Monday for members of

the joint committee. I commend the Bill to the House.

Deputy Eoin Ó Broin: I thank the Minister for his opening remarks. Despite the rather technical and dry nature of this legislation, it is important to remind the House that it has the potential to have profound impacts on the lives of entire communities. We have spoken previously, when we dealt with the predecessor to this legislation and the general scheme of this Bill, about Derrybrien. It is probably one of the most egregious cases we know of. The inadequacies of our planning system and the poor behaviour of a State agency led to a decades-long disruption to communities and their economic and social well-being, as well as to the natural environment. Thankfully, that matter has been almost resolved, although I will come back to one of the outstanding elements in a moment.

When significant changes are being made to planning, with respect to both the provisions of this Bill and the non-consequential amendments, which I will come to, it is always useful to ask why these changes are being made. What was it in our planning system that led to some of these changes? I ask the Minister, in any concluding remarks or in the briefing we get from the officials on Monday, for which I thank him, to provide some additional background information in that regard. That is always helpful in trying to adjudicate on whether the proposals in front of us are sensible and worthy of support.

I have some considerable difficulties with what is in the Bill in front of us, which I will outline for the Minister. I am not convinced, having considered the matter at length during pre-legislative scrutiny, that the removal of the leave to appeal stage is the right approach. Given that part of the purpose of the substitute consent process is to determine whether exceptional circumstances exist, with the benefit of hindsight and consideration, having a leave stage that would allow the board to filter and screen some applications and simply decide not to take them would be sensible. The weakness of the current leave stage, as the Minister said, is in the fact that there is no public participation. Therefore, I urge the Minister to think long and hard about whether this is actually a streamlining. Would it not be better to filter out some of the less deserving cases at a leave stage with public participation, rather than removing the stage overall?

I continue to have a problem with the definition of exceptional circumstances in the primary legislation. It is too vague and too general. In many cases, it will result in substitute consent permissions being granted despite there not being sufficient evidence to determine those grounds as being exceptional.

There is one bit of the Bill I do not accept. I have listened to the Minister's explanation and it is an area I would like officials to give us more information on. I do not understand why we are providing for a new parallel, fast-track planning permission process alongside a decision on substitute consent. In the vast majority of substitute consent cases, these are unauthorised developments. The people responsible for the developments know they are unauthorised. Why would we reward bad behaviour by giving them access to a fast-track planning process for an additional development in parallel with and before substitute consent is finally decided? I am interested to know where this has come from. I have racked my brains and talked with many planning professionals to see what the origin of this is. It would be great if the Minister's colleague in his concluding remarks and the officials in Monday's briefing would elaborate on this. For example, is substitute consent required for An Bord Pleanála or other peat harvesting? It is not so much for the continuation of peat harvesting, which will not be permissible due to environmental impacts, but there could be infrastructure related to those kinds of unauthorised activities. That infrastructure could require substitute consent, in parallel with a new develop-

ment, to use the infrastructure for something else. If that is the case there could be merit in that, but I would like to know where the idea of parallel fast-track planning alongside substitute consent has come from before I make a final decision. I am uncomfortable with it at present.

If I am reading the Bill correctly, I see an additional element which was not in the general scheme and therefore was not considered under pre-legislative scrutiny, whereby if somebody has a substitute consent application with the board, then pending substitute consent, a stay can be placed on the board making a decision to allow the applicant to put in a fast-track planning application separately in parallel. The Minister can correct me if that is a misinterpretation of the Bill, but that is how I currently read it. Why is that the case? Why would we not just require that applicant to deal with substitute consent with respect to the unauthorised and, in many cases, illegal development, working its way through the board and to apply separately to the local authority for planning permission, should that be appropriate?

One thing that is not in this Bill, which directly relates to Derrybrien, is what we do about remediation. Derrybrien is an egregious case of somebody being refused substitute consent. Decades of environmental, social and economic damage have been done. That has to be remediated. One useful provision that could be in this Bill would be a requirement for An Bord Pleanála, when making a decision on whether to refuse or accept substitute consent, to set out what remediation is required as a condition. If it does not require any remediation, having that on the public record would be a sensible idea. Members will remember we had a lengthy discussion during pre-legislative scrutiny on the issue of remediation. There is a fear that, while the legislation might deal with the substitute consent process, the matter of who is responsible for remediation of social, economic or environmental damage after a decision is being left unresolved.

On the extension of five to eight weeks, I support any extension of the public participation period. Eight weeks is not enough, if one thinks of the kind of applications we are dealing with. Derrybrien is a case in point because it was a particularly large on-land wind farm with substantial environmental impacts including large mudslides. For community-based organisations, residents and small environmental non-governmental organisations to be able to respond, even within eight weeks, to such large, complex and technical planning applications or, in this case, substitute consent decisions, is not reasonable. I am not saying that it should be unlimited. The Minister could set a minimum but the board could have discretion to give additional time in very complex cases to allow for full and adequate public participation. I know the Minister is going to set that by way of regulation. I ask him to look at setting a minimum time with discretion for the board to provide more. Think of some of the very complex wind farm and offshore wind farm projects that we will be dealing with. We want to make sure that we have adequate public participation in those so that we get those planning permissions right, because our renewable energy targets are heavily dependent on offshore wind energy being achieved. Therefore, a greater level of public participation at the earliest possible stage is always preferable.

With respect to the amendments, I fully understand that some things have to be done. I am not looking to delay anything, but I suspect that when we see these amendments, they will probably be almost the same length as the Bill itself. I have had this conversation with every Minister responsible for housing at the end of almost every Dáil term since I became a Deputy in this House. Planning is incredibly complex and technical. That is one reason why the Attorney General is doing the comprehensive review of the Planning and Development Act. It is not good practice to have very limited scrutiny for changes of a significant nature. That includes changes that I might fully support. A number of the changes the Minister has outlined, although

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with very limited information, sound potentially positive, but if we are to do our job properly and ensure that the decisions of this House, whether based on a decision between Opposition and Government or on a consensus, lobbying in a bunch of amendments at the very last moment with limited time to consider them is a real problem. I acknowledge that the Minister, or his Secretary General, responded quickly to the requests the chair and I made for briefings. That was welcome. If we could have more than half an hour or an hour, some of us would appreciate that.

I ask the Minister, in his discussions with the Chief Whip and his colleagues before next week's business is set, to give us the maximum amount of time to go through these. If they are sensible, required amendments, the Minister will not find us in this House playing politics, but we need time to go through them to be able to tease them out, as we ordinarily would on Committee Stage, or possibly even to amend some amendments if required once we see them. I am open to the proposals relating to the ministerial direction and the design envelope. The devil is in the detail. The industry made a strong case about the design envelope during pre-legislative scrutiny, but much of that will depend on what is in the legislation. The fear I have always had about offshore wind legislation is that, if we do not get the process, we will end up with a similar issue to that of strategic housing developments, with projects being judicially reviewed and delayed. We all want to avoid that. We want the offshore wind farm projects to be right. Therefore, the detail of what the design envelope permits or not, the degree of flexibility and the impact of the long-term nature of the project on marine biodiversity, inshore fishermen and local communities is significant. I am expressing some reservation without knowing the details, only because I want to get it right.

On the judicial reviews, a shiver goes down my spine when I hear the word "streamlining", until I hear the detail. I am nervous of where the Government may or may not be going with this. I note that in his speech, the Minister identified the sections he was thinking of amending rather than explaining the detail. If the Minister of State who is closing the debate, whether it is Deputy Peter Burke or Deputy Malcolm Noonan, could give us more detail on that, it would be fine. If not, I ask the officials to note that we will heavily scrutinise this area during the briefing session on Monday.

Valuations have been discussed before and seem relatively straightforward, so I am less concerned about them. We worked on short-term letting before and we want to work with the Minister on it, so the more detail we have, the better. On the matter of the Maritime Area Planning Act, never mind the word "streamlining", when I hear that amendments are only technical amendments to planning, I am also nervous. Part of the point of planning is that it is technical. I am not suggesting that anybody is trying to do anything untoward. If technical changes are got wrong, they can have a profound and negative impact. Part of the reason why we had the last substitute consent legislation and why we had this is that it was not got right in the original process, with all its various negative outworkings.

I know the Minister's officials are exceptionally busy because, like his two predecessors, he puts enormous pressure on them at the end of the Dáil term to produce significant legislative change in a short time. They have my sympathy in that respect. Try to give us the maximum amount of time possible on Monday, because I presume this will be on the floor of the Dáil next week, so that we can have an exchange. The Minister can clarify matters further on Committee Stage.

I am concerned that we are still not getting the substance of substitute consent right and

that the Bill as it currently stands will fall foul of challenges at a later stage. We may well be back here in a year or two with another substitute consent Bill with further changes because we did not have adequate time to scrutinise, amend and improve this, especially the parallel planning permission process, for pending and for future subsequent consent applications. This is extremely problematic in the context of remediation and the length of time for public participation. I am being collegial here. We want to work with the Minister on the matter but there is still some way to go. Obviously, we reserve the right, between now and Monday, to table our own amendments and amendments to the Minister's amendments, if required, when we see them.

Deputy Thomas Gould: As my colleague Deputy Ó Broin has said, this is very important legislation. It requires a great deal of scrutiny and thought. It is disappointing that it is coming through at this time of year and in a rushed manner, as Deputy Ó Broin has outlined, particularly as we are looking at really substantive issues and very complex areas. We want to work with the Minister. This is a matter that we all know needs to be resolved. We need good, strong legislation. It is absolutely vital that we see proper regulation of developments. In the context of pyrite and mica, we have seen what happens when soft-touch regulation is allowed to happen. I urge the Minister to take on board the constructive recommendations we are putting forward and to work with us and other Deputies to come up with legislation of the sort that really is needed.

I want to highlight a planning issue in constituency relating to the demolition of the Sextant Bar in Cork in August 2020. At the time, the developer had lodged a planning permission application for an office block, but this did not include the demolition of the 145-year-old building. This happened overnight and, as far as I am aware, the matter is still under investigation. I must be brutally honest. I am not trying to score points here but when people hear that Fianna Fáil is involved in amending planning legislation, they can get nervous. When people hear that Fianna Fáil is rushing planning legislation through the Dáil that could cover illegal developments, they get really nervous. There is a long history here, and I am sure the Minister does not need a lesson on it from me. We want to work with the Minister so the public will have confidence, and so it will be open and transparent. That is absolutely vital. I hope the Minister will listen to our concerns today.

To add to people's concerns, the legislation before us revolves around the significant powers available to An Bord Pleanála. The Minister will be aware of the serious concerns and allegations currently surrounding An Bord Pleanála. He has appointed a senior counsel to investigate. I welcome this because it shows that the Minister understands the seriousness of these allegations. Will he confirm that he will publish the report relating to the investigation as soon as he receives it? I ask him to give a commitment in this regard. Solving corruption through secrecy has never worked. We want a transparent and open system. It will also help to restore people's faith in An Bord Pleanála.

I take this opportunity to raise a number of planning issues in the context of vacancy and dereliction. While we are now accounting for the ability of developers to receive retrospective planning, often in cases where environmental or other issues would have prevented development, there appears to be no support for those looking to bring derelict buildings back into use. For example, the Gate Lodge on Model Farm road was sold in 2017 by Cork City Council. People were very angry at the decision but Cork City Council assured people that the new owners would resolve the dereliction at the site. Earlier this year, Councillor Eolan Ryng, Henry Cremin, a former councillor, and I visited the site. Dumping and antisocial behaviour were

rampant and having a negative impact on this great community. The dereliction has not been resolved. I contacted the council and hoardings have been erected. There is movement on the site now but it has taken five years. There are huge issues around this and barrier after barrier is put in front of people in this regard. I urge the Minister to consider that one staff member who the Department currently funds and who is employed in the vacant homes unit could likely have assisted with this if the workload had not been so great and if the Minister had funded and resourced full teams to deal with dereliction and vacancy in each local authority area.

In addition to all this, in the past ten days there have been two major fires at two derelict sites in Cork city, namely, at the Sunset Ridge Hotel in Killeens and the old Vita Cortex factory. Both of these fires had a massive impact on Cork City Fire Brigade, on the environment and on the local communities where the sites are located.

It is time to tackle dereliction. It is disappointing that the Minister's focus seems to be on sorting out problems for developers and new builds and not on the issues of vacancy and dereliction. Existing stock needs to be worked on and included in planning. There are huge benefits to turning these vacant and derelict sites into houses and homes for people

We will be constructive. We will try to find solutions and work together. We recognise that this is very important and complex legislation, which we need to get right. Having this debate during the last week before the summer recess does not do the Bill or ourselves justice.

Acting Chairman (Deputy Kathleen Funchion): Other Deputies are not present, so I will move on to the Social Democrats.

Deputy Cian O'Callaghan: I will first make some comments on the additional parts the Minister has announced today. I completely understand that this work must be done. It is very difficult, however, in terms of the legislative process and the scrutiny process, for us to engage with that in detail when all we have at this point are the introductory comments made by the Minister. We do not have the detail. I appreciate that there will be a briefing on Monday, which was sought by the Chairman of the joint committee and others. The deadline for amendments was 11 o'clock this morning, and yet we are only beginning our Second Stage debate now. We have not had sight of the detail relating to the new parts of the Bill.

The Minister is bringing forward new amendments around short-term letting. This is absolutely an area that needs to be regulated. I would really like to see the detail about how this is going to be done. I am concerned, however, and it may not be related to the regulations because I do not know from the detail in the Minister's speech today.

The Minister referred to rent pressure zones. Will the regulation of short-term lets only apply in rent pressure zones or will there be a different form of regulation outside of those zones? One reason I am particularly concerned is the way rent pressure zone rules are written. As the Minister will be aware, 77 local electoral areas at the moment are not in rent pressure zones. It is actually highly questionable whether any of those 77 local electoral areas would ever be deemed a rent pressure zone under the current rules in the way they are written and the way the data is needed in order for them to qualify as a rent pressure zone. This is despite the fact that in some of those there have been rent increases of up to 75%, which affects renters. Simply because rent increases can be way above and beyond the maximum that is allowed in rent pressure zones does not mean that an area qualifies to be a rent pressure zone on the data points sought. Many of the smaller local electoral areas that register smaller amounts of data with the

Residential Tenancies Board will never qualify. The 15 local electoral areas where that does not apply are never likely to qualify as rent pressure zones because of the rules relating to average rents in the greater Dublin area, because they are located a significant distance from that or because the rents in those areas are significantly lower, albeit growing fast, and are never likely to exceed average rents in the greater Dublin area. If that is related to these measures and short-term letting, then it is a problem that needs to be fixed. If it is related to these measures and short-term letting, I have a concern. I simply do not know on the basis of the limited comments the Minister made earlier.

Before getting into the detail of the Bill, I want to raise one concern arising from the Minister's comments about the substantive issues relating to substitute consent. The Minister correctly sought to address some of the concerns that were expressed in the Seanad, and by me and others in this House, about whether substitute consent applications could be refused. The Minister stated that a substitute consent application would be refused if it was decided that the applicant had or could reasonably have had a belief that the development was authorised. In other words, if it was unauthorised and they had reasonable or bona fide belief to that effect, then that would not apply. However, that then appears to be contradicted. I am not trying to be semantic; this is a serious point. The Minister then indicated that in the very rare cases where substitute consent is being sought, it is done after a bona fide mistake has been realised by the developer. That line seems to be a statement from the Minister that in all cases where substitute consents are being sought, it is because of a bona fide mistake being realised by the developer. That may not be the intent. If it is not, the matter may be clarified by the Minister when he is replying. If it is the Minister's view that in cases where substitute consent is being sought where there has definitely been a bona fide mistake and that this has been realised by the developer, just how does he know that? Has an analysis been carried out by the board? Could we get from the Minister or the board a report on the current applications for substitute consent? That would help inform the discussion on this to a considerable degree.

I want to get into some of the detail of the Bill. It is very important that we bear in mind the following very key point. This goes back to the Court of Justice of the European Union's original ruling with respect to this matter, which is why there has been subsequent legislation. A critical aspect of that ruling is that under EU law, remedy is required in terms of environmental consequences and damage that may have taken place in the case of an unauthorised development. The point about remedy is very important. The reason there has been legislation subsequent to that ruling is because there was no provision for public participation in either the notice process or the leave process. That also fell foul of a judgment as well in the context of the case relating to *An Taisce* in the Supreme Court. That judgment was handed down on 1 July 2020. The changes brought in December 2020 by the Minister were on foot of that. The reason there are more changes being brought forward now is because that legislation was not sufficient in how it dealt with the matter.

On these changes, I specifically want to ask if the text of these changes been shared with the European Commission? Has the Commission expressed any views on the matter or any concerns in respect of the proposals? Has it asked any questions or sought any information with regard to the substitute consent regime and the underlying issues? I ask that because of the previous rulings and judgment.

On the rationale for the doing away with leave and notice instead of fixing the issues around that, I would like to hear about the rationale, motivation and driver behind these changes. What is the rationale, motivation and driver behind the changes to allow substitute consent applica-

tions be considered in tandem by the board with applications that are materially different but that relate to the same site? At what types of developments is this specifically aimed?

I have concerns about An Bord Pleanála and its capacity and workload. An Bord Pleanála has had a massive additional workload in the past number of years in the context of strategic housing developments. The latter has given rise to capacity issues. It is questionable as to whether or not, through these proposals, we should provide for additional applications outside of substitute consent applications to go forward to the board when its capacity and resources are already under strain. This also has implications regarding public participation. Usually, those applications will be dealt with by a local authority. Members of the public can participate at that point, after which they could then appeal any decisions to the board. Because this is going straight to the board while it is considering substitute consent, that means the only way to appeal effectively is by means of judicial review. We have seen with strategic housing developments how that has not been productive or useful and has actually led to greater delays and inefficiencies in the process, which is problematic. There are issues in terms of how this affects the public and its participation and has disadvantages for them. I agree with the comments that five to eight weeks is an improvement. If there are complexities such as those relating to serious environmental concerns, however, eight weeks will not be sufficient. It can take time to work through in order for people to submit their viewpoints. Those viewpoints need to be considered. That goes to the heart of the initial rulings on this.

The other concern I have is that what is proposed could delay remediation. This legislation allows that in order for a new application to be submitted. The board currently has the power to order that an operation be halted. I am not aware that it has ever done so. Perhaps the Minister could clarify if it has been done. Typically, what happens is that where there is an unauthorised development and there is going to be an application for substitute consent, the operator carries on regardless. That could provide an advantage to an operator who is engaged in unlawful development where they could potentially carry on for a period of six months or more, even if they consider that they have no chance of being granted permission or regularisation. These can be the exception, and, of course, legislation has to allow for people operating with good intent. We cannot be constrained simply by those who try to abuse processes, but all of us, through our work as representative over the years, have seen people operating flagrantly in unauthorised ways and with total disregard, and then using various legislative provisions to their advantage. I am concerned that this may provide advantages to people in those circumstances.

On getting rid of the streamlining and notice and leave stages, I would have thought it would make more sense in terms of decision making to first examine if exceptional circumstances do not apply. In what has been outlined, the public and the board would only have to consider a remedy in what needs to be done to sort out the damage if the notice and leave stages were retained. It is only in exceptional circumstances that the State and public should have to contend with grappling with both a remedial assessment of damage done and a proposal to effectually regularise the development and allow for its ongoing operation and the assessment of that into the future. By getting rid of the notice and leave stages, there will be potential delays in remediation. That should be to the very heart of what we are seeking to do here in terms of unauthorised developments where there could be damage taking place. It is getting that damage remediated as quickly as possible if people have been operating outside of the planning process. That should be an absolute priority.

Another issue that arises is linked to the inadequacy of enforcement provisions to deal with the remedy required when an environment impact assessment or an appropriate assessment has

not been done. That is if the local authority issues an enforcement notice about an unlawful development. If the developer decides they do not want to apply for substitute consent, what provision is there in Irish law to provide for remedy and do the remedial assessment at a local authority level? This is outstanding under EU law, and there is a requirement in terms of providing the necessary information and facilitating the public in terms of participation and consultations.

On the provision to sit with the board under the substitute consent regime, by the Minister's own admission, this is not a process that is open to ensuring that local authority enforcement will be carried out. What happened with the Derrybrien wind farm is a practical example of this. We effectively had a stalemate which is covered in detail in the judgments from the European Court of Justice where the ESB which was the operator in this case refused over a decade to apply for substitute consent. This was only resolved when the European Commission brought Ireland to court in 2019 and massive fines were imposed for the failure to comply with the part of the judgment relating to the wind farm. The issue of enforcement remediation is very important.

The cost of fines currently stands at €19,520,000. That is a massive fine for the Irish State to pay. There are very significant costs beyond that fine, costs faced by the Department, costs of legal and consultancy fees to remedy this before we even talk about the costs for remedying the environmental and other damage done. As these fines build up, the local community awaits remedy of this. I ask the Minister to provide a detailed breakdown of the costs associated with Derrybrien, including all the legal consultancy costs as well as the fine and an estimation of the remediation costs and the amount of time the State has spent on this.

I wish to deal with some things missing from the Bill and which could be corrected. There are issues when substitute consent is refused. Two things could be done when substitute consent is refused to provide clarity on what needs to be done and what happens next. Deputy Ó Broin also referred to this. A simple solution would be that in every case where an application is refused, information would be provided with the application for substitute consent as to what would happen if refused. That would be part of the application. That would put an onus on the person applying to provide the documentation outlining what they will do to remedy the site if they are not given consent. That would be one way to deal with it.

Probably a better way would be to amend section 177L with respect to changing from "may" to "shall", to require the board in every instance to provide a clear indication of what needs to be done if substitute consent is refused and to stipulate how that remedy would be done and assessed in line with EU law if it has not already been recovered in the substitute consent decision so that a statement is required if nothing is done. That would avoid what happened with Derrybrien. That is a very small change that could be done but would be very significant and would avoid further problems. I ask the Minister to consider that small change. That may avoid very significant problems down the line.

Deputy Cathal Crowe: I thank the Minister for being in the Chamber. These are important changes to planning legislation. The Bill essentially changes the substitute consent regime provided for in the old Planning and Development Act 2000 and streamlines the substitute consent regime so that it becomes a more efficient process. I am glad that the legislation provides for a single-stage planning application process under the remit of An Bord Pleanála, replacing the current two-stage process.

6 July 2022

The Bill contains many technical provisions but I want to begin my contribution about efficiency. I was in China around this time in 2008 when the whole country was getting ready for the Beijing Olympic Games. While I am not saying we should be going in that direction entirely, I was highly impressed at how they were delivering everything from power plants to housing developments. During the Covid pandemic, we saw how the Chinese Government was able to deliver new hospital blocks within 21 days in one instance. While that is the stuff of fiction and fantasy in this country, a source of major frustration to people is the delays in having public money, which is committed to many projects, actually delivered to allow projects to happen on the ground. There was much talk earlier this week about the MetroLink project which will be of great benefit to the Minister's constituency. However, that will take a good decade before any shovels are in the ground carrying out work.

There is a need to look at that overall. Since the Government came into office two years ago it has not been found wanting in committing capital money to capital projects and delivering on a new national plan to improve Ireland and drag us properly into the 21st century - we have only been limbering into it so far.

This day last week I met a group of people who work in the forestry sector. They met many Deputies from rural areas rural in the audiovisual room. Forestry is a form of land use which involves acres of ground being planted. The trees generally grow for 30 years before being harvested. It is a cyclical process. The timber is used in the building sector and new trees are planted. They are very frustrated that the Department of Agriculture, Food and the Marine licensing regime is pretty much at the point of stagnation at the moment. Applications from Coillte are processed much quicker than those coming from private forestry. I have met representatives of the sector to discuss this.

There is a real need to bring forestry into the realm of planning. We are able to deal with complex projects, such as bridge construction, data centres, new hospital wings and mobile phone antennae. If we are able to deal with those kinds of complex and often controversial infrastructure projects in an eight-week planning window and subsequently perhaps ending up with An Bord Pleanála, that shows it is streamlined. In each planning authority, be it An Bord Pleanála or local planning authorities, there is in-house capacity for things such as environmental screening for habitats and archaeological grounds. There is in-house capacity to gauge each planning application that comes before it. We urgently need to consider bringing forestry under this regime so that it becomes a planning matter with an eight-week turnaround. It should be treated as a land-use matter rather than something for licence and certification from a Department that is currently incapable of dealing with them appropriately.

I give the Minister credit for the Maritime Area Planning Act. The Foreshore Act dated back to 1933, between the two world wars when steamer vessels were still paddling up and down the River Shannon. Nobody ever thought of its enormous potential, indeed the offshore potential, of generating electricity, or offshore exploration for minerals. None of that was being considered. However, our legislation did not change one iota from 1933 to December 2021. The Minister, Deputy Darragh O'Brien, overhauled all that. That introduced a new streamlined efficient process and we are now seeing the benefits of that with the largest offshore wind farm in Europe now planned off the County Clare coast. This project very nearly fell 18 months ago because the legislation was so outdated. It is time to look at doing the same thing with forestry.

I wish to speak about planning objections. At some point we will need to introduce legislation to deal with the inordinate number of vexatious planning objections that continue to be

submitted. We need some pre-qualifier rules. Some strategic projects in my county have been delayed and, in some cases, have fallen by the wayside entirely. The Killaloe bridge crossing was delayed by three or four years by objectors from Dublin. The coastal erosion defences at Doonbeg in County Clare-----

Acting Chairman (Deputy Kathleen Funchion): This debate must adjourn at 3.59 p.m. The Deputy may continue tomorrow.

Deputy Cathal Crowe: Basically, we need some pre-qualifying rules to ensure all this happens.

Debate adjourned.

4 o'clock

Civil Law (Miscellaneous Provisions) Bill 2022: Committee and Remaining Stages

Sections 1 to 62, inclusive, agreed to.

Title agreed to.

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

Health (Miscellaneous Provisions) (No. 2) Bill 2022: Committee and Remaining Stages

An Leas-Cheann Comhairle: Amendments Nos. 1 to 7, inclusive, and 10 are related. Amendment No. 10 is consequential on amendments Nos. 1, 3, and 5 to 7, inclusive, being accepted. Amendments Nos. 1 to 7, inclusive, and 10 will be discussed together.

SECTION 1

Minister for Health (Deputy Stephen Donnelly): I move amendment No. 1:

“In page 3, line 12, after “Act” to insert “(other than section 5)”.”

Amendment No. 1 is a consequential amendment required as a result of the amendment inserting the contraception provisions. Amendment No. 2 is a drafting clarification in relation to how the Health Act 1970 is referenced within the Bill. Amendment No. 3 provides that the new section, section 53C(9)(bb) of the Health Act 1970, which gives effect to the exemption from charges for acute inpatient services for children under 16, is included for reference within section 47A of the Health Act 1970. The existing section allows the Minister for Health to issue guidance in relation to the concept of a person being ordinarily resident. The amendment is now required because the exemption from such charges is available to children under 16 who are ordinarily resident within the State.

Amendment No. 4 is a drafting clarification in relation to the definition of the Health Act 1970 within the Bill. Amendment No. 5 inserts a new Part 3 into the Bill to provide for the free contraception scheme for women aged 17 to 25. The amendment also ensures that the new

section 67E of the Health Act 1970, which gives effect to the contraception scheme, is included within section 47A of the Health Act 1970 that allows the Minister for Health to issue guidance in relation to the concept of a person being ordinarily resident. This is required because the scheme is available to women aged 17 to 25 who are ordinarily resident within the State.

Amendment No. 6 inserts a new section 67E into the Health Act 1970. It contains the main provisions for the free contraception scheme for women aged 17 to 25. Within this proposed new section 67E there are 11 subsections. Subsection (1) provides that the HSE will make available without charge access for women aged 17 to 25 to GPs for the purpose of accessing contraception and a prescription, for the fitting and removal of long-acting reversible contraception, LARCs, and provides that prescription contraception is available free of charge. Subsection (2) provides that a woman can choose to access the scheme in any GP who has signed up with HSE to be a scheme provider. Subsection (3) provides that free prescription contraception will be accessed via pharmacies. Subsection (4) provides that a woman who had a long-acting reversible contraception inserted before her 26th birthday can access the scheme for the purpose of having it removed, even though she might be over 25 and would therefore not otherwise be eligible.

Subsection (5) provides that the Minister, after consultation with the Minister for Public Expenditure and Reform, may make regulations to vary the age cohort eligible for the scheme. Subsection (6) provides that the age cohort cannot be extended below the age of 17 by way of regulation. However, should it be proposed by Government that the age cohort would be extended to any age below 17, we could still do that via a legislative amendment before the Oireachtas. Subsection (7) provides that the Minister, with the consent of the Minister for Public Expenditure and Reform, may set the fees to be paid to GPs and pharmacists under the scheme.

Subsection (8) provides that regulations made under subsection (7) can be prescribed different fees in relation to different cohorts of women and different scheme providers. Subsection (9) provides for general regulation-making powers. Subsection (10) provides that every regulation must be laid before the Oireachtas after it is made. Subsection (11) is a definitions section.

Amendment No. 7 contains a number of consequential amendments to the Health (Pricing and Supply of Medical Goods) Act 2013. These arise from the introduction of the free contraception scheme to provide the legislative framework for the provision of free contraception products for women age 17 to 25. Amendment No. 10 is to confirm that the contraception provisions are part of the Bill under this Title.

Deputy David Cullinane: I will be supporting most of the amendments, with the exception of one. I just want to make a number of points first, speaking to amendment No. 6, which is a very substantial amendment. I want to welcome the overall proposal, because it is an important measure that will help and support many women. It is important from a family planning perspective. I welcome that it includes the range of contraception products, including long-acting reversible contraceptives. I also welcome the clarification the Minister gave, which is that full cost of contraceptives, including GP consultations and all of the costs that go with it, will be included. It is important for us to acknowledge that. That is a really important step forward in this area under the Minister's leadership, which I support, as I did on Second Stage.

It is equally important to many who need the pill to help balance hormone fluctuations throughout their cycles. It can help to regulate and regularise their menstrual cycles. It reduces

pain and discomfort, relieves symptoms of premenstrual syndrome and it helps to reduce the risk of uterine cancer, ovarian cysts and anaemia and it can be helpful for the management of endometriosis. For all of those reasons, the inclusion of the full range of contraceptive products, including LARCs, is really important.

However, the substantial point I want to make is that I think the Minister would accept that amendment No. 6, in and of itself, merits its own Bill. If the Opposition had tabled an amendment similar to amendment No. 6, it would have been ruled out of order, because it significantly alters the scope of the Bill. I am sure we would have been sent a letter to say that our amendment had been ruled out of order. The merits of the proposals of the amendment, as evidenced by amendment No. 10, show that this is well beyond the scope of the original Bill.

I accept the reasons the Minister is doing this. I accept also that we want to get this done as quickly as possible. Equally, we have to point out that this almost always happens in the approach to the summer recess. We have legislation being rushed through without proper scrutiny. If we had a separate Bill on this issue, we would have had a more fulsome debate on the issue of contraceptives. We would have had a debate on how we get to universal free contraception for all, about what that transition will be and about the Minister's plan to move beyond what is in the scope of this Bill. However, we did not have that chance.

We had Second Stage speeches that had to concentrate on a range of issues, including this issue as well as all of the other elements in this Bill. For that reason, this amendment should have been a stand-alone Bill. It is product of the fact that we do not move the legislation as quickly as we should and then there is this rush towards the summer recess. That happens every year and we have these omnibus Bills that are a mix and match of all sorts of different issues. It is not the best way to progress legislation but there we have it. We are where we are.

There is a significant part of amendment No. 6 with which I do not agree. I am disappointed to see that it has been included. That is subsection (6) of section 67E, proposed to be inserted by amendment No. 6. This prevents the extension of free contraception to people under the age of 17. I understand the rationale to base the eligibility on the age of consent. That is a logical position in some respects but it misses the point in relation to the use of contraceptives, particularly the pill. As I outlined, the pill is very important to many women for regulating their menstrual cycles and reducing the associated pain and discomfort. There is no reason these products should not be made available free of charge to women aged under 17 who are pubescent for this reason. There are other reasons as well. We can have a discussion about the age of consent but we could also have a grown-up discussion about what unfortunately happens in the real world whether we like it or not. History teaches us that the more we make contraceptives available to everybody, the better it is.

There is just one part of amendment No. 6 with which I cannot agree. I checked and it is not possible to move a Fourth Stage amendment. If I were moving a Fourth Stage amendment, however, it would be to delete that subsection under Standing Order 191. I have been told it is not possible. For that reason, unfortunately, I will have to oppose amendment No. 6 when it comes up and call a vote on it. That is how strongly I feel in relation to it. I do not believe we should be limiting the use to women aged 17 and over. From my perspective, we could have gone further and reduced it to women of a lower age as well. I have given the reasons.

I will make this point because we did not have a chance to make it in what would and should have been a Second Stage debate on the issue of rolling out contraception for women of that

age. Given that this is a substantial amendment of the original Bill, as the Minister would accept, it is important that when the Minister gets a chance to respond, he sets out what he sees is the trajectory with regard to universal contraception. What is the next step? This is a very important first step. I do not want to in any way take away from the significant advance this will be. I already commended the Minister on what has been done. Like many areas in relation to healthcare, however, we had previous discussions very recently in the context of free GP care and free primary care, which are all part of Sláintecare. Lots of these promises about universality have been made but it is taking an awful long time to get there. I do not know what the direction of travel is beyond what is in this Bill.

Perhaps the Minister might be able to spell out to us whether he intends to go further than what is in this Bill in the upcoming budget. If it is not in the upcoming budget, has the Minister a timeframe on which he is working to expand free contraception beyond what is permitted in this Bill? It would be important for the Minister to set that out. I make the point again that for the reasons I gave, I cannot support amendment No. 6 because of one element of it. Because I cannot move a Report Stage amendment, however, I have no choice but to oppose the amendment as is.

Deputy Bríd Smith: Likewise, I think this should have been separate legislation. It is very important legislation. Many of us participated in the committee that looked at repealing the eighth amendment of the Constitution, as did the Minister. The recommendations of the Citizens' Assembly dealt with this issue quite substantially. One thing that we know substantially reduces crisis pregnancies is the provision of contraception.

I wish to make similar points to Deputy Cullinane regarding amendment No. 6. One provision that is really very confusing, and on which I want the Minister to answer a few specific questions, is subsection 6 of the proposed new section 67E in this amendment, which explicitly states, "In making regulations under subsection (5), the Minister shall not prescribe an age under the age of 17 years." The Minister said that to change this would require a legislative amendment. Therefore, somebody in the House would have to introduce a Bill to amend that some time in future. Otherwise, it ties the Minister and future Ministers for Health into precluding anybody under the age of 17 from having access to free contraception.

I checked the ancillary recommendations of the Committee on the Eighth Amendment of the Constitution, one of which explicitly states that it is recommended that all people shall have access to free contraception. The upper age limit of 26 and above is an element on which I reckon the Minister will talk about costs. That does not mean it protects people who may have had enough children and want to control the size of families but find doing so very expensive, which contraception and visits to doctors are. This is a very worrying detail, however. The reason I say it is worrying is because there is a good report by the HSE to which I would like to draw the Minister's attention, although he probably knows about it, entitled, Information Summary about Teenage Pregnancy in Ireland 2000-2020. A number of factors are leading to a decline in teenage pregnancies. It is great to see that crisis pregnancies and pregnancies in general among teenagers are reducing. The report goes through a list of examples as to why this is the case, including schemes to reduce student disengagement with education, schemes to support young people at risk of early school leaving, the introduction of better sexual and relationship education in the curriculum, the development of a well-being policy and so on. It finishes with increased access to contraception and information.

Obviously, we welcome the reduction in crisis pregnancies, in particular, and pregnancies in

general among teenagers. The Minister is putting a barrier in their way, however. I would like the Minister to be able to answer why this clause was included. I was shocked when I saw it in the Bill. Why did he have to include that? He is not just saying that the age of consent might be the legal thing or whatever but he is actually precluding changes to this for future Ministers for Health without a Bill going forward. The decline in teenage birth rates is very significant; it is 73% over that 20-year period I talked about. Teenage births as a share of the total births have declined even further, emphasising the reduction in this cohort.

Surely, we want to see this continue. If we want to see it continue, whether anyone in this House or the rest of the world likes it or not, and this is shown by more evidence from the Irish Family Planning Association, IFPA, we cannot deny the reality that studies on behaviour among school-aged teenagers show that approximately one in five girls and one in four boys aged 15 to 17 report having had sexual intercourse. The more we can do to help them to understand sexual relationships and protect themselves in those sexual relationships, the better. Specifically precluding them is actually baffling to many of us. Young people in care are also identified as a particularly vulnerable group and report early sexual initiation from their peers. All this puts younger people at risk. I believe it flies in the face of all the progressive measures in which we wish to engage. That is pointed out very well by the HSE report. If the Minister includes that clause, it will make it difficult to reach the most vulnerable in our society who are under the age of 17 and help them to avail of free contraception.

I wish to ask the Minister a couple of questions. First, will he please explain to us why he specifically put that clause into this legislation? Instead of addressing a gap that exists for that group, he is now closing down access to it even further. There needs to be a rationale for this amendment. What proposals does the Minister intend to bring forward to resolve the legal uncertainty with respect to the age of sexual consent and access to sexual and reproductive health services? What is the timeframe for addressing this extremely serious exclusion of this vulnerable cohort from the free contraception scheme? If the Minister had left it out we would not have a problem, but he specifically included it. I ask him to please address those questions.

Deputy Róisín Shortall: Could I clarify the timing on this? How long have I got?

An Leas-Cheann Comhairle: The clock is running. What is on the clock is what is left.

Deputy Róisín Shortall: I apologise for being late. I was at a briefing and was caught out with the early start.

I agree with points made by other speakers about the rushed nature of this. We all want to see this scheme coming in as soon as possible but we were caught unawares last week. After the briefing took place, for which I thank the Minister, I tried to table amendments and discovered that the deadline was actually the morning of the day we got the briefing. That was very unsatisfactory and the Ceann Comhairle agreed to extend that by one day. It is all very rushed, however, and there has not been time to consider the issue adequately.

I support points made by the two previous speakers. This issue was drawn to our attention by the IFPA. It is difficult to understand what is the thinking behind the wording. My understanding from the briefing is that while this current scheme is for women aged between 17 and 25 years, the upper age limit can be changed by regulation but the lower age limit cannot. Why is that the case? Why was it not left in a situation where the Minister could lower or increase the age by regulation? Why is the Minister providing under subsection (6) that, "In making regula-

tions under subsection (5), the Minister shall not prescribe an age under the age of 17 years””? Where did that come from and what is the thinking on that?

As others have said, there are plenty of surveys to show that a proportion of young people in Ireland, like those in most other countries, are sexually active before the age of 17 years. A HSE study of 41 young people aged 13 to 18 years found that 58.5% had experienced sexual intercourse. The mean age for first sex was 13.5 years. On average, young men had first sex at 12.9 years compared to young women at 14.5 years. That is substantially lower than 17 years. While that is not to be encouraged, and there is a lot of other work that needs to be done in terms of modern relationship and sexuality education, RSE, programmes and so forth, the reality is that a significant number of people under the age of 17 years are engaging in sexual intercourse.

A Crisis Pregnancy Agency study of sexual health issues, attitudes and behaviours in early school leavers found high levels of early sexual initiation and inconsistent use of contraception reported among this group. This is obviously a vulnerable group of young people who may not have great opportunities in life, who are early school leavers and who are more predisposed to engaging in risky behaviour. The implications of that are very considerable for their future life.

In the UK, the Fraser guidelines support healthcare professionals to advise young people about contraception and sexual health. The Minister often argues that the GP is best qualified to take key decisions about whether to prescribe particular medication or to give health advice to patients. I wonder why the Minister is tying the hands of GPs if, in a particular situation and given particular circumstances, a GP is of the view that contraception should be prescribed for somebody under 17 years. Why is he not allowing the freedom for that? The fact that there are those guidelines in the UK means that healthcare professionals can assess the maturity of the patient and help patients to make an informed decision. It is particularly important for vulnerable young people, and healthcare professionals should be able to support them in the lifestyle they have.

This is a mistake. Can the Minister explain the thinking behind it? Where has that restriction come from? Along with other Members, I strongly urge the Minister to amend this or to postpone Report Stage of this legislation and allow it to be held up until next week. We would be happy to facilitate him in that if he will bring forward an amendment on Report Stage to provide that flexibility. Just as the Minister has the flexibility to raise the age for the scheme, the Minister should also be able to lower it. I strongly urge the Minister to do that.

Deputy Stephen Donnelly: I thank colleagues for their contributions. I believe we are in agreement that this is a landmark policy change and that it is broadly supported, notwithstanding the concerns that have been raised today. I visited the Irish Family Planning Association team in Parnell Street recently. That was set up decades ago specifically in response to women’s healthcare needs because of the ban on contraception. The team members were very enthusiastic about the fact that this is happening now and has political support. I will come directly to the concerns that have been raised but it is important to say that this is a very important change to healthcare provision in Ireland and our move to universal healthcare. It is a move that is in line with Sláintecare, and it is important. It is a good day that we are passing a Bill that will abolish hospital charges for children - obviously we want to continue after that and look at adults, and we will deal with amendments in that regard later - and that is making contraception free in this country. It is a really important day, given that contraception was illegal in the country not so long ago.

As has been mentioned, it is covering all the costs. It covers consultation, prescriptions, medicines, devices, check-up, fitting and removal, which is very important. It was one of the commitments given under the repeal of the eighth amendment and it is important that we do this now in the context of that repeal. There are other important things happening there. The review of the operation of the Act that emerged from the repeal is ongoing, we are progressing with the safe access zones legislation and we are making contraception free, starting with young women. The experts' advice was that we should start with this group. There is a lot of really important stuff happening this year, and this is one of those pieces.

There is an awful lot of money being allocated for this. The full-year cost for this measure, which it is hoped will be passed today, is €26 million for next year. To put that into perspective, the entire additional funding for the national cancer strategy for this year was €20 million and the entire funding for this year for the national maternity strategy was €9 million. This is €26 million, a serious investment by the Oireachtas and the Government in women's healthcare and women's reproductive health. The intention is to expand it. I want to see this available to everybody, but we have to start somewhere. I hope colleagues will at least accept that. With €26 million for full-year cost, we have to start somewhere. However, we all want to see it expanded to everybody.

I come now to the subsection which provides that we can increase the age by regulation but we cannot go below 17 years by regulation. When I saw this, I asked the same questions. My view is that we should go down, that we can go younger and that we will go down lower, so why have this there? It is not something the Deputies wanted and it is not something I wanted. The answer is that the working assumption in the preparation for this scheme was that it could be done on an administrative basis, but there was recent legal advice that if we wanted this to be watertight and to make sure nobody could challenge any of it, and we all are aware that there are those who might try to stop us with this scheme for the reasons we all understand, it had to be put on a statutory basis.

It was very important for me that this came in on time. We committed to this in last year's budget and we want it in place by the end of August or the start of September. If we were to miss this Dáil term, we would not be debating this until October. It was very important for me that we got it done. That gives the HSE, the GPs, the pharmacists and the system time to implement or operationalise it so it is, in fact, available to women from the end of August or the start of September. I actually agree with the point that there is not enough time for this. I agree that, of course, one could see this as a stand-alone Bill, but I was faced with a choice. Given the legal advice I received quite recently, if I put it into a separate Bill there was a risk that we would not be able to get to it until October, so I took the decision to introduce it here. I fully accept that this is not ideal, but I was responding to the legal advice I received and I was very keen that the deadlines were met. That is why it is here as an amendment.

With regard to the 17 years provision, I asked the exact questions the Deputies have asked. Why would we tie our hands legislatively and not be able to move to 16 years or indeed lower, as I think we should be able to do? The answer I received was that once we move below the age of consent, there are legal complexities that have to be worked through. I reiterate that the working assumption is this could be challenged. People could try to stop this scheme. Time is required to make sure it is constitutionally and legally completely robust through consultation with the Attorney General, the Chief State Solicitor's Office, CSSO, and other stakeholders. The reason that subsection is in the Bill is to make sure we can get in place the scheme we have agreed and that is funded for 17 to 25-year-olds when we said we would, namely, the end of

August or start of September. I have already asked the Department to engage - it is doing so anyway - in that more complex legal discussion and to start preparing amending legislation so we can all come back to the House and pass that legislation.

I fully accept it is not ideal. It is a mainly a function of getting advice quite recently that this provision needed to be in a Bill. That is the only reason it is there. Deputies can obviously vote how they want, but it would be a great pity for Sinn Féin or anyone else to vote against this. What we are doing here is very important. It would be wonderful to send out a message that the House is united on this, or at least those who are present are united. I fully accept the concerns that have been raised. I raised exactly the same concerns. I foresee that the Department will work the CSSO and the Attorney General's team. They will go through the complexity, which they are beginning to work through now, and will come back with something we know is legally and constitutionally robust and that can survive the legal challenge we think will happen. I may need a decision from the Government. I am telling Deputies what my position is right now, which is that we move below the age of 17.

For example, it would not be reasonable to say to a young 16-year-old woman that we will not fund her contraception but we will fund a termination. That is not a position we should be in. I would like to see that changed as well, but there is a legal reality I have to deal with. I do not want to get this wrong now only to open it up to a legal challenge, when it is something we can make right properly. We need to get this scheme up and running as quickly as possible.

I can come back again to respond but I hope Members will reflect on that. They will obviously vote whatever way they want, but it would be nice for the Oireachtas to send out a strong message that we are united on this.

Deputy David Cullinane: I have accepted during my speech on Second Stage and in my earlier contribution that all the elements of this Bill are big steps forward. I have acknowledged that. I accept the rationale the Minister has given regarding the time constraints, the legal advice he has been given and the reasons that amendment has been proposed. I accept at face value what he said to us. The only part of the amendment I oppose is section 67E(6), read out earlier, which states: "In making regulations under subsection (5), the Minister shall not prescribe an age under the age of 17 years." I had hoped to move an amendment on Report Stage but I do not have the ability to do that because of the time constraints we are under and because Committee and Report Stages are being taken together. This is a Bill that covers many different issues but I do not have the option of tabling that amendment.

However, what the Minister said is reasonable. We do not want to divide the House on this when it is a big step forward. I also agree we have to start somewhere. This is a good start. I accept the logic given to the Minister that there are legal complexities here that have to be worked out. If we are not to oppose this, I ask the Minister to commit to working with the Oireachtas Joint Committee on Health on the matter. It is not something that can be forgotten about and put on the long finger. I do not know what his legal advice is. I assume the complexities are related to the legal age of consent and the potential for court challenges. I imagine they can be worked out because, as the Minister said, someone can have a termination at the age of 16. I hope that can be worked out.

On that basis, and in the spirit of wanting to support this Bill, which I do - I support the amendment apart from the one element of it I mentioned but I cannot move a Report Stage amendment regarding it - I will not push this to a vote. It is obviously up to others what they

want to do. I will not push for a vote based on what the Minister said. I have taken that on board, but I seek a commitment from him that there will be a move to reduce that age quickly and that he will work with the Oireachtas health committee on the legal complexities he has outlined.

Deputy Bríd Smith: This measure is a massive step forward. It is the four-year anniversary of when we voted to repeal the eighth amendment. Part of the commitment to the people of Ireland at the time were the ancillary recommendations from the Citizens' Assembly and the Oireachtas committee, which included free contraception for all. We waited for four years and we are now rushing this through. I accept the points that have been made. It is a shame we are rushing this Bill through with that particular clause contained in it.

The Minister has just pointed out something that is very contradictory, whatever about the legal opinion he has. As an elected Member, I find it difficult to accept the Minister has been given a legal opinion, full stop, but we get no indication of what that legal opinion may be. He said that opinion indicates there are complexities we must work through. We have had four years to try to work through them and, all of a sudden, bang slap against the summer recess, we are presented with this. The Minister has pointed out another complexity which is that, legally, we can now provide a termination of pregnancy to people under the age of 17 but we cannot legally supply them with free contraception.

What was the point of sitting for hours and hours in committee rooms discussing with witnesses, some of whom came from abroad, how important it was to have free contraception and non-ethos-based sex education to reduce crisis pregnancies, particularly among the younger cohort who are sexually active? This just undermines all of that work. I have no idea what that legal opinion is but I suspect it is probably coming from the same forces the Minister talked about who are outside Leinster House. I have no idea. He said people would like to undermine this legislation. I am sure they would.

Deputy Stephen Donnelly: That is not who we get legal advice from.

Deputy Bríd Smith: I do not know what the legal opinion is. The Minister is not showing it to us. There is a major contradiction in us being able to provide termination of pregnancy, free of charge, to people under the age of 17, but we are not prepared to provide them with the contraception that would prevent pregnancy in the first place. I find this bizarre.

I will not push it to a vote either because nobody wants to stop the provision of free contraception to people, even with the age limits that are outlined in the Bill. We hope the Minister will move very quickly to change that and will bring another Bill to get rid of this clause, once the legal complexities are worked through, but the situation is totally unsatisfactory. He keeps repeating he is in favouring of lowering the age but he will not do it. I find this whole conversation kind of bizarre because his answers are not satisfactory. Why did he explicitly put this provision in the Bill? We still do not know the answer to that.

This has significant implications for a very vulnerable cohort of people, including younger people, who can ill afford to pay for contraception. I do not know about where the Minister lives, but I live in a community where teenage pregnancy is an issue and the affordability of contraception is a major issue. Going to the doctor and buying any form of contraception is a significant issue for a certain class of people, including vulnerable people and young migrants. We are just throwing the baby out with the bathwater. It is disgraceful we are now being put in

a position that voting against this amendment would make us look absolutely regressive. This clause is totally regressive.

Deputy Róisín Shortall: There is no doubt this situation has thrown up a serious anomaly. It is an indefensible situation where a 16-year-old can have a termination but is not being facilitated with free contraception.

This is so last minute and rushed we are not in a position to challenge what the Minister has said. We have to take it at face value. The key thing is that this situation is not let lie. We need a very definite timescale. The Minister said he has asked his officials to work on this and that work is already under way, which I welcome. I would like him to give a commitment to come back to the Oireachtas Joint Committee on Health on this issue before the end of October. That is a reasonable timescale. I ask the Minister to come back to the committee with proposals on how he will address this anomaly before the end of October. If the Minister is prepared to do that, I am happy to accept his word.

Deputy Stephen Donnelly: I thank the Deputy. I see no issue in coming back to the committee before the end of October. The officials are working on how we move below the age of 17. I agree with the Deputy's point on the anomaly. I am putting forward similar arguments. That is my view on it. The reason we have chosen the 17 to 25 age group has nothing to do with any legalities. The reason we have started with the 17 to 25 age group is that we received expert advice to that effect. It is based on an expert recommendation to have the biggest impact for women. It is only where we are starting. We had to start somewhere. The age group of 16 and under is not related to the legislation here. I just want to make sure the legislation is legally robust. As I have said, we got recent legal advice that we needed to do this by statute. Previously, the understanding was that we did not need to bring forward legislation. The view was that it was just an administrative scheme, and what we planned on doing was just like adding elements to the drug payments scheme or something similar. However, it turns out that is not the case, which is why we have the legislation before us. I am more than happy to come back to the committee. I and my officials can engage with the Joint Oireachtas committee on Health on the matter. I fully intend for us to come back here in the next Dáil term to pass amending legislation this year. The plan for this year was always to provide services for the 17 to 25 age group. I invite Members to engage with me and to pass on their views on the provision of services for other age groups. We can have a discussion on other age groups and the funding involved. It is expensive. Given that we will have a set amount of money for new developments in health for the budget for next year, if we want to put aside €5 million, €10 million or €15 million, there will be areas we cannot fund. We need to bear that in mind. I would love to see funding being directed towards the provision of IVF in the next year through the budget. I would like to get that going. I am very happy to hear the thoughts of Members on that and to engage with them on the issue.

In response to Deputy Smith, the rationale for the clause is exactly as I said. I would much prefer if the subsection were not included in the legislation. It is included only because we need to make sure the Bill, which we are passing very quickly, is legally robust and stands up to any challenge. What I would like, and what I intend to do, is to introduce amending legislation to deal with that, so that we can provide services for those aged under 17.

Amendment agreed to.

Section 1, as amended, agreed to.

Dáil Éireann
SECTION 2

Deputy Stephen Donnelly: I move amendment No. 2:

In page 3, between lines 17 and 18, to insert the following:

“Definition

2. In this Act, “Act of 1970” means the Health Act 1970.”.

Amendment agreed to.

Deputy Stephen Donnelly: I move amendment No. 3:

In page 3, between lines 19 and 20, to insert the following:

“Amendment of section 47A of Act of 1970

3. Section 47A of the Act of 1970 is amended by the insertion of “53C(9)(bb)” after “45A, 46,”.”.

Amendment agreed to.

Deputy Stephen Donnelly: I move amendment No. 4:

In page 3, line 21, to delete “Health Act 1970” and substitute “Act of 1970”.

Amendment agreed to.

Section 2, as amended, agreed to.

NEW SECTIONS

Deputy Stephen Donnelly: I move amendment No. 5:

In page 4, after line 6, to insert the following:

“PART 3

PROVISION OF CONTRACEPTION SERVICES FOR CERTAIN WOMEN

Amendment of section 47A of Act of 1970

3. Section 47A of the Act of 1970 is amended by the substitution of “58B, 58D, 62A or 67E” for “58B, 58D or 62A”.”.

Amendment agreed to.

Deputy Stephen Donnelly: I move amendment No. 6:

In page 4, after line 6, to insert the following:

“Contraception services for certain women

4. The Act of 1970 is amended by the insertion of the following section after section 67D:

“67E. (1) The Health Service Executive shall make available without charge contraception services for women who are ordinarily resident in the State—

(a) who have attained the age of 17 years but not yet attained the age of 26 years, or

(b) who are within such class or classes of ages as may be prescribed by the Minister under subsection (5), and

such women shall, in this section, be referred to as ‘relevant women’.

(2) Insofar as the contraception services relate to the provision of applicable services to a relevant woman, the relevant woman may choose to receive such services from any person who has entered into an agreement with the Health Service Executive for the provision of those services and who is willing to accept that woman as a patient.

(3) Insofar as the contraception services relate to the provision of relevant products to a relevant woman, the relevant woman shall be entitled to receive a relevant product from a pharmacy provider.

(4) Notwithstanding subsections (1) and (2), the following shall apply in respect of a woman who is ordinarily resident in the State (whether or not she falls within the definition of a relevant woman) and who has had a long-acting reversible contraceptive device fitted before she attained the age of 26 years (or such other age as may be prescribed by the Minister under subsection (5)), namely:

(a) the woman concerned may, notwithstanding that she has attained the age of 26 years (or such other age as may be prescribed by the Minister under subsection (5)), choose to seek the removal of such device by any person who has entered into an agreement with the Health Service Executive for the provision of contraception services and who is willing to accept her as a patient;

(b) the Health Service Executive shall, in respect of that woman, make available such removal without charge.

(5) Subject to subsection (6), the Minister, after consultation with the Minister for Public Expenditure and Reform, may, for the purposes of subsection (1)(b) and subsection (4), by regulation prescribe such further age or class or classes of ages in respect of women to whom the contraception services referred to in subsections (1) and (4) shall be made available under this section.

(6) In making regulations under subsection (5), the Minister shall not prescribe an age under the age of 17 years.

(7) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by regulation prescribe the amount or the rate of payment to be made to—

(a) scheme providers in respect the provision of applicable

services by them under agreements referred to in subsection (2), or

(b) pharmacy providers in respect of the dispensing of relevant products by them under this section.

(8) Regulations made under subsection (7) may prescribe different amounts or rates— (a) in respect of different contraception services or different classes of contraception services, or in respect of the provision of contraception services or different classes of contraception services to different classes of relevant women, or (b) in respect of different scheme providers or pharmacy providers or different classes of scheme providers or pharmacy providers.

(9) Regulations under this section may contain such incidental, supplementary, consequential or transitional provisions as appear to the Minister to be necessary for the purposes of the regulations.

(10) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it has been made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(11) In this section— ‘Act of 2013’ means the Health (Pricing and Supply of Medical Goods) Act 2013;

‘applicable services’ means—

(a) such number of consultations with a scheme provider required by a relevant woman in a year for the purposes of obtaining a prescription for accessing relevant products, and

(b) the fitting (including such further follow-up consultation as is necessary) and removal by a scheme provider of a long-acting reversible contraceptive device;

‘contraception services’, means, in relation to a relevant woman—

(a) applicable services, or

(b) relevant products,

or both, made available without charge under this section;

‘pharmacy provider’ means a retail pharmacy business (within the meaning of section 2(1) of the Pharmacy Act 2007) who has entered into an agreement with the Health Service Executive for the dispensing of relevant products;

‘registered medical practitioner’ has the same meaning as it has in section 2 of the Medical Practitioners Act 2007;

‘relevant products’, subject to sections 20 and 23 of the Act of 2013, means contracep-

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tive drugs, medicines and products (including long-acting reversible contraceptive devices and emergency contraceptives) for the time being—

- (a) standing approved by the Health Service Executive, or
- (b) on the Reimbursement List within the meaning of section 2(1) of the Act of 2013;

‘scheme provider’ means a registered medical practitioner who has entered into an agreement with the Health Service Executive for the provision of applicable services.”.

Amendment agreed to.

Deputy Stephen Donnelly: I move amendment No. 7:

In page 4, after line 6, to insert the following:

“Amendment of Health (Pricing and Supply of Medical Goods) Act 2013

5. The Health (Pricing and Supply of Medical Goods) Act 2013 is amended—

(a) in section 20—

(i) in subsection (1), by the substitution of “section 59, 62A or 67E” for “section 59 or 62A”,

(ii) in subsection (2), by the substitution of “section 59, 62A or 67E” for “section 59 or 62A”, and

(iii) in subsection (3), by the substitution of “section 59, 62A or 67E” for “section 59 or 62A”,

and

(b) in section 23, by the substitution of “section 59, 62A or 67E” for “section 59 or 62A”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 8 and 9 are related and may be discussed together.

Deputy Róisín Shortall: I move amendment No. 8:

In page 4, after line 6, to insert the following:

“3. The Minister shall, within 3 months of the passing of this Act, prepare and lay a report before both Houses of the Oireachtas setting out the implications of extending the exemption from statutory charges for in-patient and day case care in public hospitals to all cancer patients.”.

I am not going to repeat the points made by Members of the Social Democrats and other Members of the House a number of months ago when we debated a private members’ motion on the need to remove inpatient charges for cancer patients. There is an unanswerable case for

doing that. Due to the constraints of the opposition, I cannot move an amendment to ask the Minister to introduce the measure. The amendment seeks to require the Minister to produce a report on the implications of extending the exemption from inpatient charges to all cancer patients. On amendment No. 9, the Sláintecare report recommended the removal of all inpatient charges, across the board, for the whole population. That was to happen in year 1 of the implementation of the reforms. I made points on the issue last week on Second Stage. There is no justification for charging people when they have to be admitted to hospital. I ask the Minister to agree to produce a report on the implications of the measures set out in amendments Nos. 8 and 9 within the next three months.

Deputy Stephen Donnelly: I am not in a position to accept the amendments within the Bill. However, I am very happy to discuss the matter with the Deputy and with members of the Joint Oireachtas Committee on Health before the budget, if that works. Amendment No. 8 relates specifically to inpatient charges for cancer patients. We looked at the issue in respect of the provision of medical cards. Some asked whether cancer patients should be provided with medical cards. A good piece of work was done on the issue, which I am sure the Deputy is familiar with, looking at different categories of diseases. The finding was that from an ethical perspective, we should not create any hierarchy of diseases. For example, should we abolish inpatient charges for cancer patients, but not for motor neurone disease patients or others? I am looking at an extension of the abolition of inpatient charges more generally. The way I think we should proceed on it is not on the basis of a patient having a particular disease. With medical cards, provision is not based on a patient having a particular disease. It is based on other criteria, such as age and income. I hope that suffices.

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 5 July 2022: “That the amendments set down by the Minister for Health and not disposed of are hereby made to the Bill; in respect of each of the sections undisposed of, that the section, or as appropriate the section as amended, is hereby agreed to in Committee; the Title, as amended, is hereby agreed to in Committee; the Bill, as amended, is accordingly reported to the House; Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

An Leas-Cheann Comhairle: The Bill will now be sent to the Seanad.

5 o'clock

Remediation of Dwellings Damaged By the Use of Defective Concrete Blocks Bill 2022: Second Stage (Resumed)

An Leas-Cheann Comhairle: I must now deal with a postponed division relating to the Second Reading motion on the Remediation of Dwellings Damaged By the Use of Defective Concrete Blocks Bill 2022. On Thursday, 30 July 2021, on the question that the Bill be now read a Second Time, a division was claimed and in accordance with Standing Order 80(2), and that division must be taken now.

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

<i>The Dáil divided: Tá, 72; Níl, 67; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bruton, Richard.</i>	<i>Andrews, Chris.</i>	
<i>Burke, Colm.</i>	<i>Bacik, Ivana.</i>	
<i>Butler, Mary.</i>	<i>Barry, Mick.</i>	
<i>Byrne, Thomas.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Cahill, Jackie.</i>	<i>Brady, John.</i>	
<i>Calleary, Dara.</i>	<i>Browne, Martin.</i>	
<i>Cannon, Ciarán.</i>	<i>Buckley, Pat.</i>	
<i>Carey, Joe.</i>	<i>Cairns, Holly.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Canney, Seán.</i>	
<i>Chambers, Jack.</i>	<i>Carthy, Matt.</i>	
<i>Collins, Niall.</i>	<i>Clarke, Sorca.</i>	
<i>Cowen, Barry.</i>	<i>Collins, Joan.</i>	
<i>Creed, Michael.</i>	<i>Collins, Michael.</i>	
<i>Crowe, Cathal.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Devlin, Cormac.</i>	<i>Cronin, Réada.</i>	
<i>Dillon, Alan.</i>	<i>Crowe, Seán.</i>	
<i>Donnelly, Stephen.</i>	<i>Cullinane, David.</i>	
<i>Donohoe, Paschal.</i>	<i>Daly, Pa.</i>	
<i>Duffy, Francis Noel.</i>	<i>Doherty, Pearse.</i>	
<i>English, Damien.</i>	<i>Donnelly, Paul.</i>	
<i>Farrell, Alan.</i>	<i>Ellis, Dessie.</i>	
<i>Feighan, Frankie.</i>	<i>Farrell, Mairéad.</i>	
<i>Flaherty, Joe.</i>	<i>Funchion, Kathleen.</i>	
<i>Fleming, Sean.</i>	<i>Gannon, Gary.</i>	
<i>Foley, Norma.</i>	<i>Gould, Thomas.</i>	
<i>Griffin, Brendan.</i>	<i>Guirke, Johnny.</i>	
<i>Harris, Simon.</i>	<i>Harkin, Marian.</i>	
<i>Haughey, Seán.</i>	<i>Healy-Rae, Danny.</i>	
<i>Heydon, Martin.</i>	<i>Healy-Rae, Michael.</i>	
<i>Higgins, Emer.</i>	<i>Howlin, Brendan.</i>	
<i>Humphreys, Heather.</i>	<i>Kelly, Alan.</i>	
<i>Kehoe, Paul.</i>	<i>Kenny, Gino.</i>	
<i>Lahart, John.</i>	<i>Kerrane, Claire.</i>	
<i>Lawless, James.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Leddin, Brian.</i>	<i>McDonald, Mary Lou.</i>	
<i>Lowry, Michael.</i>	<i>McGrath, Mattie.</i>	
<i>Madigan, Josepha.</i>	<i>McHugh, Joe.</i>	
<i>Martin, Catherine.</i>	<i>McNamara, Michael.</i>	
<i>Matthews, Steven.</i>	<i>Mitchell, Denise.</i>	

<i>McAuliffe, Paul.</i>	<i>Munster, Imelda.</i>	
<i>McConalogue, Charlie.</i>	<i>Murphy, Catherine.</i>	
<i>McEntee, Helen.</i>	<i>Murphy, Paul.</i>	
<i>McGrath, Michael.</i>	<i>Murphy, Verona.</i>	
<i>McGuinness, John.</i>	<i>Mythen, Johnny.</i>	
<i>Moynihan, Aindrias.</i>	<i>Nash, Ged.</i>	
<i>Moynihan, Michael.</i>	<i>Naughten, Denis.</i>	
<i>Murnane O'Connor, Jennifer.</i>	<i>Nolan, Carol.</i>	
<i>Naughton, Hildegard.</i>	<i>O'Callaghan, Cian.</i>	
<i>Noonan, Malcolm.</i>	<i>O'Donoghue, Richard.</i>	
<i>O'Brien, Darragh.</i>	<i>O'Reilly, Louise.</i>	
<i>O'Brien, Joe.</i>	<i>O'Rourke, Darren.</i>	
<i>O'Callaghan, Jim.</i>	<i>Ó Broin, Eoin.</i>	
<i>O'Connor, James.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>O'Dea, Willie.</i>	<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>O'Donovan, Patrick.</i>	<i>Pringle, Thomas.</i>	
<i>O'Gorman, Roderic.</i>	<i>Quinlivan, Maurice.</i>	
<i>O'Sullivan, Christopher.</i>	<i>Ryan, Patricia.</i>	
<i>O'Sullivan, Pádraig.</i>	<i>Shanahan, Matt.</i>	
<i>Ó Cathasaigh, Marc.</i>	<i>Sherlock, Sean.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Shortall, Róisín.</i>	
<i>Phelan, John Paul.</i>	<i>Smith, Bríd.</i>	
<i>Rabbinette, Anne.</i>	<i>Stanley, Brian.</i>	
<i>Richmond, Neale.</i>	<i>Tóibín, Peadar.</i>	
<i>Ring, Michael.</i>	<i>Tully, Pauline.</i>	
<i>Ryan, Eamon.</i>	<i>Ward, Mark.</i>	
<i>Smith, Brendan.</i>	<i>Whitmore, Jennifer.</i>	
<i>Smyth, Niamh.</i>		
<i>Smyth, Ossian.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Varadkar, Leo.</i>		

Tellers: Tá, Deputies Jack Chambers and Brendan Griffin; Níl, Deputies Michael McNamara and Thomas Pringle.

Question declared carried.

6 July 2022

Remediation of Dwellings Damaged By the Use of Defective Concrete Blocks Bill 2022: Committee Stage

SECTION 1

An Leas-Cheann Comhairle: Amendment No. 1 has been ruled out of order.

Amendment No. 1 not moved.

Question, “That section 1 stand part of the Bill.”, put and declared carried.

SECTION 2

An Leas-Cheann Comhairle: Amendments Nos. 2 to 4, inclusive, have been ruled out of order.

Amendments Nos. 2 to 4, inclusive, not moved.

An Leas-Cheann Comhairle: Amendment No. 5 is in the names of Deputies Cian O’Callaghan, Ó Broin, Conway-Walsh, Mac Lochlainn, Doherty, Pringle and Harkin. Amendments Nos. 5, 148 and 149 are related and may be discussed together.

Deputy Eoin Ó Broin: I move amendment No. 5:

In page 6, line 18, to delete “both” and substitute “these”.

My colleagues and I object in the strongest possible terms to the way in which Committee Stage of this legislation is being rammed through today. The pre-legislative scrutiny phase was truncated. Committee members did everything we could to ensure some level of scrutiny of the Bill. We had to submit amendments before the legislation was debated on Second Stage, which is highly irregular, and have been given just two hours today to deal with 160 amendments, 80 of which were drafted by homeowners from Donegal, Mayo, Clare, Sligo and other affected counties. Many of them are in the Gallery.

A total of 71 amendments have been ruled out of order. That is obviously because many aspects of the Bill have financial implications for the State. However, I will raise separately with the Ceann Comhairle afterwards the fact that there are three of the homeowners’ amendments that I believe to be in line with Standing Orders. We will see if we can have those addressed in the Seanad. With regard to the powers we wanted to give the Minister for Housing, Local Government and Heritage in the context of having an exceptional circumstances clause, similar to that catered for in the pyrite remediation legislation, no-penalty downsizing and the inclusion of foundations, the relevant amendments, in the context of their crafting, should have passed the test. That is a matter we will raise separately.

The Minister would not allow the Joint Committee on Housing, Local Government and Heritage to meet for two or three consecutive sessions today. We were available and could have done it. It was something the committee itself requested. We could have given proper consideration to this Bill. Given that this amendment and the others we will speak to affect thousands of homeowners who are living in the most appalling of circumstances, in many cases for years if not for more than a decade, and given that, according to the Minister’s own estimates, this Bill could cost the taxpayer €2.7 billion over its lifetime, although many believe it will cost €3 billion or more, the idea that we would only have two hours to seek clear explanations from

the Minister on many of the provisions of the Bill, to give him the opportunity to outline his intentions with respect to the many regulations set out in this Bill and to deal with and vote on amendments so that the public can see very clearly where people stand on those amendments is not just scandalous, but incredibly reckless.

The Minister and I have many disagreements. Sometimes they are over policy and sometimes they are over procedure. However, on this occasion and for the first time in the two years he has been Minister, he has crossed a very significant line. It is a line we did not see Eoghan Murphy or Deputy Coveney cross. Never before in my six or seven years in the Oireachtas have I seen legislation with such enormous financial consequences for the taxpayer, the State and the homeowners affected by what is clearly a defective Bill rammed through in such a reckless manner.

The Minister was here last week when, at their request, I read out the homeowners' statement. I have not tabled any amendments other than amendments requested by homeowners. They reflect the genuine concerns of a great many people. As we go through this Bill, I hope the Minister will provide some clarity and relief with regard to many of the key issues we will be raising.

These three amendments are no longer required because they are technical amendments relating to three substantive amendments that were ruled out of order. I will therefore not waste the House's time and will withdraw all three. However, I will state on the record that never before have I seen something like this happen in this House. The Minister's record will be judged not by us or by the affected homeowners, but by the taxpayers of this State when they see the failure of this legislation because of the Minister's failure to allow us adequate time to scrutinise it over the coming days. We will deal with the substantive matters as they arise.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendment No. 6 has been ruled out of order.

Amendment No. 6 not moved.

Deputy Eoin Ó Broin: I move amendment No. 7:

In page 6, to delete line 24 and substitute the following:

““dwelling” means any property prescribed as such by the Minister by way of regulations;”.

This is another one of those amendments that is of a technical nature. It inserts into the definitions section a different definition of “dwelling”. One of the many concerns that homeowners have is that the definition of “dwelling” in the Bill and the subsequent regulations is too restrictive. Apartments, duplexes, nursing homes, other congregated settings and other non-principal residences in a variety of exceptional circumstances are not adequately covered. One of the fundamental problems with this scheme is that it is too narrow in scope. For example, with respect to exceptional circumstances, there could be circumstances in which somebody is living in a property which he or she does not own but which is, for all intents and purposes, his or her principal residence, although it belongs to another person, perhaps because of special needs or caring responsibilities. Given the way the Bill is set up, such people will not be able to apply for redress under the scheme because they neither own the property nor are they a tenant.

If we were able to deal with the issue of exceptional circumstances as was done in the Pyrite Resolution Act 2013, this issue could be addressed. What does the Minister have to say to those homeowners who believe the definition of “dwelling” set out in the Bill is far too restrictive and will leave many homeowners behind in excluding them from the scheme, particularly those who would have been able to avail of the exceptional circumstances provision under section 17 of the Pyrite Resolution Act? What type of pathway to redress is he going to provide for those people, who are clearly excluded from this Bill?

Deputy Cathal Crowe: A very significant amount of public money is involved in this and the homeowners themselves are taxpayers, which is a point that needs to be made repeatedly because it is an issue that got skewed over the course of the campaign. There was a certain maligning in that regard. This €2.7 billion is a massive amount of public money to deal with redress. It is important that there is expediency in all of this and that the money is ring-fenced for redress for homes with defective blocks containing pyrite or mica. There is a turbulent economic situation circling for autumn. The inflation rate is already at 9.6% and, with the war in Ukraine continuing and inflation on an upward trajectory globally, there is no knowing what budgetary context we may be in come late autumn and into the winter. I understand that there are very soon to be further reports relating to defective apartments. It is very important that, while this €2.7 billion is ring-fenced, redress be expedited and further improved and refined by regulation in the autumn.

We have been reassured that the damage threshold is about ensuring that properties that are presented for redress are triaged so that those that are in the worse state of decline and decay are dealt with first while those that are in a better state are dealt with further down the line. I do not believe anyone has suggested it is a means of excluding people. The regulation will deal with the parameters of the threshold, which is welcome.

I have a final point that needs to be central to everything. Several months ago, this whole case was brought to the Attorney General. There are huge quarries and concrete block manufacturers still operating and trading very healthily. The CRH company, Roadstone, one of the largest companies in the concrete block industry in Europe, trades in Bunratty in my own constituency of Clare. It is imperative that Roadstone, Cassidy Brothers and any other company that has sold defective concrete blocks be brought before the courts and make a payment to the State so that this does not all fall to the public coffers.

Deputy Thomas Pringle: This amendment goes to the crux of all of the issues around this Bill and what is happening in connection with it. Unfortunately, I believe this Bill is an attempt to save the State money. That is what it is all about. This sets that out. The Government’s original definition of a “dwelling” is that it “means a house and does not include an apartment, maisonette or duplex”. Is it that people do not live in these premises, do not own them and do not need to get them fixed and maintained? This is about saving money. It is very short-sighted and will end up costing the State an awful lot more. By the time this whole issue is dealt with, it will have cost an awful lot more than the Minister hopes it will if he does this. This legislation will probably go through today without any real changes and it will have to be revisited at a later stage. The Minister or whoever is in his role at that time will have to do that because this legislation is not fit for purpose. It does not deal with the issues facing the people of this State. We are responsible for ensuring they can live properly and live well. I was interested to hear the suggestion that the quarries should be held responsible. They should be held responsible but ultimate responsibility for this problem lies with this House. That is the reality of the situation. It was this House that introduced self-certification and removed the requirement for external

certification. This House and the politicians within it did that. We did that in the name of the Irish people and we should now put our hands up and make it right. We should do so properly because this Bill will only have to be revisited.

Deputy Mick Barry: I will speak very briefly on this. I will talk about the rights of the people who have been hardest hit by this issue. I will also talk about the rights of the taxpayers. On the issue of the people who live in the homes affected by mica, I will put on record that I believe it is a disgrace that this is being rammed through, that there has not been adequate time for debate and that the Select Committee on Housing, Local Government and Heritage was not convened today to discuss the situation. The Bill does not extend to the issue of foundations. The review on the issue of foundations will be returned in a year's time and only then will a decision be made on whether to include them, even though there is no guarantee that the grant cap will be increased to facilitate this. In the meantime, what are homeowners to do? They either have to wait or they have to rebuild on suspect foundations, unless they have a huge sum of money they can bring into the equation. That is wrong and unfair. It adds insult to injury for the people who have suffered in this situation.

On the issue of the taxpayer, I listened to the point some of the Fianna Fáil Deputies made. There is no question that this is a big hit to the taxpayer. Perhaps Deputies should reflect on the years and years of light-touch regulation overseen and facilitated by Fianna Fáil and Fine Gael led Governments, which led to this issue the first time. Why are the insurance companies not paying now? Why are the banks that are mortgaging the homes not paying now? What about the construction industry and the developers that profited from this, not to mention the quarries that supplied the blocks in the first place? There is no point talking about *mañana*. These measures should be implemented now to defend the interests of the taxpayers on the basis of justice for the mica homeowners, justice that is being denied by the Minister and the Government through the scandalous way this debate is being organised.

Deputy Michael McNamara: I join with previous speakers in questioning the manner in which this legislation is being put through. I appreciate that Bills have to be passed but we spend so much time on statements and now we have two hours to debate this. I understand the Government needs to save money and I understand the Opposition cannot put forward an amendment that costs money. We all accept that. It is in the Constitution; we have no choice but to accept it. What I do not understand is why the Government would remove the possibility of building a smaller house. The money people will get is already set out in the legislation and nobody is looking to tinker with that. We want to remove the provision that requires people to build a house of the same size, not get them more money. How would that cost money and therefore be ruled out of order? The reality is all the homeowners, those who are here and those who are not, have a similar concern, that is, that the money they will get per square metre will not cover the cost of the works. There are going to have to dig into their own money. Some people have that money but many of them will not. I know people in my constituency who have paid back their mortgages and worked all their lives. They are pensioners now. They are not going to get a mortgage to redo the works. Who is going to give a pensioner a mortgage? That is not how banks operate in this State. If they do not get the total amount of what it will cost to remedy the damage or rebuild the house, and they are only getting 80% of the cost, they should be able to build a house that is 80% of the size of the previous one. They might decide they cannot afford the house they spent all their lives working towards but they can afford a slightly smaller house thanks to the generosity of the Minister, the taxpayer or whatever. This legislation states they cannot even do that. They will be caught between a rock and a hard place.

Deputy Pringle and I sought to remove that provision and the amendment was ruled out of order. We have a right to know why that is. They have a right to know why it was adjudicated by somebody to be out of order. I would like the Minister to explain how this would have cost the State more money.

Deputy Darragh O'Brien: I do not rule on amendments.

Deputy Michael McNamara: No, but the Minister might be able to explain how it would cost the State more money. The amendment was ruled out on the basis that it would cost the State money. Somebody somewhere thinks it would cost the State more money if we stopped people building a smaller house. The same amount of money would be made available to them but they would build a smaller house with it. It would be cheaper to heat and perhaps better insulated, which may be more in line with what the Minister's Government colleagues in the Green Party might advocate. That is not allowed under this scheme on the basis that it would cost more money. I ask the Minister to explain that. I am not asking why he ruled it out of order because he did not. Nobody is saying he did. I completely accept his bona fides that he did not do that but somebody somewhere in the apparatus of State, in one of the offices around here, thinks this is going to cost the State more money. Someone put that in their head. There is interaction between Departments and Dáil Éireann on what is ruled in or ruled out with regard to objections. I want to know how it will cost the State more money if people take the same amount of money and build a smaller house. The only way it could cost the State more money is if this is being put in to deliberately stop people who do not have the cash on hand themselves to add to the money. In fairness to the Minister, I do not think that is the case. I hope it is not because that would be indecent. I want an explanation as to how it is going to cost the State more money.

I completely agree with my constituency colleague on the need to pursue those who made and sold these defective concrete blocks for money and large profits. I have a number of amendments on this matter but the reality is they will not be reached. People talk out of both sides of the mouth a lot, and increasingly in this Dáil. They think because they voted to guillotine a Bill they will not have to vote down amendments making it more likely that quarry owners who sold defective concrete blocks would be pursued. They say they would have supported them if we had the time but, of course, they voted to make sure we did not have the time because they might have fallen out with their Government colleagues over it. That is really talking out of both sides of your mouth. It is disingenuous and it is offensive at this stage. I am in favour of this amendment but I have a lot of reservations about democracy and where it is going if this is how we make Bills.

Deputy Richard O'Donoghue: I thank all the groups from Donegal, Sligo, Mayo, Clare and Limerick. If the Minister looks up he will see that the Gallery is full. It is a long time since we have seen it as full as that. I hope he takes heed of that and of the amount of work those people have put in. I also thank my colleagues on the housing committee, who have spent long hours debating this legislation with the Minister's Department. I am disgusted that the Department was too afraid to sit down with me and my colleagues for another six hours to have a proper debate on the real housing costs for the people in the Gallery and all the people in this country.

The amendments I submitted were ruled out of order on the basis of a cost to the Exchequer. I will touch very vaguely on one of them, around foundations. In the 1970s, 1980s and 1990s, concrete foundations were put in at a maximum of 20 Newtons. At the time, if someone did

not have the proper machinery, the lorry driver could add an extra drop of water, which would reduce the foundations to 15 Newtons. Today, any foundations are put in at 30 Newtons. The Minister wants us to rebuild houses on foundations that are 10 or 15 Newtons less than what is being put in at the moment by competent engineers around this country. That is what the Minister is telling these people. He is saying we should rebuild on top of something that is completely out of context from the point of view of strength and what engineers are asking us to put in. That is what the Minister is asking us to do. That will not save the Exchequer money because in a number of years the foundations he has asked people to build on will probably be structurally unsound because of all the interference and the structural work that will have to be done on top of them. What are we going to do - go back and rebuild them?

I have asked for core testing to be done before any retrofitting is done to any property in this country, to ensure we have a full prognosis on the number of houses suffering from pyrite. Again, that amendment has been ruled out of order. It is common sense to spend about €1,500 on core testing houses to save the Exchequer money into the future, rather than retrofitting the houses and having to knock them afterwards. The Government spending more taxpayer's money on retrofitting houses and then having to knock them down is not cost-effective. Testing foundations costs €5,000 at the moment. To replace the foundation costs about €8,000. Common sense says we should get them tested and remove the foundations, otherwise it will turn into €13,000.

The Minister should look up at these people in the Gallery and remember them because they have relations all around the country. It is not only the people with pyrite who are affected but every family. All I can do is voice my disgust that the Department would not sit down with the committee, even though we asked it to. We would have stayed day and night to discuss this to make sure it was right but the Department would not take the experience of a building contractor. I have been working on buildings since the late 1980s and I have given the Department my building experience. No one from the Department could answer me on the day we debated this. They could only say that it was not in their remit or that it was somebody else's department. That is all we got, going around in circles. The Department would not take real live common sense and real live building experience from me. I am not sure if I am the only contractor here. I am a blocklayer by trade. I understand blocks. The Minister would not take advice from the likes of me and my colleagues who have fought for this to make sure we got the right redress for these people, their families and the next generation. Shame on the Minister if he guillotines this without tabling the proper amendments and corrections, which we offered to help him with.

Deputy Paul Murphy: I will be extremely brief because I am anxious that we get to divisions on the important issues to have them on the record. I have a question for the Minister. The Government just lost its majority as a consequence of the position it has taken on mica and the effective campaigning done by those in the Gallery and across the country. Will the Government draw any conclusions from the fact it has lost its majority? Will the Government avoid doing further damage to the political parties in it by learning these lessons and agreeing to do right by the homeowners?

Deputy Darragh O'Brien: I thank colleagues for their contributions. I will deal with a couple of items regarding where we were in June 2020 and where we are now. All Deputies will recognise that there have been major changes to the previous defective blocks scheme. It is important for the House that we set some of those changes out. I thank all the homeowners from all the affected counties for their constructive engagement on a difficult, complex issue. We are committed to making the scheme work for them, which is why we need to ground this

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scheme in legislation and have it passed by the summer recess. Over the summer recess, we can work through the regulations and get the scheme up and running to be able to help people to get their homes and lives back together.

I fully appreciate Deputies who have tabled amendments and their contributions today, but let us look at where the scheme came from. It was a 90% grant of up to €247,500. It is a 100% grant up to €420,000.

Deputy Pearse Doherty: That is not true.

Deputy Pádraig Mac Lochlainn: That is not true.

Deputy Darragh O'Brien: I did not interrupt any Deputy.

An Leas-Cheann Comhairle: The Minister is entitled to be heard. We are speaking to the amendments.

Deputy Darragh O'Brien: Tuigim é sin. I am saying that a number of matters were raised by this amendment and I would like the opportunity to address some of the points that have been raised, particularly relating to foundations and guarantees of works. I will be brief. I do not want to detain people for longer than they need to be. The grant options have been drastically changed and rightly so. The estimated cost of this revised scheme is €2.7 billion, which is a significant intervention by the State on behalf of residents and homeowners, and rightly so, because there has been a market failure. All of the changes that we have worked through since June 2020, when the consultation began on revising the older scheme, which started in early 2020 and was given a guarded welcome by many but did not operate.

Deputy Eoin Ó Broin: On a point of order-----

An Leas-Cheann Comhairle: There is no point of order. The Minister is entitled to speak.

Deputy Darragh O'Brien: I assure Deputies that I will be brief. A number of points were raised and I will conclude quickly. We have substantially changed the grants, with 100% options all the way through. We have also provided a guaranteed second grant option for non-rebuild remediation if required, with a 40-year guarantee, which is something that residents rightly looked for. It was not there before. It has gone from 20 years to 40 years. We have agreed on the extension of the scheme to other affected counties and have now grounded in national legislation that if other counties are affected, they will also come into the scheme. We have a pathway for that to happen. We have expanded the eligibility past principal private residences, which were covered under the existing east coast scheme for pyrite in the in-fill and foundations, to include second properties registered with the Residential Tenancies Board, for one owner, which did not exist previously. We have an independent appeals mechanism, which is included.

I will conclude on this matter regarding foundations if the Leas-Cheann Comhairle will indulge me for one moment. I said clearly on Second Stage that we need independent scientific research into other materials that may affect foundations. We have established that through the National Standards Authority of Ireland, NSAI, and that work is ongoing. I have been clear with residents and Deputies in the House, on Second Stage, that should it be discovered that other materials, such as pyrrhotite, would have a negative impact on foundations, we will include foundations in the scheme. I said that on Second Stage. Members will know from

the joint committee meetings that there were conflicting views on that point. That is why it is important to make sure we are making decisions grounded in scientific advice.

The amendment proposes to have the definition of dwelling prescribed by the Minister in regulations rather than in the Act. The definition of dwelling and, therefore, properties eligible to apply for funding under the grant scheme is a key policy and principle of this scheme. We are looking at other matters such as apartments and homes that may be co-homes, which I am sure we will be able to deal with by way of regulation. I am sure we will be able to do that. There are complexities relating to apartment buildings in particular that need to be worked through. While we can disagree on points, Deputies need to recognise that there have been major advances from the original scheme to now provide 100% redress for families. It is not just for their homes but also for rental homes. There is a 40-year guarantee and a second grant option too. We will work through the regulations over the summer to make sure that we establish a scheme which is fit for purpose. Residents can apply for it and anyone who is in the existing scheme will derive the benefit of the new enhanced rates that we have fought hard for. I will not accept the amendment.

Progress reported; Committee to sit again.

Estimates for Public Services 2022: Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Transport and Communications has completed its consideration of the following Supplementary Estimates for Public Services for the service of the year ending 31 December 2022: Vote 29.

Remediation of Dwellings Damaged By the Use of Defective Concrete Blocks Bill 2022: Committee Stage (Resumed) and Remaining Stages

SECTION 2

Debate resumed on amendment No. 7:

In page 6, to delete line 24 and substitute the following:

“ “dwelling” means any property prescribed as such by the Minister by way of regulations;”.

-(Deputy Eoin Ó Broin)

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 8, in the name of Deputy Thomas Pringle, has been ruled out of order.

Amendment No. 8 not moved.

An Leas-Cheann Comhairle: Amendment No. 9 has been tabled by Deputies Cian O’Callaghan, Eoin Ó Broin, Rose Conway-Walsh, Pádraig Mac Lochlainn, Pearse Doherty,

Thomas Pringle and Marian Harkin.

Deputy Eoin Ó Broin: I move amendment No. 9:

In page 6, between lines 24 and 25, to insert the following:

“ “foundations” means the lowest load-bearing part of a building, typically below ground level;”.

The Minister finished off with respect to foundations. The problem is that the NSAI will not conclude that work until the first or second quarter of next year. That is assuming it meets the deadline for its research on foundations. In the meantime, this scheme will open. People will apply, if this Bill passes unamended, as outlined in the scheme. An engineer appointed by the Housing Agency will go into the home. That engineer will not be allowed to test the foundations, even if, in his or her professional opinion, it appears that core testing is required. That makes no sense whatsoever. Many homes will not need foundations to be tested, but the idea that there would not be a simple provision in this Bill to allow a qualified engineer, on foot of a visual inspection, to include core testing of foundations seems bizarre to me. The difficulty is that we do not know when the NSAI will come back to report. We do not know how long it will take officials to draft regulations. Even if the NSAI reports by the second quarter of next year, it could be another quarter before those regulations are complete. This scheme could be open for a year and families who have problems with their foundations in the affected counties could be left for a year. Even though it is visually clear that there is a problem, nobody can do anything. For the life of me, I cannot understand why it is not included in the Bill.

The Committee on Housing, Local Government and Heritage sent the Minister a letter yesterday. One concern for our committee is the exclusion of foundations from the Bill. When many of the Minister's party colleagues spoke on Second Stage last week, they raised this issue. I simply do not understand why he cannot table a Report Stage or Committee Stage amendment in the Seanad to deal with this issue. I urge him to do so. It can be done now and then let the National Standards Authority of Ireland, NSAI, and the departmental officials do the work on their regulations separately next year.

Deputy Pádraig Mac Lochlainn: To be frank, there is a strong suspicion that the reason the Minister has not ensured that testing of foundations would be provided for in this legislation, is that if a homeowner clears out the foundation and the blocks, and completely clears out the site, and seeks to rebuild again, that the house would be rebuilt to modern standards. The view is that the Minister would be denying people. In my Second Stage speech I spoke of the famous “gimlet eye” - as referred to by former Taoiseach, Deputy Enda Kenny. This mindset is that you would deny people the ability to build a house, God forbid, with triple glazing and modern energy efficiency standards. Again, it is about penny-pinching. We know what penny-pinching did with the last scheme. It ended up costing the taxpayer a fortune of money because the Government got it so badly wrong. This is why we asked for a lengthy period of scrutiny in the Oireachtas Joint Committee on Housing, Local Government and Heritage, to try to make sure the Government gets this right so it does not have to revisit the scheme and cost the taxpayer even more money by its folly.

The issue around the foundations is crucial. Deputy Ó Broin is right. I believe that the NSAI panel got it wrong with IS 465. The panel did not allow for the testing of foundations. They did not allow for the testing for pyrrhotite, which is emerging as the main offender now, with other

deleterious materials. The problem is that they got it wrong with IS 465. The people who got it wrong are now reviewing their own mistakes. There does not appear to be any international peer review and there is no deadline. The Minister is going to roll out legislation that is really flawed. The appeal from Deputy Ó Broin, and I am sure from all colleagues here, is to include and provide for foundations now. We know of the phrase, “If in doubt, leave it out”. If there is any doubt about the foundations, do not make people build houses on dodgy foundations.

Deputy Thomas Pringle: This points to the problem with the Bill and flags up the issue that it must be all-inclusive and cover all of the requirements. There is no doubt that if the materials used in making the blocks are the same materials that were used in making the foundations, then that is reality of the situation. If the blocks are dodgy then the foundations could be dodgy as well, and that needs to be looked at also. The time to look at it is when the building is being assessed in the first place. For this reason, I am fully supportive of this amendment.

Deputy Michael McNamara: Like the previous speaker, I question whether the State is going to get value for money, to the extent that it is going to expend money. Of course, the affected homeowners are going to have to add to the money if they can and if they cannot, I do not what they are going to do because of this ban on downsizing. How is the scheme going to result in value for money if this money is expended on a house that has dodgy foundations and is liable to further crumbling and further subsidence? It strikes me as very skewed logic.

I have already asked how the Minister’s Department and the State will save money by banning downsizing. I am still waiting for an answer. I appreciate that the Minister’s time is limited. It is the Minister’s side of the House that decided to limit the time here, not us. It was the Government side that said two hours would do for this debate, but God knows why. The Minister might explain why. I presume the decision was not made without the Minister’s knowledge or that of the Chief Whip. It is the Minister’s Bill after all. I presume the Chief Whip asked how long is necessary to debate this Stage and the Minister said “Two hours, and we will ram it through, sure they won’t know the difference, and maybe the people affected will not know for years, and sure we will have the election, it will have come and gone and nobody will be any the wiser.”

I want to know specifically how the Minister is saving money by banning people from downsizing. The amount of money they are getting is set elsewhere in the Bill. Once it is agreed how much money people are getting and they spend that money, what is wrong with that? How could this cost the State more money than if people were to build the house to the same size as the previous one? The only difference is by how much the unfortunate homeowner is going to have to augment the rebuild cost. Will the Minister explain how that is saving money?

Deputy Richard O’Donoghue: I will simplify it for the Minister. When I was a child I had child-size shoes. That was to do with my size and my weight load. Now I am a big boy and I have adult shoes. I have big foundations so I need big shoes. When you consider a house built in the 1980s and 1990s and the foundation structure that was put in at the time, it was based on the roof structure, which was lighter timber than that used today. This means that today, with heavier timbers and a heavier roof structure, if you have a trussed roof you do not need central support but if you have a cut roof then you need central support. The Bill would mean heavier timbers and heavier weight structures going down onto a foundation that was designed many years ago to take a lighter house. Today, you cannot build that lighter house because regulations have changed. Previously, you had 7 inch by 2 inch beams on the first floor, but now you have 9 inch by 2 inch, at a minimum, with a maximum of 4 m in width. Years ago, they were allowed

to go to a width of 5.5 m. Now the regulations state that you cannot go wider than 4 m. This means that extra timber is required, resulting in extra weight on the foundations. This extra weight is proposed to be on top of foundations that were built in the 1980s. I put it to the Minister that he must stop wasting money with the NSAI. All foundations are different. Homeowners with affected foundations must be given the option of taking them out and putting them back in. That is all we are asking. It is common sense and it will save money. Every foundation in the country is different, the same way that every person in this country is different. People have different weights so they get proper shoes to carry their weight. The Minister's proposals do not make sense. We need to stop wasting time and stop wasting money. We must put foundations into the redress scheme now and stop going around in circles by wasting money on engineers' fees to look at different foundations. Every house is different, the regulations are different and the weight loads are different. Let us have a bit of common sense.

Deputy Rose Conway-Walsh: The foundations are an absolutely integral part of the scheme. The homeowners that are here today from Mayo know this. They can tell us that the foundations are not fit for purpose in some cases. Will the Minister please just allow the flexibility there with the applications within the system, so that homeowners watching this will know they can make an application and if the foundations need to be replaced, they will have them replaced. Who is going to sign off on the scheme? If an engineer knows that the foundations are not fit to rebuild on, who is going to sign off on it and who will insure that building?

Deputy Pearse Doherty: I want to add my support and that of my party to this amendment. I am minded that we who are privileged to be elected to this House are messengers of the people. This is not our amendment. This is not my amendment, and while my name and those of Deputies Ó Broin, Conway-Walsh, Mac Lochlainn, along with other colleagues are on it, this is the people's amendment. These 80 amendments come from the people. Not only do they come from the people, they come from the people who are most affected as a result of this. They come from the people who have campaigned for this for more than ten years and who, time and again, have shown that the schemes and solutions being put forward by the Department, by the officials and by the Minister are flawed or defective, just as are the concrete blocks that make up their homes. This is the reality. Even though tonight the Minister and the Government lost its numerical majority, in reality this Government had lost the support of the people over a long period of time. Change is happening, about which I have no doubt, and especially given the way the Government is ramming this Bill through. As was said in a statement that was read into the record by Deputy Ó Broin, these families and this campaign will go on. Change will happen. The Government may be able to whip people into it by getting Green Party supporters and the Fianna Fáil and Fine Gael Party supporters to ram this through tonight, but change is happening. These 80 amendments will be given effect because people will not give up until they get this right. This amendment makes sense.

There is no-one in this House who would use the money in his or her pocket to build a house where there was a suspicion that the foundations it was being built on were defective, and especially foundations that were created with the same aggregate material that went into the blocks that were proven to be defective. People could see with their own eyes the cracks in the walls. They could feel with their own fingers the blocks crumbling in their own hands. The Minister would not do it. I would not do it. We should not be asking the homeowners of Donegal, Mayo, Sligo, Limerick or anywhere else to do it. This amendment makes sense. The Minister's legislation is defective. The Minister needs to see sense and do the right thing. The Minister needs to make sure that foundations are included in the redress. I will make other points later on, but

we need to get to voting on some of these amendments.

Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien): I will respond specifically on amendment No. 9. I want to make sure that people are aware that the Housing Agency will look at foundations and particularly the foundations of homes that have been proven to have pyrrhotite in the block. That work is under way and will be under way by the NSAI, to test scientifically should there be an issue with the foundations.

6 o'clock

I said this clearly on Second Stage. I outlined that and people know that should the instance occur that there is an issue with this material, namely, pyrrhotite and that it is present in the foundations and that this is an issue, then we will include it in the scheme. We need to base decisions such as this on scientific evidence, however. We saw at the hearings of the Oireachtas joint committee that there were conflicting views on this issue, and rightly so. Deputies all the way across have been calling for the Government to ensure that the resources we use are targeted absolutely in the right place. I agree with that. Who would state we should not test this material scientifically to find out if the issue is prevalent, how prevalent it is and whether it affects the foundations? I have stated clearly that if that is the case, we will include foundations in the scheme. The NSAI is carrying out that work. The Housing Agency will test and take the materials from the foundations. To repeat, if it is the case, and it is “if” because we do not know that yet, foundations will be included in the scheme. There are very strong views. Some have views that pyrrhotite, in particular in the infill, is a problem. If that transpires to be the case, the scheme will be amended to include it.

To try to put in legislation now something that is not based on scientific fact yet and that we do not yet know would do a disservice to the scheme itself and the legislation. However, I am giving that commitment very clearly. I gave it on Second Stage and I am giving it here again. We are undertaking the work to get independent scientific advice and research on this matter to see if there is a problem. If it is the case that there is a problem with pyrrhotite, particularly in the foundations and infill – that is an “if” because neither I nor anyone here can say that with any degree of certainty and we such certainly – foundations will be included and we will amend the scheme to do that. Therefore, I will not accept this amendment.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 10:

In page 7, between lines 9 and 10, to insert the following:

“ “standards assessment and compliance report” has the meaning given to it by *section 41*;”.

I will not address the amendment because it stands for itself. I want to move on so that we can get through these as quickly as possible to actually get to the ones that the mica people put forward themselves in order that they can be debated.

Deputy Darragh O'Brien: I will respond to the amendment the Deputy has tabled. It proposes to add a new definition in section 2 in respect of a “standards assessment and compliance report” and insert the requirements in respect of the said report in section 41. The report would require the Minister to publish a report confirming the amendment of various standards

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in full compliance with others. It is not possible to commit to publishing a report confirming such matters when the research and reviews that are needed to be in a position to confirm them have been completed yet or may not, when completed, be in position to confirm them as required. Basically, this is premature until the work that is under way has concluded. However, the Deputy can be assured that when that work is concluded, every Member of this House will be made aware of the outcome. I cannot accept amendment No. 10.

Amendment put and declared lost.

Section 2 agreed to.

Section 3 agreed to.

NEW SECTION

Deputy Eoin Ó Broin: I move amendment No. 11:

In page 7, between lines 25 and 26, to insert the following:

“Reports

4. The Minister may within a year of the commencement of this Act, commission and publish reports on the following matters:

(a) the enforcement of construction product surveillance in the construction industry and measures taken to strengthen such enforcement to ensure full compliance with all relevant standards and regulations;

(b) the enforcement of all relevant construction industry and environmental standards in quarries supplying aggregate and other materials into the manufacture of construction products and measures taken to strengthen such enforcement and compliance;

(c) the raising of a levy on quarries, block manufacturers, building suppliers, construction companies, non-life insurance providers and pillar banks or any other such measures aimed at ensuring appropriate financial contributions from relevant industries to the ongoing costs of defective block and other deleterious material defect remediation;

(d) legal challenges and, or public enquiries into the causes of the defective block and related deleterious material scandal and those responsible for that scandal.”.

I propose to withdraw the amendment and have it reintroduced in the Seanad.

Amendment, by leave, withdrawn.

Section 4 agreed to.

SECTION 5

Amendments Nos. 12 and 13 not moved.

An Ceann Comhairle: Amendment No. 14 has been ruled out of order.

Amendment No. 14 not moved.

An Ceann Comhairle: Amendments Nos. 15 to 18, inclusive, 65, 66, 83, 98 and 113 are related and may be discussed together.

Deputy Thomas Pringle: I move amendment No. 15:

In page 8, to delete lines 34 to 37 and substitute the following:

“(11) For the purposes of making a recommendation, the Housing Agency shall consult with—

(a) the local authority which made the request, and

(b) affected homeowners’ representative groups, including nominated competent building professionals (as defined in *Part 2* of this Act) and/or academic professionals with expertise in the fields of geology and materials science (of the homeowners’ choice), from the administrative area of the local authority which made the request, and

(c) such other persons as it considers appropriate.”.

I withdraw this amendment and intend to do the same for all the other amendments in this group. I can have them brought back in the Seanad.

Amendment, by leave, withdrawn.

Amendments Nos. 16 to 18, inclusive, not moved.

Deputy Eoin Ó Broin: I move amendment No. 19:

In page 9, between lines 16 and 17, to insert the following:

“(16) The Minister shall request the National Standards Authority of Ireland to complete the review of I.S. 465:2018, in a timely manner and as far as is possible to ensure that that review is completed in time for the opening of the Defective Concrete Block Scheme as provided for in this Act.”.

The Minister and his officials explained both at the special hearings of the committee and on Second Stage that the NSAI had been asked to undertake a more comprehensive review of industry standard, IS 465, which underpins the current scheme. We are all in support of that and want that to happen as quickly as possible. There is a genuine problem here, which is that we were informed by the Minister’s officials at the Oireachtas committee hearings two Thursdays ago that the NSAI review of IS 465 is delayed. It might not happen and it might not be concluded until the latter end of next year. Again, that means if they meet that deadline, and assuming the officials take a period of time to get the regulations right, it could be the latter end of next year or early 2024 before any change with respect to pyrrhotite in particular but also potentially foundations and other matters. Again, that makes no sense.

I fully accept the NSAI is independent and one cannot interfere with its work. I am asking the Minister to try to do everything he can to ensure that it completes that work in as far as is possible in parallel with the commencement and opening of this scheme. That is the ideal for the homeowners in resolving many of the issues we raised here. I am appealing to the Minister

to use his good offices through this amendment to ensure that the reviews of IS 465 and the regulations are expedited as a matter of urgency and, in preference, in parallel with the opening of this scheme.

Deputy Pádraig Mac Lochlainn: I referred to this in my earlier comments. I just cannot emphasise strongly enough that it is madness to put forward, as the Minister said, billions of taxpayers' money and base it on what is a flawed standard, namely, IS 465. Already there have been tests carried out by Petrolab in Britain. There have been examinations by Dr. Andreas Leeman, who is a highly respected international expert. There is absolute clear scientific evidence that IS 465 is not up to the standard required to invest billions of taxpayers' money. Why on earth would the Minister start this scheme without making sure that we have clear feedback from the NSAI in terms of the review that the Minister has given it the terms of reference for?

The other point is that the NSAI, as confirmed to me in recent days, has exactly the same panel, including strong industry input from the construction and concrete industry. The very people who designed IS 465 are the people who created this disaster. Let me repeat that for the record. The very people who are advising the NSAI on IS 465 and this review are the people who created this disaster for thousands of families around this country. They should be taken off from that review immediately. Anybody involved in the construction or concrete industry should not provide input to that review. There are plenty of international experts who can do that. There are plenty of laboratories around the world and there is plenty of international best practice. I ask the Minister to urgently intervene with this review and make sure that the people who are doing it are actual experts independent of the industry and it based on best international practice, before he goes spending billions of taxpayers' money. All the families in the Gallery are asking for is for this to be done prudently and sensibly, based on up-to-date international practice and science. I ask the Minister to support the amendment.

Deputy Richard O'Donoghue: I concur with all the other speakers. IS 465 is out of date and needs to be updated. The Oireachtas Joint Committee on Housing, Local Government and Heritage had specialists on pyrite, which is more than what the Department had. Specialists understand pyrite and understand the regulations. IS 465 is like putting the cart before the horse. We need to get this right. It needs to be up to date. Fully independent people, experts in their field and outside of the NSAI, need to do the review.

Deputy Mattie McGrath: I welcome all the people who have travelled to be in the Gallery tonight. I support the amendment. The Bill is rushed and half-baked. If the fox is minding the henhouse, we can only expect to get dead hens in the morning and no eggs or maybe an odd glugger the fox would not eat. I support the amendment and I support my colleague, Deputy O'Donoghue, who is a member of the committee. The Minister should listen to the experts. He might say experts are experts, but above all they must be independent of the Construction Industry Federation and any of the quarry people. We cannot fix the problem if there is an elephant in the room. I also support the amendment.

Deputy Thomas Pringle: I fully support the amendment. The committee showed that IS 465 is not fit for purpose. The mica people had experts there who were worldwide experts on pyrrhotite and other things. Their input could have been listened to and taken on board. IS 465 could be amended to make it worthwhile and fit for purpose. I ask the Minister even at this late stage to consider that because it is vital and goes to the crux of whether the Bill will work.

Deputy Cian O'Callaghan: The list of people on the NSAI review group of industry stan-

dard 465 reads like a who's who of the industry. I question whether there is sufficient independence in that. What measures are in place to ensure they are sufficiently independent and not tied in with many of those industry representatives in the group? Where are the measures to ensure sufficient international experience and expertise is giving input to that group?

Deputy Darragh O'Brien: At the committee hearings, one of the most eminent and respected experts on pyrite and deleterious materials, Mr. Paul Forde, presented to the committee and did a really good job as chair of the expert group. He was very clearly of the view that an independent review and a scientific study of the material needed to be done. By the way, he had another view on foundations that was contrary to what some other experts proposed. This work needs to be done urgently.

Deputies have asked the question and of course we have impressed upon the NSAI the absolute importance of carrying out this review scientific study as quickly as humanly possible and that it would be done in the right way. It is absolutely a priority for that to be done. The Deputies who tabled the amendment, Deputies Ó Broin, Conway-Walsh, Cian O'Callaghan, Doherty, Pringle and Harkin, can be assured that we are in regular contact with the NSAI. I expect that people of international standing will be feeding into this process. Some of them are people in this jurisdiction, including Mr. Paul Forde who has done an excellent job in chairing the expert group throughout. I will be keeping in regular contact with the NSAI to conclude that review as speedily as possible. We also need it done properly. Deputies have mentioned the timeframe and it is likely to take until 2023. Let us consider how long we have waited for an enhanced scheme. We have been working on this element of the scheme from the review which I sought back in June 2020 and residents have been dealing with these issues for years. Of course, we want to get it right. This scheme provided for in this legislation is the basis to do that. If Deputies are saying that we need to delay the passing of legislation and the implementation of the scheme and putting the parameters of the scheme in place, the Housing Agency's involvement in that, the testing and all the other things we need to do, to wait for an independent body that I have no control over as to exactly how and when they do their work or when they are going to report-----

Deputy Paul Murphy: That is not what the amendment says.

An Ceann Comhairle: Please Deputy, let the Minister speak. I will call you when the Minister has finished.

Deputy Darragh O'Brien: I read the amendment. When an amendment includes the words "as far as is possible", it leaves it open to interpretation. What is as far as possible? I am explaining where we are at. This review is important. It will be based on scientific research done independently. I reiterate that should problems or issues be found within it, we will amend the scheme accordingly. Everyone would say that such decisions need to be based on scientific evidence and that is what we will do.

The amendment would require me, as Minister, to request the NSAI to ensure the review of IS 465 is completed in time for the opening of the defective concrete block scheme, as provided for in the Bill. My Department has been and continues to be in consultation with the NSAI on the review of IS 465. While the review has begun, the NSAI has confirmed that the research necessary to inform the review will take some time. I think that is understood by most. I do not think any Deputies want to delay the commencement of the enhanced grant scheme, given that homeowners want to and need to press on with their applications and make preparation for the

remediation works that are necessary.

We did not get to respond to that one but as I advised earlier, section 51(2) of the Bill makes provision for review at within three months of any review of IS 465 by the NSAI. I can assure Deputies that under no circumstances will that be delayed. A report of its findings and conclusions will be provided to both Houses of the Oireachtas. I genuinely believe we need to move on with the establishment of the scheme. The review will take place and is taking place in parallel. I will keep the House informed on it.

Amendment put:

<i>The Committee divided: Tá, 67; Níl, 73; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Bruton, Richard.</i>	
<i>Bacik, Ivana.</i>	<i>Burke, Colm.</i>	
<i>Barry, Mick.</i>	<i>Butler, Mary.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Byrne, Thomas.</i>	
<i>Brady, John.</i>	<i>Cahill, Jackie.</i>	
<i>Browne, Martin.</i>	<i>Calleary, Dara.</i>	
<i>Buckley, Pat.</i>	<i>Cannon, Ciarán.</i>	
<i>Cairns, Holly.</i>	<i>Carey, Joe.</i>	
<i>Canney, Seán.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Carthy, Matt.</i>	<i>Chambers, Jack.</i>	
<i>Clarke, Sorca.</i>	<i>Collins, Niall.</i>	
<i>Collins, Joan.</i>	<i>Cowen, Barry.</i>	
<i>Connolly, Catherine.</i>	<i>Creed, Michael.</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>English, Damien.</i>	
<i>Ellis, Dessie.</i>	<i>Farrell, Alan.</i>	
<i>Farrell, Mairéad.</i>	<i>Feighan, Frankie.</i>	
<i>Funchion, Kathleen.</i>	<i>Fleming, Sean.</i>	
<i>Gannon, Gary.</i>	<i>Foley, Norma.</i>	
<i>Gould, Thomas.</i>	<i>Grealish, Noel.</i>	
<i>Guirke, Johnny.</i>	<i>Griffin, Brendan.</i>	
<i>Harkin, Marian.</i>	<i>Harris, Simon.</i>	
<i>Healy-Rae, Danny.</i>	<i>Haughey, Seán.</i>	
<i>Healy-Rae, Michael.</i>	<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	<i>Higgins, Emer.</i>	
<i>Kelly, Alan.</i>	<i>Humphreys, Heather.</i>	
<i>Kerrane, Claire.</i>	<i>Kehoe, Paul.</i>	

<i>Mac Lochlainn, Pádraig.</i>	<i>Lahart, John.</i>	
<i>McDonald, Mary Lou.</i>	<i>Lawless, James.</i>	
<i>McGrath, Mattie.</i>	<i>Leddin, Brian.</i>	
<i>McHugh, Joe.</i>	<i>Lowry, Michael.</i>	
<i>McNamara, Michael.</i>	<i>Madigan, Josepha.</i>	
<i>Mitchell, Denise.</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>Murphy, Verona.</i>	<i>McEntee, Helen.</i>	
<i>Mythen, Johnny.</i>	<i>McGrath, Michael.</i>	
<i>Nash, Ged.</i>	<i>McGuinness, John.</i>	
<i>Naughten, Denis.</i>	<i>Moynihan, Aindrias.</i>	
<i>Nolan, Carol.</i>	<i>Moynihan, Michael.</i>	
<i>O'Callaghan, Cian.</i>	<i>Murnane O'Connor, Jennifer.</i>	
<i>O'Donoghue, Richard.</i>	<i>Naughton, Hildegard.</i>	
<i>O'Reilly, Louise.</i>	<i>Noonan, Malcolm.</i>	
<i>O'Rourke, Darren.</i>	<i>O'Brien, Darragh.</i>	
<i>Ó Broin, Eoin.</i>	<i>O'Brien, Joe.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>O'Callaghan, Jim.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>O'Connor, James.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>O'Dea, Willie.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>O'Donnell, Kieran.</i>	
<i>Pringle, Thomas.</i>	<i>O'Donovan, Patrick.</i>	
<i>Quinlivan, Maurice.</i>	<i>O'Dowd, Fergus.</i>	
<i>Ryan, Patricia.</i>	<i>O'Gorman, Roderic.</i>	
<i>Shanahan, Matt.</i>	<i>O'Sullivan, Christopher.</i>	
<i>Sherlock, Sean.</i>	<i>O'Sullivan, Pádraig.</i>	
<i>Shortall, Róisín.</i>	<i>Ó Cathasaigh, Marc.</i>	
<i>Smith, Bríd.</i>	<i>Ó Cuív, Éamon.</i>	
<i>Stanley, Brian.</i>	<i>Phelan, John Paul.</i>	
<i>Tóibín, Peadar.</i>	<i>Rabbitte, Anne.</i>	
<i>Tully, Pauline.</i>	<i>Richmond, Neale.</i>	
<i>Ward, Mark.</i>	<i>Ring, Michael.</i>	
<i>Whitmore, Jennifer.</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>	

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Tellers: Tá, Deputies Pádraig Mac Lochlainn and Rose Conway-Walsh; Níl, Deputies Jack Chambers and Brendan Griffin.

Amendment declared lost.

Sections 5 agreed to.

Section 6 agreed to.

SECTION 7

Amendment No. 20 not moved.

An Ceann Comhairle: Amendments Nos. 21 to 24, inclusive, have been ruled out of order.

Amendments Nos. 21 to 24, inclusive, not moved.

Section 7 agreed to.

SECTION 8

Amendments Nos. 25 and 26 not moved.

An Ceann Comhairle: Amendment No. 27 is in the names of Deputies O'Donoghue, Michael Collins, Danny Healy Rae, Michael Healy Rae, Mattie McGrath and Nolan.

Deputy Richard O'Donoghue: I move amendment No. 27:

In page 11, line 26, after “home,” to insert “voluntary community housing,”.

We will withdraw the amendment.

Amendment, by leave, withdrawn.

An Ceann Comhairle: Amendment No. 28, in the name of Deputy Pringle, has been ruled out of order.

Amendment No. 28 not moved.

Section 8 agreed to.

SECTION 9

An Ceann Comhairle: Amendments Nos. 29 to 36, inclusive, have been ruled out of order.

Amendments Nos. 29 to 36, inclusive, not moved.

Section 9 agreed to.

SECTION 10

An Ceann Comhairle: Amendment No. 37 to 48, inclusive, have been ruled out of order.

Amendments Nos. 37 to 48, inclusive, not moved.

Section 10 agreed to.

Dáil Éireann
SECTION 11

An Ceann Comhairle: Amendments Nos. 49 to 51, inclusive, are related and may be discussed together. I call Deputy Cian O’Callaghan to move amendment No. 49 and to address it and the other amendments in the group.

Deputy Cian O’Callaghan: I move amendment No. 49:

In page 14, between lines 11 and 12, to insert the following:

“(1) The Minister shall request an updated Society of Chartered Surveyors of Ireland report on construction costs for the Defective Concrete Block Grant Scheme in advance of the opening of the scheme, based on appropriate regional or county-based costings. The Minister may also amend the terms of reference for this report to take account of the varying costs for replacing or remediating smaller homes, bungalow and dormer bungalows, and to include other affected works such as boundary walls and attached garages.”.

I will speak briefly on amendment No. 49. This is an important amendment. When the Society of Chartered Surveyors Ireland, SCSi, was before the joint committee, it made it clear that it was happy and willing to do this work. It was also clear that it would like to be asked to do it quickly and to be given notice in that regard by the Minister. I ask that the Minister accept the amendment and give notice, because this work is required to be done as quickly as possible.

An Ceann Comhairle: I call Deputy Pringle. He will be followed by Deputy Ó Broin.

Deputy Thomas Pringle: This amendment is vital to anyone who supports Deputy Cian O’Callaghan in what he said. The Minister stated earlier, in response to a previous amendment, that while he cannot instruct, he can ask. That is something we should be doing. It is vitally important to make sure that the scheme is fit for purpose. In that context, the Minister should ask that a report be provided as quickly as possible.

Amendments Nos. 50 and 51 relate to the timelines in which things are meant to happen. Their purpose is to reduce the timelines from 12 months to six.

Deputy Eoin Ó Broin: The Minister made a claim that this scheme will provide 100% redress for homeowners. That is not true on the basis of the current framing of the scheme. That is the case because the costings underpinning the scheme, on the basis of the legislation in front of us, were made by the SCSi in January, and the terms of reference were made by the Minister and the Department, not the SCSi. Unless this amendment is passed and unless the Minister requests the SCSi to update those costings in advance of the opening of the enhanced scheme and revises the terms of reference and includes the option of foundations, then when the scheme opens, what will be on offer will be very far from 100% redress.

A concrete example was given to the joint committee by Ms Martina Hegarty from the North Mayo Pyrite Group when she described a very modest-sized 90 sq. m home. She outlined how, on the basis of the current costings from the SCSi report and the expert panel’s recommendations on the implementation of that, it would give her a grant size of somewhere between - the Minister should note this important information - €160,000 to €170,000. The costings she is getting from contractors in her county at the moment place the costs of the remediation and replacement of that dwelling now at €20,000, €30,000 and €40,000 above what the level of the grant. In order for Martina Hegarty and many other affected homeowners like her to rebuild

their homes on a like-for-like basis, it is not 100% redress.

If the Minister accepts this amendment, it will send a clear signal to the SCSi to start undertaking the relevant work. Its representatives spoke to us at committee and said they would need approximately three months to carry it out. It would also send a clear signal that the Minister would also consider amending the terms of reference. Why is that important? If the Minister does not include foundations in the costings now, when this scheme opens, he cannot review those costings for another year. As he mentioned earlier, even if the NSAI completes its work in respect of foundations early next year, there would be no review of the costings until 12 months after the commencement of the Act. As a result, it is absolutely crucial to update the costings and provide a comprehensive range of options in order that if and when the Minister amends the scheme by the way of regulation, all the costings will have been calculated, in place and up to date and will bring people closer to 100% redress, which is not provided under the scheme as it stands.

Deputy Richard O'Donoghue: I concur with the previous speakers. Again, I say to the SCSi that when it is updating its figures, the template stays the same. All it has to do at the moment is update the existing costs; it does not take three months. We updated our data sheet on 1 July when we got all the price increases from all the different providers across the country. We got the costings we are voting on tonight in February. How much has that changed since February? The costings from all the different suppliers and providers that are coming in can be upgraded in the space of a week. The template stays the same; it is only a case of upgrading the costings to today's costs, which can be done within a week. If everyone else can do it, I cannot understand why the SCSi cannot. This, again, is common sense. People who do it on a daily basis can actually do it because they depend on it for a living. When it comes to other bodies, however, it can take them two and three months. That is why we are so far behind. I believe it should be index-linked going forward.

Deputy Dara Calleary: The current SCSi model discriminates against smaller homes, in particular smaller semi-detached homes. Can the Minister give a commitment that when setting the regulations, there will be an uplift for smaller homes with regard to the square foot range, which as currently constructed will not cover their full costs?

Deputy Paul Murphy: I will be extremely brief. The crux of the issue is 100% redress and nothing less. This amendment is aimed at scrapping the asterisks and small print the Minister has put in, which, in effect, turns 100% redress into 80% redress. It means that homeowners would not be able to access it. It is completely immoral and unjust because it puts a burden on homeowners who are at no fault for this whatsoever. This is essential. The Minister should accept the amendment. I also encourage Deputy Calleary to follow the example of Deputy McHugh and vote in favour of the amendment, because he clearly agrees with it, and send the clearest possible signal to the Government.

Deputy Pearse Doherty: This is the core of this issue. This is what the demand is and this was the chant from tens of thousands of people who came to the streets more than a year ago. It is to ensure that people are able to have their homes remediated. I am sure the Minister probably believes his own spin or some of the stuff he said earlier that this is 100% up to €420,000. That is simply not true. If it were true, then people in my country and other countries would be happy with this legislation. It is not true, however, and they know that. They have examined the numbers. They sat at their kitchen tables, took out their pens and pencils and looked at what this will mean for them.

Deputy Ó Broin gave an example of one of the campaigners for whom this means that she would have to get approximately €40,000 or something of that order to rebuild her home. The reason the people in the Gallery travel and the reason people campaign outside the Houses is because they know those figures are real. Depending on the size of the house or a person's circumstances, it can be even higher than €40,000 or €50,000 because there is not 100% redress. The SCSI costings exclude a huge number of costs that will be associated with rebuilding these families' homes. The costings themselves are so far out of date that they need to be brought up to date. This is the core. If the Minister believed in his own guff that there is 100% redress up to €420,000 then he should support this amendment and give the people what they deserve, which is 100% redress.

Deputy Eoin Ó Broin: Hear, hear.

Deputy Michael McNamara: I will continue on the issue of 100% redress. The Minister was not at the meeting of the joint committee that day but, certainly, the officials to whom he is now speaking were there when we were repeatedly told that it was not going to be 100% redress simply because of inflation if nothing else. There has been considerable price inflation in the period since the prices for which this scheme is based were drawn up. I have asked the following question many times; I am still waiting for an answer. The Minister is free to answer it whenever he chooses to do so. How does allowing people to downsize cost more money? The amount of money they are going to get is set out. How does allowing them to downsize cost more money? Deputy Pringle and I tabled an amendment on this matter, but it was ruled out of order on the basis that it would involve a cost to the Exchequer. We both accept that we cannot introduce legislation that would involve a cost to the Exchequer, although neither of us accepts that this particular amendment would actually involve any cost to the Exchequer. Could the Minister or the officials to whom he is speaking so earnestly please outline how it costs the Exchequer more money if people are allowed to downsize?

The Minister has curtailed the debate and the Bill will be guillotined. Will he tell us how it will cost more money if a person downsizes? It is a very simple question. It is not for me. Thankfully, I do not have a home that is affected by pyrite but I know people who do. They will not be able to build a house the same size because the money the Government is going to give them will not allow them to build a house of the same size. They are pensioners with their mortgage paid off. They are not going to get another mortgage. People do not give pensioners mortgages in the real world. As a result, they will not be able to avail of the scheme unless they can downsize. Can the Minister please tell me how it costs more money to allow people to downsize?

Deputy Mattie McGrath: I, too, support the amendment. I cannot imagine the thought process around it or what kind of thought process came into it that people are not allowed to downsize. We all know there is massive, indeed savage, inflation in building costs right across the board - even leaving the foundations out of it - in terms of blocks, cement, labour, tradesmen and, above all, timber.

The Government will not allow us to cut a cipín in rural Ireland. It wants to import timber, which is costing a fortune. Thankfully, like Deputy McNamara, I do not have a house that is affected. We are lucky and blessed but people are affected. It is not only the elderly - anyone over the age of 50 or 55 will not get a mortgage. One would have to wonder how an amendment like that is ruled out of order on the basis that there is a cost to the Exchequer. Surely, if you cut your cloth according to your measure and cut it down, it will save money in the long run.

People will be happier. Perhaps children have moved on or whatever and they do not need the same size house. For a plethora of reasons it makes perfect sense to allow them to downsize.

Deputy Darragh O'Brien: Deputies will be aware that the €420,000 overall cap is set by the Government. It is a significant change from the existing scheme, at 90% maximum grant, to 100% maximum grant under the new scheme for different house types. There is a cost per square foot of between €161 and €145 per square foot.

Deputy Richard O'Donoghue: Outdated.

Deputy Darragh O'Brien: They are very significant changes. Under the Bill, every 12 months those rates can be varied by a Minister by regulation without changing the Bill. The SCSi set the rates, and I commend it on the work it did. It was an important piece of work. I committed to homeowners at the time with regard to the previous rates, and homeowners had understandably been very critical of those rates, that we would get the work done independently through the SCSi and that I would accept those rates, which I did. They were independently calculated and fully accepted. That was in February.

Yes, we have had price inflation across various sectors since then. The members of the SCSi in their evidence to the committee were very clear that inflation should not be considered over a short period of time. Others have spoken about tracking the consumer price index, CPI, for that over a short space of time, particularly in this inflationary environment. I have given a commitment and it is set down in the Bill. There is no issue with reviewing rates into the future, but one has to allow a period of time for that to happen. That is what is set in the Bill. That is why it is so important that we get this passed by the summer. Then the review of that can take place. It is provided for that in the first three years the rate can be varied every year. After that, it would have to come back to the Oireachtas.

In response to Deputy Calleary, who has spoken to me about this issue, if there are specific issues, we will look at them through regulations for smaller homes and terraced houses. We need to work through the regulations to make sure that the scheme is fully operational as soon as possible. I will do that and I will continue to engage with Deputies on all sides of the House on that. By the way, this is not a question of just starting work on regulations post the Bill passing. Work is already under way on that. We do not want to delay this legislation in any way, shape or form. It will take time to get the regulations in place. We will bring them forward, and I expect that to be in the autumn, and we will have the scheme up and running. It is a greatly enhanced scheme that will provide 100% redress, access to the scheme for a second grant and a 40-year guarantee. It will ensure there are no financial barriers to enter the scheme, as there were in the previous scheme in early 2020. There are no upfront costs of €5,000 to €7,000 in this scheme. I could go on, but Deputies will be aware of this.

This is a greatly enhanced scheme, an improvement on the previous one, that will provide 100% redress so people can get their homes-----

Deputy Eoin Ó Broin: It would be nice if the Minister spoke to the amendment.

Deputy Darragh O'Brien: I am allowed to respond, Deputy Ó Broin. People can get their homes back on track and get their lives back on track. That is what we want. We want engagement from the Housing Agency as well, which will be there, and resourcing of the agency on the ground. There are independent appeals and independent assessments.

This is a vast improvement on the previous scheme, and I thank the residents for the work they have done in ensuring that we got this far. What the Oireachtas has to do this week and next week is pass the legislation so we can put the new scheme in place and make sure that it works for residents. I am absolutely confident that it will. I will not accept the amendment.

Deputy Thomas Pringle: The Minister is adamant that this is a much improved scheme and that everybody should accept it on that basis. I do not believe anybody has argued that this is not an improvement on the previous scheme. The problem is that it is not improved enough. The problem is that families are going to have to wait to go through the third iteration of this coming around to actually get redress and to be able to rebuild their homes. What is wrong with this scheme is that the Minister has not gone far enough. He could save a lot of money and save the State and this House a lot of time by going far enough and making it a scheme that will work.

The Minister said he is going to make the scheme through regulations, but the problem is that the regulations will be bound by what is in this Bill, so it still will not deal with the issues. I hope it does. It will deal with them for some people, but even those people who get into the scheme will be left with big costs. That is the reality. It is being dressed up as being the €2.4 billion scheme to make it look as if it is costing the State and the State is doing a great job by giving people all this money. That is not the issue. The issue is that the scheme is not going to meet the needs. People will avail of the scheme and get the scheme, but they are also going to have to cough up money themselves and put money into it, for something they did not cause. It is not their problem but a problem that has been caused by this House, by the industry involved in it and by the lax regulation formed in this House.

Deputy Darragh O'Brien: All I will say to the Deputy is that nobody is throwing around figures of €2.7 billion. That is not the purpose. The State needs to intervene in a market failure on behalf of its citizens, to help people to get their homes and their lives back together. I am not throwing around figures of €2.7 billion. That is the cost initially. That only takes in a certain amount of inflation. The decision the Dáil will make this evening and the Oireachtas will make by the end of next week is whether we will stay with an old scheme that obviously failed people or move on with an enhanced scheme that is going to-----

Deputy Thomas Pringle: It will fail people as well.

Deputy Darragh O'Brien: -----greatly improve the situation and provide 100% redress for people. I will not go over the other points raised. I have already put on the record many of the different changes. Voting against the legislation means there is no new scheme in place and it is further delaying the remediation and replacement of people's homes and enabling them to be able to see a future and some light at the end of the tunnel. To be clear, it is voting this down after all the consultations right through the process since June 2020. In fairness to Deputy Pringle he has engaged in this and has acknowledged there are vast improvements on the previous scheme. This scheme absolutely will work for people. It is, of course, any Deputy's right to have a view on it but the reality is that if this legislation were voted down this week and next week, we would be left with the existing scheme that was launched in January 2020.

Deputy Paul Murphy: We would come up with a new one then.

Deputy Darragh O'Brien: We would have no legislation, because that scheme was set up under regulations only.

Deputy Pádraig Mac Lochlainn: Accept the amendments.

Deputy Darragh O'Brien: It will not be grounded in primary legislation as it needs to be. We will not have the Housing Agency involvement in it or the independent appeals. We will not have all the infrastructure that is set up to make this scheme work. It will all fall. That is what happens if this is voted down.

Deputy Joe McHugh: I will be brief. When the old scheme was mentioned I thought back to the fallout from the old scheme. The Minister is correct that it fell way short. Everybody knows that. That is history. I made a decision tonight on the second scheme based on my gut. It is not for the want of work on the part of the Minister and his officials to try to get it right. I honestly believe there is no such thing as a perfect scheme for a scheme of this magnitude. However, I believe this scheme falls short on a number of fronts. It falls short for people in terms of accessibility and affordability. In my consultation and engagement with the Minister through the last few weeks he has been honourable and has kept an open line. I am asking this of the Minister tonight because I feel I have not achieved what I wanted to achieve on behalf of the constituents I represent, many of whom are here tonight and many of whom are at home, still trying to figure out how they are going to enter the scheme. I voted against this and I will be voting against it all the way through.

7 o'clock

This is not over. It is not over for the people. We still have to figure out a way to try to make this scheme better for people. I am talking in particular about people who are of my generation or a little older who will find it hard to get a €30,000 or €40,000 loan upfront. Where will the money come from, even to pay for engineering fees at second stage or for demolition? There are many shortcomings and a lot of work still needs to be done on this. My decision to vote against this tonight is because we do not have enough time to put our heads together properly as a Parliament on it. I know the Minister's motivation is to try to get this done before the summer. I called for that, as did everyone in this House, but this scheme falls short. We did not have the time.

Downsizing was a big issue for me. I still believe it is unfair that somebody who wishes to downsize is being penalised. The person downsizing cannot salvage their kitchen and staircases; I felt very strongly on that point and will continue to raise it. I thank the Minister for the engagement once again, but my gut tells me that this second scheme is falling short for too many people and for constituents in my county in particular.

Deputy Michael McNamara: The Minister spoke about the magnitude of the scheme and we cannot but agree with him. It is a major scheme. It is important that it is underpinned by legislation. Deputy McHugh also spoke about the magnitude of the scheme, which is at €2.4 billion. Of course, we are only starting. Does anybody sitting here really think it will cost just €2.4 billion? It will cost an awful lot more than that. At the very least, one might expect that a Bill introducing a scheme that will cost, conservatively, €2.4 billion - I would have thought it would be at least €5 billion - would introduce enhanced measures to ensure those who provided concrete blocks that were defective, did so for profit, and obtained significant profit, would be pursued through the courts for that.

Not alone does this scheme not introduce any enhanced measures, it, in effect, ensures those who provided the blocks will not be pursued by homeowners because they cannot be. The

Minister is correct that the cause of action accrues to him. It is for him to pursue them. I wish I could have confidence in that happening. I tried to introduce an amendment that was not ruled out of order or anything, but we will not get to it. I tried to introduce an amendment allowing for the Minister to at least report back on how many cases were pursued. The reality is nobody will be pursued. That is why the share price of the biggest quarrying company in Ireland is unchanged by this scheme. In fact, its share price is defying downward movement of the ISEQ and staying pretty level.

I do not have the human resources of the Attorney General's office at my disposal but the Minister does. I would have very much liked to have seen him introduce something whereby we knew each and every case was going to be pursued and the unfortunate homeowners could possibly piggyback on a case. I do not think the Minister is going to give a homeowner €200,000 and then pursue that case. There will be many cases where he cannot do so. I accept that as an unfortunate reality, but there will be some cases where he can. If the real cost to homeowners is more than the €200,000 the Minister will give them, they could bring a case in parallel but this cannot happen under this scheme. In fact, what this introduces, and I do not think the Minister has done this intentionally - I certainly hope he has not - is that no cases will be taken by homeowners against any of the quarries. There will be none taken by the Minister either because there is no requirement to account back to this House, even though €5 billion will be spent.

It is a scheme of considerable magnitude but it is deficient. I appreciate that we need to call a vote on a couple of other amendments that will be reached, but we needed much more time to discuss this.

Deputy Darragh O'Brien: I will make a couple of points and respond to Deputy McHugh. I thank him for all his engagement right the way through. I also thank Deputies Calleary, Carey, Cathal Crowe and many others who have engaged very positively and constructively, in what is a difficult situation, to improve this scheme and work it through. I have no doubt that, through the regulations, there will be other areas we will need to work through to seek further improvements. I assure Deputies I will continue to work with them.

Let us be also be clear, however, that we need to pass the legislation to establish the scheme and get it up and running so we can set up the apparatus for it, not just the legislative apparatus but the human resources required on the ground, the testing that needs to be done and all those various things. There are many moving parts in this. We cannot have a situation where this is continually delayed. Deputy McHugh was right when he said that every scheme, and I said it in Buncrana when I was there with the Minister for Agriculture, Food and the Marine, Deputy McConalogue, in early 2020, evolves when it operates. I have seen that happen with the pyrite scheme for the east coast. Schemes evolve through operation. I expect this scheme to be no different. I will continue to work with Deputies on this.

Specifically on the area we are discussing, the Society of Chartered Surveyors Ireland, SCSi, has done the work on the costs that are set down within the legislation. We have the review in place. We will do that. When we are looking at inflation, the period between February and now is far too short to make a further decision on that. As I said, I am not in a position to accept the amendment.

Amendment put.

The Committee divided by electronic means.

Rinne an Coiste vótáil ar mhodh leictreonach.

Deputy Pearse Doherty: I was a teller for the last vote. Countless homeowners will be locked out of this scheme, this legislation is defective and the Government has failed to see sense and support this amendment. Therefore I am asking that we take this opportunity to do the right thing on behalf of all of the families in the Gallery and that we have a vote other than by electronic means.

Deputy Michael Healy-Rae: Call it out.

Amendment again put:

<i>The Committee divided: Tá, 69; Níl, 74; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Andrews, Chris.</i>	<i>Bruton, Richard.</i>	
<i>Bacik, Ivana.</i>	<i>Burke, Colm.</i>	
<i>Barry, Mick.</i>	<i>Butler, Mary.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Byrne, Thomas.</i>	
<i>Brady, John.</i>	<i>Cahill, Jackie.</i>	
<i>Browne, Martin.</i>	<i>Calleary, Dara.</i>	
<i>Buckley, Pat.</i>	<i>Cannon, Ciarán.</i>	
<i>Cairns, Holly.</i>	<i>Carey, Joe.</i>	
<i>Canney, Seán.</i>	<i>Carroll MacNeill, Jennifer.</i>	
<i>Carthy, Matt.</i>	<i>Chambers, Jack.</i>	
<i>Clarke, Sorca.</i>	<i>Collins, Niall.</i>	
<i>Collins, Joan.</i>	<i>Cowen, Barry.</i>	
<i>Collins, Michael.</i>	<i>Creed, Michael.</i>	
<i>Connolly, Catherine.</i>	<i>Crowe, Cathal.</i>	
<i>Conway-Walsh, Rose.</i>	<i>Devlin, Cormac.</i>	
<i>Cronin, Réada.</i>	<i>Dillon, Alan.</i>	
<i>Crowe, Seán.</i>	<i>Donnelly, Stephen.</i>	
<i>Cullinane, David.</i>	<i>Donohoe, Paschal.</i>	
<i>Daly, Pa.</i>	<i>Duffy, Francis Noel.</i>	
<i>Doherty, Pearse.</i>	<i>English, Damien.</i>	
<i>Donnelly, Paul.</i>	<i>Farrell, Alan.</i>	
<i>Ellis, Dessie.</i>	<i>Feighan, Frankie.</i>	
<i>Farrell, Mairéad.</i>	<i>Flaherty, Joe.</i>	
<i>Funchion, Kathleen.</i>	<i>Fleming, Sean.</i>	
<i>Gannon, Gary.</i>	<i>Foley, Norma.</i>	
<i>Gould, Thomas.</i>	<i>Grealish, Noel.</i>	
<i>Guirke, Johnny.</i>	<i>Griffin, Brendan.</i>	
<i>Harkin, Marian.</i>	<i>Harris, Simon.</i>	
<i>Healy-Rae, Danny.</i>	<i>Haughey, Seán.</i>	
<i>Healy-Rae, Michael.</i>	<i>Heydon, Martin.</i>	
<i>Kelly, Alan.</i>	<i>Higgins, Emer.</i>	

<i>Kenny, Gino.</i>	<i>Humphreys, Heather.</i>	
<i>Kerrane, Claire.</i>	<i>Kehoe, Paul.</i>	
<i>Mac Lochlainn, Pádraig.</i>	<i>Lahart, John.</i>	
<i>McDonald, Mary Lou.</i>	<i>Lawless, James.</i>	
<i>McGrath, Mattie.</i>	<i>Leddin, Brian.</i>	
<i>McHugh, Joe.</i>	<i>Lowry, Michael.</i>	
<i>McNamara, Michael.</i>	<i>Madigan, Josepha.</i>	
<i>Mitchell, Denise.</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>Murphy, Verona.</i>	<i>McEntee, Helen.</i>	
<i>Mythen, Johnny.</i>	<i>McGrath, Michael.</i>	
<i>Nash, Ged.</i>	<i>McGuinness, John.</i>	
<i>Naughten, Denis.</i>	<i>Moynihan, Aindrias.</i>	
<i>Nolan, Carol.</i>	<i>Moynihan, Michael.</i>	
<i>O'Callaghan, Cian.</i>	<i>Murnane O'Connor, Jennifer.</i>	
<i>O'Donoghue, Richard.</i>	<i>Naughton, Hildegard.</i>	
<i>O'Reilly, Louise.</i>	<i>Noonan, Malcolm.</i>	
<i>O'Rourke, Darren.</i>	<i>O'Brien, Darragh.</i>	
<i>Ó Broin, Eoin.</i>	<i>O'Brien, Joe.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>O'Callaghan, Jim.</i>	
<i>Ó Murchú, Ruairí.</i>	<i>O'Connor, James.</i>	
<i>Ó Ríordáin, Aodhán.</i>	<i>O'Dea, Willie.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>O'Donnell, Kieran.</i>	
<i>Pringle, Thomas.</i>	<i>O'Donovan, Patrick.</i>	
<i>Quinlivan, Maurice.</i>	<i>O'Dowd, Fergus.</i>	
<i>Ryan, Patricia.</i>	<i>O'Gorman, Roderic.</i>	
<i>Shanahan, Matt.</i>	<i>O'Sullivan, Christopher.</i>	
<i>Sherlock, Sean.</i>	<i>O'Sullivan, Pádraig.</i>	
<i>Shortall, Róisín.</i>	<i>Ó Cathasaigh, Marc.</i>	
<i>Smith, Bríd.</i>	<i>Ó Cuív, Éamon.</i>	
<i>Smith, Duncan.</i>	<i>Phelan, John Paul.</i>	
<i>Stanley, Brian.</i>	<i>Rabbitte, Anne.</i>	
<i>Tóibín, Peadar.</i>	<i>Richmond, Neale.</i>	
<i>Tully, Pauline.</i>	<i>Ring, Michael.</i>	
<i>Ward, Mark.</i>	<i>Ryan, Eamon.</i>	
<i>Whitmore, Jennifer.</i>	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Smyth, Ossian.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	

6 July 2022

	<i>Varadkar, Leo.</i>	
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Tellers: Tá, Deputies Pádraig Mac Lochlainn and Pearse Doherty; Níl, Deputies Brendan Griffin and Jack Chambers.

Amendment declared lost.

An Ceann Comhairle: The time permitted for this debate having expired, I am required to put the following question in accordance with the order of the Dáil of 5 July 2022: “That amendments Nos. 71, 72, 81, 94, 106, 111 and 150, set down for Committee Stage and not disposed of, are hereby made to the Bill; in respect of each of the sections undisposed of, that the section, or as appropriate the section as amended, is hereby agreed to in committee; the Title is hereby agreed to in committee; the Bill, as amended, is accordingly reported to the House; Fourth Stage is hereby completed and the Bill is hereby passed.”.

Question put.

The Dáil divided by electronic means.

Rinne an Dáil vótáil ar mhodh leictreonach.

Deputy Pádraig Mac Lochlainn: The gap is just five votes and we have seen the immense hurt felt by ordinary hard-working decent people from across the west of Ireland and how they reacted to that immense hurt.. These are traumatised families. This legislation is flawed. Those across the floor know that in their hearts. It is flawed and it would be wrong to get this wrong again. I ask for another vote so that they can reflect on this one last time. I ask them to please do the right thing.

An Ceann Comhairle: The vote will be conducted by other than electronic means. It will be a short bell.

Question again put:

<i>The Dáil divided: Tá, 74; Níl, 69; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bruton, Richard.</i>	<i>Andrews, Chris.</i>	
<i>Burke, Colm.</i>	<i>Bacik, Ivana.</i>	
<i>Butler, Mary.</i>	<i>Barry, Mick.</i>	
<i>Byrne, Thomas.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Cahill, Jackie.</i>	<i>Brady, John.</i>	
<i>Calleary, Dara.</i>	<i>Browne, Martin.</i>	
<i>Cannon, Ciarán.</i>	<i>Buckley, Pat.</i>	
<i>Carey, Joe.</i>	<i>Cairns, Holly.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Canney, Seán.</i>	
<i>Chambers, Jack.</i>	<i>Carthy, Matt.</i>	
<i>Collins, Niall.</i>	<i>Clarke, Sorca.</i>	
<i>Cowen, Barry.</i>	<i>Collins, Joan.</i>	

<i>Creed, Michael.</i>	<i>Collins, Michael.</i>	
<i>Crowe, Cathal.</i>	<i>Connolly, Catherine.</i>	
<i>Devlin, Cormac.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Dillon, Alan.</i>	<i>Cronin, Réada.</i>	
<i>Donnelly, Stephen.</i>	<i>Crowe, Seán.</i>	
<i>Donohoe, Paschal.</i>	<i>Cullinane, David.</i>	
<i>Duffy, Francis Noel.</i>	<i>Daly, Pa.</i>	
<i>English, Damien.</i>	<i>Doherty, Pearse.</i>	
<i>Farrell, Alan.</i>	<i>Donnelly, Paul.</i>	
<i>Feighan, Frankie.</i>	<i>Ellis, Dessie.</i>	
<i>Flaherty, Joe.</i>	<i>Farrell, Mairéad.</i>	
<i>Fleming, Sean.</i>	<i>Funchion, Kathleen.</i>	
<i>Foley, Norma.</i>	<i>Gannon, Gary.</i>	
<i>Grealish, Noel.</i>	<i>Gould, Thomas.</i>	
<i>Griffin, Brendan.</i>	<i>Guirke, Johnny.</i>	
<i>Harris, Simon.</i>	<i>Harkin, Marian.</i>	
<i>Haughey, Seán.</i>	<i>Healy-Rae, Danny.</i>	
<i>Heydon, Martin.</i>	<i>Healy-Rae, Michael.</i>	
<i>Higgins, Emer.</i>	<i>Kelly, Alan.</i>	
<i>Humphreys, Heather.</i>	<i>Kenny, Gino.</i>	
<i>Kehoe, Paul.</i>	<i>Kerrane, Claire.</i>	
<i>Lahart, John.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Lawless, James.</i>	<i>McDonald, Mary Lou.</i>	
<i>Leddin, Brian.</i>	<i>McGrath, Mattie.</i>	
<i>Lowry, Michael.</i>	<i>McHugh, Joe.</i>	
<i>Madigan, Josepha.</i>	<i>McNamara, Michael.</i>	
<i>Martin, Catherine.</i>	<i>Mitchell, Denise.</i>	
<i>Matthews, Steven.</i>	<i>Munster, Imelda.</i>	
<i>McAuliffe, Paul.</i>	<i>Murphy, Catherine.</i>	
<i>McConalogue, Charlie.</i>	<i>Murphy, Paul.</i>	
<i>McEntee, Helen.</i>	<i>Murphy, Verona.</i>	
<i>McGrath, Michael.</i>	<i>Mythen, Johnny.</i>	
<i>McGuinness, John.</i>	<i>Nash, Ged.</i>	
<i>Moynihan, Aindrias.</i>	<i>Naughten, Denis.</i>	
<i>Moynihan, Michael.</i>	<i>Nolan, Carol.</i>	
<i>Murnane O'Connor, Jennifer.</i>	<i>O'Callaghan, Cian.</i>	
<i>Naughton, Hildegard.</i>	<i>O'Donoghue, Richard.</i>	
<i>Noonan, Malcolm.</i>	<i>O'Reilly, Louise.</i>	
<i>O'Brien, Darragh.</i>	<i>O'Rourke, Darren.</i>	
<i>O'Brien, Joe.</i>	<i>Ó Broin, Eoin.</i>	
<i>O'Callaghan, Jim.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>O'Connor, James.</i>	<i>Ó Murchú, Ruairí.</i>	

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<i>O'Dea, Willie.</i>	<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>O'Donovan, Patrick.</i>	<i>Pringle, Thomas.</i>	
<i>O'Dowd, Fergus.</i>	<i>Quinlivan, Maurice.</i>	
<i>O'Gorman, Roderic.</i>	<i>Ryan, Patricia.</i>	
<i>O'Sullivan, Christopher.</i>	<i>Shanahan, Matt.</i>	
<i>O'Sullivan, Pádraig.</i>	<i>Sherlock, Sean.</i>	
<i>Ó Cathasaigh, Marc.</i>	<i>Shortall, Róisín.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Smith, Bríd.</i>	
<i>Phelan, John Paul.</i>	<i>Smith, Duncan.</i>	
<i>Rabbitte, Anne.</i>	<i>Stanley, Brian.</i>	
<i>Richmond, Neale.</i>	<i>Tóibín, Peadar.</i>	
<i>Ring, Michael.</i>	<i>Tully, Pauline.</i>	
<i>Ryan, Eamon.</i>	<i>Ward, Mark.</i>	
<i>Smith, Brendan.</i>	<i>Whitmore, Jennifer.</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 Eoin Ó Broin and Pádraig Mac Lochlainn.

Question declared carried.

8 o'clock

Communications (Retention of Data) (Amendment) Bill 2022: Committee and Remaining Stages

Section 1 agreed to.

NEW SECTION

An Ceann Comhairle: Amendments Nos. 4 to 6, inclusive, are logical alternatives to amendment No. 1. Amendments Nos. 1 and 4 to 6, inclusive, are related and will be discussed together.

Deputy Brendan Howlin: I move amendment No. 1:

In page 3, between lines 11 and 12, to insert the following:

“Duration of Act and review of Principal Act

2. (1) On the date that is 24 months from the passing of this Act, both this Act and the amendments to the Principal Act effected by this Act (whether or not such amendments have

in the interim come into operation) shall stand repealed.

(2) The Minister for Justice (“the Minister”) shall, upon the passing of this Act, immediately commence a review of the principles, purpose, operation and effectiveness of the Principal Act, having regard in particular to relevant provisions of constitutional and European Union law.

(3) For the purposes of the review under subsection (2), the Minister—

(a) may consult with such other persons or bodies as he or she considers appropriate, and

(b) shall consult with and seek the advice and recommendations of—

(i) the Data Protection Commission,

(ii) the Law Reform Commission,

(iii) the Irish Human Rights and Equality Commission, and

(iv) the Criminal Law Codification Advisory Committee, each of which shall give priority in its work programme to the provision to the Minister of such advice and recommendations.

(4) Having completed his or her review under subsection (2), the Minister—

(a) shall prepare a report setting out the findings and conclusions consequent on the review, which report shall also set out the advice and recommendations of each of the bodies referred to in subsection (3)(b), and

(b) shall cause a copy of the report to be laid before each House of the Oireachtas as soon as practicable after it has been prepared.

(5) This section comes into operation on the passing of this Act.”.

As Members will know, the background of this Bill is extraordinary. A situation has been brewing for seven years with regard to the legality of the 2011 Act which authorised the retention of data. That has been challenged in the European courts. The judgment of the court was reasonably expected. Notwithstanding that degree of preparation, the truth is that this Bill emerged in virtually complete form with very limited consultation and was presented to the Joint Committee on Justice with a request that there be no pre-legislative scrutiny. When that request was denied by all members of all political persuasions as being inappropriate, a rushed form of pre-legislative scrutiny was foisted upon us. That happened last Thursday. When I say “pre-legislative scrutiny”, I mean that a draft of the Bill was circulated the previous night. We had a chance to read it, but not to have any consultation on it. Many witnesses who we invited to the pre-legislative scrutiny had very limited opportunity for any detailed consideration of the Bill. It is a bad way of making legislation and I think the Minister fully acknowledges that.

I said in my Second Stage contribution that I fully understand this is not easy legislation. It is a matter of balancing difficult, fundamental issues, including the rights of citizens to have their privacy respected in accordance with European law, and compliance with the European Convention on Human Rights and the European Charter of Individual Rights, all of which were cited in the European court judgment. Those rights to avoid mass surveillance of people’s loca-

tion and communications have to be balanced with the right of any state to prosecute wrongdoing and serious criminality. It is a difficult balance to strike. Those issues required extensive consultation that simply did not happen. I made the point that no data protection analysis was done and published. There was no detailed consultation with the Data Protection Commission. The commission got the heads of Bill eight days before our committee meeting and the detailed Bill 48 hours before the committee meeting. That is not right and is not in accordance with the expectations for proper scrutiny of a matter of such importance.

We have 45 minutes tonight to try to do something about this Bill. The consensus of the Opposition is that we fundamentally cannot do anything with the Bill other than to shorten its lifespan. The Minister and her officials have assured us that they recognise all the deficiencies that Members of the Opposition and of her own party have identified in the process that has led us to this point. Her saver is that she is conducting a comprehensive, root and branch review of this legislation, with proper consultation. That will take place over the next 12 months. We will have overarching legislation at that time.

With that in mind, amendment No. 1 is crafted to take account of the Minister's own timeline. It is to give the Minister adequate time, which I believe it is a very generous amount of time, to bring in the amending legislation and have that legislation enacted. At the same time, the amendment I am suggesting sets out the process I believe would be appropriate. On the specifics, my amendment No. 1 proposes:

On the date that is 24 months from the passing of this Act, both this Act and the amendments to the Principal Act effected by this Act (whether or not such amendments have in the interim come into operation) shall stand repealed. [All the amendments envisaged in this legislation would fall 24 months hence.] The Minister for Justice ("the Minister") shall, upon the passing of this Act, immediately commence a review of the principles, purpose, operation and effectiveness of the Principal Act, having regard in particular to relevant provisions of constitutional and European Union law.

For the purposes of the review that I want to mandate under law, the Minister "may consult with such other persons or bodies as he or she considers appropriate, and shall consult with and seek the advice and recommendations of the Data Protection Commission, the Law Reform Commission, the Irish Human Rights and Equality Commission, and the Criminal Law Codification Advisory Committee, each of which shall give priority in its work programme to the provision to the Minister of such advice and recommendations."

Having completed his or her review under this subsection, the Minister shall prepare a report setting out the findings and conclusions subsequent on the review, and shall also set out the advice and recommendations of each of the bodies referred to, and shall cause a copy of the report to be laid before each House of the Oireachtas as soon as practicable after it has been prepared. This section should come into operation on the passing of this Act.

In the timeframe we have we will not be able to fundamentally amend the Bill, so I will take the Minister at her word that this is a stopgap measure, pending a complete overhaul with proper consultation. I am giving the Minister the legislative mechanism to do that, and to give good faith to the House. I do not see there could be any reason for not accepting this amendment. It gives the Minister 24 months, which is double the time the Minister said that she would take to do it, and I do take the Minister at her word in that regard. The amendment sets out the proper consultative arrangements that should happen before the new legislation is actually

presented. It will afford this House the opportunity to look at the review in the context of all the organisations I have set out in this amendment.

For those reasons, I hope that the Minister will accept my goodwill as I accept hers, and that the Minister will accept my good faith in this matter as I have accepted hers, that the Minister is genuinely regarding this as a stopgap measure and acknowledging all of the frailty of a non-consultation, particularly with the Data Protection Commission, and that the Minister will accept this amendment as the least she can do to assuage the genuine concerns of Members of this House.

Deputy Catherine Murphy: I, too, have tabled an amendment, as have other Members, on including a sunset clause. It just would not have proved possible to put in a series of amendments in the time that was allowed. During the Second Stage debate, the Minister said that she intended to bring the general scheme forward to the far end of this year. I believe that Deputy Howlin's amendment is very generous with the amount of time it provides. It is not just the process that was wrong here. Consultation is not just sending out the Bill the night before or the day before. Consultation must be more meaningful than that. The substance of the Bill is hugely problematic. Not only was this House bypassed, the Data Protection Commission was not consulted in the way it should have been consulted on and involved in the development of the legislation.

Emergencies are things that happen where one cannot predict they are going to happen. This, however, was absolutely predictable. It is not just this Government. This set of issues was also with the last Government. We have known for a considerable period of time that Ireland's approach to data protection was not in line with European Union law. For this reason, I suspect that Deputy Howlin will be pressing his amendment. If not, I am sure that one of the rest of us will be pressing the amendment if the Minister does not take this. It would be very regrettable if the Minister did not take this amendment. There is goodwill here. This is no way to provide for legislation that infringes on people's rights. The idea that we could not even have a sunset clause, which would put a time limit on that, is an appalling way to deal with this legislation. It would, I believe, show bad faith.

Deputy Thomas Pringle: I thank the Leas-Cheann Comhairle for the opportunity to speak to the amendment. It is important. I note there are a number of amendments from other Members that propose to generally achieve the same outcome. I may have a bit of a problem with Deputy Howlin's amendment No. 1 in that I believe the timescale is far too long. This may be because I do not have the benefit of being in the Government and I wonder if some timescales seem to be in a different world on the Government side where one year means two years. I would have a real problem with that going out to two years. Even if the Minister was to accept this amendment I would have a real problem with that.

My amendment No. 11 proposes that the Act, "will cease to be in operation 6 months from the date of the first order ...". Continuously in the committee and in the debate yesterday on Second Stage the Minister has said that the Bill is almost ready to go. To my mind, that is not two years from now. It would be very soon. For something that is so serious that will have such serious implications for our own citizens, and all citizens, we need to be very careful about what we do in relation to it.

On Second Stage yesterday the Minister mentioned that she would not agree with these amendments because it would create uncertainty that a sunset clause would bring. I fail to see

how a sunset clause could bring uncertainty. While I would take the Minister's bona fides on this, I believe the uncertainty here is that, with the best will in the world and no matter what the Minister says, I doubt very much that this Bill will come through before the end of the year. I doubt very much that will happen. Deputy Howlin's timeframe on this is probably a bit more realistic. This means that a lot of harm and a lot of damage can be done in relation to this.

It would actually create certainty if people were to know that there is a fixed sunset clause in this legislation, and that the legislation will cease to be. This will encourage people to gear up to realise that what is in the Bill may not be the final provisions but that we must try to achieve it anyway to be sure. From the little consultation that we did have it was clear that the mobile phone companies cannot comply with this legislation anyway for up to two years after it has passed. Even with this legislation, the mobile phone companies will be forced to comply with something that they have said upfront that they cannot comply with. Even if we did not care about the citizens of Ireland, and unfortunately I believe the Department of Justice may not care about them as it cares about the mobile phone companies - and we must look at how they do their business - the mobile phone companies cannot achieve this even if they wanted to. They cannot comply with it. It is very worrying that this is difficult to be complied with. We must take account of this.

The only way for it to be complied with, and for us to provide any certainty for anybody involved in this, is by having a sunset clause. While this would put pressure on the Minister and her Department, and I am aware that the Department is busy, surely this is the kind of stuff that should be providing pressure. The Bill is not in compliance with anything. It is based on legislation that a directive from the European Commission ruled out of order some seven or ten years ago. We continue on with this legislation even in spite of that. This is wrong. Even if we agree and believe the Court of Justice was wrong to bring down this legislation, it has done so and that is the reality. I do not agree with it, but we have signed up to be under the control of the European courts. We are great Europeans so we should recognise what has happened and respect the court and the judgments it makes. For this reason, we need to have a timeframe for legal certainty and the security of the legislation.

Deputy Pa Daly: I am conscious of the time that is left. I concur with what has been said in support of these amendments, given what the Department and advisers said in our meetings, the rushed nature of the Bill and the facts that many years passed during which it was known that something would have to be done in relation to the case before the European courts and that no real legislation has been prepared. The various stakeholders I have spoken to have all agreed that there is a lack of proportionality in this. The Department's advisers stated there would have to be more legislation before the House in the autumn. Tiger kidnappings and child abduction cases were mentioned. In reality, this Bill goes further than that. I agree with the amendments.

Deputy James Lawless: I will speak to amendment No. 6, which has similarities with Deputy Howlin's amendment and other amendments. It is worth recapping briefly how we got here, both procedurally and in terms of the bigger picture. The Joint Committee on Justice stands willing and able to do its duty and scrutinise legislation. It welcomes the opportunity to do its job in that regard, as it does with all other legislation. Last week was a good example of the committee rolling up its sleeves and getting stuck in. We declined to grant a waiver. We generally try to meet the Minister halfway, if not more, but on this occasion, we made the correct decision to stand our ground. The Bill could have benefited from much more time. It is worth reiterating, however, that we held three meetings, public and private, in one week at which we heard from a range of witnesses assembled at short notice. They helped cast a cold

eye over this Bill.

It is also worth noting the committee has a significant interest in this area. Indeed, we pre-empted some of this debate with our own elective modules on data protection legislation, data retention and other topics that members explored and produced reports on in the past. It was only right and proper that we would conduct that scrutiny and we could have done much more.

It is also worth noting the Bill continued to evolve and change during the process, from when the heads were published prior to being referred to the joint committee to when they were submitted to the Data Protection Commissioner and, subsequently, brought to Cabinet and then finally produced a couple of days later. It not ideal to have a movable feast when we are trying to conduct scrutiny.

On the bigger picture of how we got here, it is worth reflecting that the Communications (Retention of Data) Act 2011 was, I am told, passed in a hurry. I had not been elected to this House at that time. The legislation was passed quickly and did not stand up to scrutiny when it was challenged. In 2014, the dreaded data retention directive, as it is sometimes called, was struck down by the European courts at the time, possibly because it did not get due attention in the House prior to being passed. That decision was on legislation at European level but our national legislation was then troubled. That led in due course to the 2019 challenge in the High Court, which went to Europe and then came back around again. A preliminary opinion was delivered about 12 months ago and then in April of this year, we had the final decision of the European Court of Justice on the ruling. Similar decisions were taken in France, Denmark and other jurisdictions in the past two or three years.

To echo Deputy Howlin and other Deputies, there was no surprise with this decision because it was coming down the track. I am disappointed that legislation had not been drafted or advanced or even a discussion started at a prior stage. It is important that the Department of Justice and the Joint Committee on Justice have a radar in operation scanning legislation, asking what is happening in Europe and the domestic courts, what legislation is expected and what challenges are coming through. It would not have taken too much to see that this was coming down the track. It is regrettable that we ended up having to consider this legislation in a hurry in the dying weeks of the summer term.

We cannot pretend that this Bill strengthens the hand of the Garda because it does the opposite. It weakens the hand of the Garda and does not do it any good whatsoever. We heard that from no less than the assistant Garda Commissioner when he came before our committee. That is very important. It is a European ruling. We are bound by that and compelled to honour it. However, let us be straight with the people and say what it does and does not do. It does not help the Garda and actually does the opposite. It impairs the detection and investigation of crime, which is regrettable.

At European level, the fact that national security was allowed to be carved out as an exception whereas the detection and investigation of serious crime was not considered to be acceptable is a pity. The joint committee discussed this issue. As I said, we are constrained in what we have to do, but how we choose to do it and the detail of that lie within the powers of this House.

It has been said in the course of this debate that it is not standard practice to draft legislation until case law is settled. If that is so, the case law is not yet settled. The Supreme Court has yet to pass judgment on this matter and will do so later in the year. I ask the Minister and her

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Department to reconsider that policy and if it is a wider Government policy, which I am not if it is, I question it.

In any event, we have had many issues emerge over the course of the debate. I thank the witnesses who appeared before the joint committee, namely, officials from the Office of the Data Protection Commissioner; the assistant Garda Commissioner; Ronan Lupton, SC; Dr. McIntyre of Digital Rights Ireland; and others who contributed in writing and in other ways to our deliberations. It was extremely helpful. In that short week, the committee uncovered a number of issues, which probably raised more questions than answers.

I understand we are bound by the decision of the European Court of Justice. I understand the Government has to act and sometimes does not have the luxury of time. However, in all the circumstances, the sunset clause makes sense. I was perhaps less generous than Deputy Howlin. I put a date of 23 June 2023 in my amendment, while Deputy Howlin's amendment provides for a sunset clause of two years. He has been on the inside and I have not, and perhaps his proposal makes more sense. I ask the Minister to consider that because-----

Deputy Brendan Howlin: There is less reason to object to mine.

Deputy James Lawless: Perhaps I will have that opportunity in time. It would provide some reassurance and comfort to all those involved in the scrutiny if this were to be re-examined. It could pass muster for now to get it over the line, as it were, given all the circumstances if we were given comfort that the legislation will be revisited. As we have been told, there will be a more comprehensive Bill, on which we will perform due scrutiny and engage with stakeholders. I am sure the others in this House and many outside it would be interested in that. That should happen. The sunset clause makes a lot of sense in all the circumstances. I ask the Minister to strongly consider it.

Minister for Justice (Deputy Helen McEntee): I thank the Deputies for their comments. I will go through some of the points I made last night because I know not everyone was able to stay for my remarks.

On the timing, I think everyone will appreciate this has been an evolving situation. We had the initial legislation and various rulings. We then had a Bill that was drafted in 2017 and subject to pre-legislative scrutiny in 2018. There was then the Graham Dwyer case and in 2019, a decision was taken to pause bringing forward any legislation as the case was going through the courts. That decision was taken before I came into the Department, but I subsequently upheld it given that changes were taking place with various judgments. We had a judgment in October 2020 which had a different ruling. I appreciate the ruling in April did not change that but we were not to know that given that the previous ruling had changed. It was not until there was a case management hearing, prior to the Supreme Court ruling we will have in a matter of weeks, that it became definitive that it was not going to change. The moment we had that information, I brought a memorandum to Cabinet the following week and we progressed this as quickly as we could. It is easy to say this has been through at this time because it is the summer months. We have been working to the timelines we have had. As soon as we got that information and legal advice through the various hearings prior to upcoming Supreme Court ruling, I brought a memo to Cabinet the following week and have tried to work as quickly as I could.

As I stressed last night, this is not ideal for anyone in my Department. It takes people off their work on Bills we have planned and are in our schedule. This is not the way that any of

us wants to operate. However, I have been assured at this stage that we have now sufficiently crystalised the legal issues to make progress on this and that is exactly what we are doing now.

The different amendments provide variations of sunset clauses. One is in 24 months, one in six months with a possible extension, one is six months and one is until 1 June 2023, or until a successor Act is in place, whichever comes first.

Perhaps I will bring the discussion back to why we are introducing the Bill. I am proposing it to deal with amendments to the principal Act, which are urgently required based on the rulings we have had. I am making these amendments on an emergency basis, as there is a need to ensure our data retention regime is consistent with the rulings of the Court of Justice. I respectfully disagree with the ruling because it does not allow us to retain data for criminal law enforcement purposes in a general way. The advice I have is that the legal issues, as I said, are now sufficient to bring forward this legislation. I am providing for general retention of data on national security grounds only, and then in parallel for a regime of preservation and production orders which may be used in appropriate cases for both national security and then criminal law enforcement purposes. What the Bill will result in and what I have been asked for from the various different platforms, the providers and An Garda Síochána is certainty as to the data retention obligations on the providers in the community sector. They wrote to me a number of weeks ago through IBEC and various different ways that they had a doubt as to the validity of continued general and indiscriminate retention of data currently held and the need above else for legal certainty as to what their data retention obligations now are.

Separate from that, An Garda Síochána needs legal certainty to carry out its work in fighting crime. Separate again, everybody has a right to life and to personal safety. I am specifically thinking of victims in this instance. We are trying to strike a balance in, trying to respond to a court ruling, albeit I do not necessarily agree with it, but trying to provide the certainty that has been asked of us and to do so as quickly as possible while at the same time acknowledging that more work needs to be done given the commitment that it will be done at a later date.

If we insert a sunset clause of, for instance, six months, with all due respect we do not know what might happen in six months. I would like to think we will still be here, I will still be Minister for Justice, we will progress the general scheme and we will have engagement through the committee and at other forums. If that were not to happen, the Bill would essentially fall and we would end up in an even more complex legal situation than we have now where everything in the Bill would fall and we would have the uncertainty that the providers have asked us to remove. We are trying to provide that legal certainty.

We are also trying to ensure that they can invest in the types of systems that they need to keep up to speed with general data retention. My intention is that this legislation would be the very minimum base on which we would build a wider Bill. This legislation allows us to retain less data than we currently do with more safeguards in place. This would be the lowest that we can go because we should retain more data, particularly for criminal purposes. We need to work through that and we need to examine the ruling further. We need to see how much further we might go. This is pared back as far as I think it should ever be. We should always be working from this base.

The sunset clause provides uncertainty because if the Bill were to fall, we would find ourselves and difficulty. In addition, it does not provide certainty. Why would providers invest in a system that could potentially fall in six months or 24 months? As I said, this is the base that we

should work from. I am committed to ensuring we have a very engaging process so that when we publish the general scheme later this year and go to the committee that we would engage with all stakeholders. We have been and are engaging with them, all be it less comprehensively than we would like to for such legislation. This is an emergency Bill to provide that certainty and clarity. Introducing a sunset clause would bring more uncertainty into the mix.

Deputy Brendan Howlin: I do not understand the Minister's argument. How can putting in a sunset clause introduce this level of uncertainty if she has announced that the Bill is finite and that she intends to introduce overarching legislation or is that a fantasy? Does she intend within the next 12 months to bring in replacement legislation, as she told us? If that is the case, this is a time-constrained Bill in any event. We are simply trying to formalise that in law. Otherwise, are we to seriously believe the Minister intends to bring in overarching legislation? Of course, there is uncertainty about this legislation because it is emergency legislation and it is to be overtaken by a more robust comprehensive Bill. The Minister has said the scheme of the Bill must be produced by the end of this year.

I want to make reference to the 24 months. I gave it much consideration and took legal advice from a variety of sources. My initial draft provided for 18 months but I wanted to be realistic. If the Minister needs to the end of year to produce the heads of a Bill, we need to have the formal and structured process of discussion and dialogue that I set out in the Bill with all these bodies. They need to take evidence and they need to make a presentation. That needs to be compiled in report to be presented to us and we need time to have proper scrutiny, bring in witnesses and so on. It is reasonable that it might take longer than a year or even 18 months.

For the avoidance of the cliff edge in order that we are not operating with a gun to our head, I put a 24-month time limit on that and, therefore, there could be no excuse for not doing it within that timeline. If the heads of the Bill are advanced, as the Minister has said, we could have the heads of a Bill followed by a draft Bill by early next year. We can have the consultative process that we set out and we can have hearings and a definitive Bill, hopefully by the end of next year. A 24-month timeline where the shutters simply come down and this is expunged from the Statute Book is a most reasonable approach in my judgment.

I want to make two other brief points. We need consolidation anyway because this is difficult legislation to read in conjunction with the 2011 Act. It is difficult for providers or citizens to know what their privacy rights are or even for An Garda Síochána to have certainly about it. A consolidated Bill should be a priority for the Minister. She should be able to tell us definitively that this will all be done and dusted within 24 months and that we will have a robust consolidated Bill having fully consulted with all interested parties.

My final comment relates to process. The Minister has compared this to an evolving platform as different judgments come in and so on. However, they are all in-house. The Department of Justice shows disregard for this place. When it has done all its consideration and all these time-lined analyses a week before it expects the Bill to be passed into law and sent to the President for signature, it thinks it is good enough to send to us. That is not how democracy works. That is not how important legislation should be formulated. Even when it was in its gestation, we should have had the discussions with the Minister and her officials at the Joint Committee on Justice. That is something the members of that committee have learned. I know the Chairman has been extraordinarily strong on this.

It is simply not good enough to suggest that because these issues are complicated and evol-

ing the Department will keep it in-house. It is then presented to us as unamendable law because the Department has given the final word on it and it does not have time. It then gives us 45 minutes to do our democratic thing down in Dáil Éireann. That is just not a proper way of dealing with it. I hope this will be the last time we have that approach unless there is a true emergency where something completely unexpected surfaces and needs to be dealt with.

If the Minister accepts she will replace this legislation within 18 months or so, I ask her as an act of good faith to accept this amendment. It gives her ample time to have all the consultation. She should ensure she gives these Houses ample time to debate her legislation and then we can be confident that what we are doing now, which is an unsatisfactory job, is at least a time-lined unsatisfactory job that will cease to exist 24 months hence.

Deputy Thomas Pringle: I do not agree with Minister's explanation for why she cannot include this timeline. I accept the timeline I set was too tight, which is fair enough. Then let us have a longer timeline but we need to have a timeline. It does not make any sense not to have it. The Minister's rationale for not having it is completely wrong. She insists on saying that she does not agree with the court, which is fair enough. However, if she did not agree with the Supreme Court in Ireland, she would need to amend the law. This is the supreme court that our Supreme Court answers to whether we like it or not. The Minister cannot just say she does not agree with this and away we go.

That is a problem. There is a lot that is wrong with this legislation. The Minister said she does not agree with the ECJ but the European Court of Human Rights is another body that has serious problems with what is in this legislation. An amendment of mine - amendment No. 2 - involves the definition of the security of the State. It is not defined in this legislation. I know the Minister's excuse will be that it is not defined in other legislation so the Government is not defining it here as well but it has to be defined somewhere. The European Court of Human Rights holds that it does have to be defined. Speaking about Russian law, the court said:

Nor did the law give any indication of the circumstances under which communications could be intercepted on account of events or activities endangering Russia's national, military, economic or ecological security. Instead, it left the authorities an almost unlimited discretion in determining which events or acts constituted such a threat and whether the threat was serious enough to justify secret surveillance. This created possibilities for abuse.

The European Court of Human Rights, not the ECJ, is saying this so even if you do not agree with the ECJ, we have been members of the European Court of Human Rights since its foundation in 1948. We are doing stuff here that is wrong and this legislation is compounding that. The Minister is not going to put in a sunset clause, which is completely wrong.

Deputy Pa Daly: I take issue with one phrase used by the Minister when she replied to the amendment. It was that this is a pared-back piece of legislation. I do not agree with her that it is pared back. I mentioned proportionality earlier on. Under the 2011 Act, a request could be made in the case of a serious offence. This has not been pared back. Rather it has been expanded to "an offence". I am worried whether under the requirement in this legislation where a superintendent believes that data related to a person whom the member of An Garda Síochána suspects on reasonable grounds of having committed an offence relates to the protesters we see outside here every week, some of whom are campaigning for disability rights. Would that be a public order offence if a superintendent believes they were breaching the Public Order Act? What about someone campaigning for housing or about mica or pyrite? If a superintendent

believes he or she was committing an offence, could the superintendent then make the application? It seems to me that under this legislation, the superintendent would be able to go to a service provider and ask it to disclose user data in respect of people committing those type of offences, possibly even a parking ticket because that is an offence. This is where I disagree with the Minister about the pared-back nature of it. The current system refers to a serious offence. Breaking a window is a serious offence because you will get five years for it in the Circuit Court. Stealing a Mars bar from a shop qualifies as a serious offence if it goes to the Circuit Court, which it can. This has been changed to “an offence”, which is so wide-ranging that I would have to disagree with the Minister. This is not a pared-back piece of legislation.

Deputy Helen McEntee: I know we probably will not get time to go through all the amendments so I will try to respond to the other amendments in this contribution. With all due respect, we do not know where any of us will be in 24 months or nine months. I am very genuine and clear in what I am saying. I have set out - I intend to have a justice plan 2023 all going well - how and when we will progress this legislation but that is not to say I or this Government will not be here. That is not to say anything cannot happen. We are not providing-----

Deputy Brendan Howlin: The Government does not operate on the basis of individuals.

Deputy Helen McEntee: No, it does not but legislation can then be prioritised or not prioritised and move along at different rates. While I might have a particular timeline-----

Deputy Brendan Howlin: That is why we need a definitive timeline.

Deputy Helen McEntee: Again, it is not providing the certainty we have been asked for. If you look at any of the letters that have been presented to me or the engagement we have had with the various different service providers, they have asked for certainty. Putting sunset clauses into legislation could lead to laws that will fall if new legislation is not put in by that date. This is not providing certainty. There is every intention to progress new legislation. I would not like us to pare back even further and have less data that An Garda Síochána can access. At the moment, it is unable to access it and after this legislation is passed, it will only be able to access travel and location data for national security purposes. General data will not be retained when it comes to fighting crime or to other types of crime. This is the minimum we should have for An Garda Síochána but we have also introduced additional safeguards in this legislation so I do not think it is the case that we would pare back those safeguards in any new legislation. What we have here is the basis to work and build off and that is what I would like to see happen. It is about providing certainty and allowing the providers to invest in the infrastructure they need knowing that they will always be required to retain a certain level of data. That is not going to change but there might be other elements that will change and there are other areas that we do have to look at.

In terms of the security of the State, it is not something that has been spelt out in any other legislation. This is a common law jurisdiction. Our judges interpret the law in our jurisdiction. We have to have regard to the Constitution, EU law and other relevant legal principles such as those based on the European Convention on Human Rights. It has been analysed in that context and legislation looking at legal precedents and judicial findings so it is up to the judges to interpret what national security is. The minute you put it in writing and specify it, if something else arises that is not written down, you find yourself stuck in that it does not come under that remit. I will give an indication in general terms that considerations for any kind of an assessment may include the terrorist threat level in the jurisdiction on the island bearing in mind the operational

focus on preventing and disrupting attacks in Northern Ireland; the terrorist threat level in the wider neighbourhood, including Great Britain and the EU, as informed by assessments carried out by UK agencies and Europol; hostile state activity directed at Ireland and our interests overseas; cyberthreats to the State, including our strategic infrastructure, whether they emanate from criminal groups or otherwise; the threat posed by right-wing extremist groups who seek to challenge the authority of the State; and the potentially disabling effect on society of organised crime. That is all based on rulings and various different precedents that have taken place but the minute you put that down and something else happens that could be a threat it is not included and you are removing it from the overall list. It is not something we do on the Statute Book and I do not propose to move away from that, particularly in emergency legislation.

Regarding the issue of serious offences, again this is a problem with bringing forward emergency legislation. I appreciate that where you are changing offences relating to An Garda Síochána, it does require a review of offences for other agencies for consistency so I appreciate where the Deputy is coming from on this. What we are trying to replicate is what is currently there but acknowledging that the recent ruling essentially says that general data does not impact on somebody's privacy in the same way as location and travel data does. As we develop the wider legislation I would like to develop this further because it is a wider piece of work that needs to be done to make sure it lines up with other different types of offences. Acknowledging some of the comments the Deputy made in pre-legislative scrutiny where an inspector would be involved, we have now changed that to the level of superintendent. Again, this is an area where I do not disagree with the Deputy but I think there is work to be done to look at other areas where it may impact and which would have to be brought in line. That is something we could do in the wider legislation if that is okay.

Deputy James Lawless: I am afraid that I do not quite follow the argument that things and personnel can change. We accept the Minister's good faith in terms of her intent to bring forward legislation in six or 12 months. If that was the case, we would all be relieved. It is not second-guessing the Minister. It is second-guessing events because we do not know what the future holds, what Minister may be in office or what Administration may be on this side of the House. That is the point of it. It is about saying that regardless of events, personalities or individuals, this or any successor Administration will be bound by this because there is a sunset clause. I do not think anyone coming into office with a provision about to expire would sit on it. I think he or she would act immediately. That is the whole point of this - to encourage that. I do not understand the argument put forward by the Minister about people changing because if she is in office, she will do it. It is more about what happens if things change down the line. That is the whole fear. That is what this is about. It is a safety net to make sure this happens.

Since we are discussing the other amendments, I will move amendment No. 7 because we are straight into the wider discussion about the seven amendments-----

An Leas-Cheann Comhairle: The time is up.

Deputy James Lawless: I will speak to the amendment very briefly because the Minister has to take all the amendments in her response.

An Leas-Cheann Comhairle: We have run out of time. I am really sorry.

Deputy James Lawless: Under the 1996 Act, it was common practice to have codes of practice for different sectors. That is a good idea. The stakeholders in this Bill, in the telecom-

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munications and other sectors, said it would be very helpful. It was always done in the past under previous legislation. It would be helpful if the Minister would consider accepting that amendment. That would help the legislation to be adopted and taken on.

An Leas-Cheann Comhairle: I am sorry for interrupting the Deputy, but I am afraid the time is up.

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 5 July: “That in respect of each of the sections undisposed of, the section is hereby agreed to in Committee; the Title is hereby agreed to in Committee; the Bill is accordingly reported to the House without amendment; Fourth Stage is hereby completed; and the Bill is hereby passed.”

Question put and agreed to.

Education (Provision in Respect of Children with Special Educational Needs) Bill 2022: Committee and Remaining Stages

An Leas-Cheann Comhairle: The allocated time for this debate is 45 minutes.

Sections 1 and 2 agreed to.

SECTION 3

An Leas-Cheann Comhairle: Amendments Nos. 1 and 16 are related and will be discussed together. I call Deputy Ó Ríordáin.

Deputy Brendan Howlin: There was an expectation that there would be a vote. I wonder if we could have a slight delay until-----

An Leas-Cheann Comhairle: I am on amendment No. 1 now, so-----

Deputy Brendan Howlin: I will just keep talking for a second. Deputy Ó Ríordáin is now entering the Chamber.

An Leas-Cheann Comhairle: That would be helpful.

Amendments Nos. 1 and 16 are related. Amendment No. 16 is consequential on amendment No. 1. Both are being discussed together.

Deputy Aodhán Ó Ríordáin: I move amendment No. 1:

In page 4, line 15, to delete “The” and substitute the following:

“Subject to the adequate provision of resources and supports, by the Department of Education and the National Council for Special Education, the”.

Due to the lack of time, I am happy to get the Minister’s response.

An Leas-Cheann Comhairle: You have time to speak to it. There are 45 minutes. It is up to the Deputy.

Deputy Aodhán Ó Ríordáin: I am happy to hear from the Minister.

Minister for Education (Deputy Norma Foley): I want to acknowledge at the outset the co-operation that has been forthcoming from Members of the House to this point, particularly from the Opposition spokespersons on education.

In relation to this amendment, the Bill provides for new functions of school patrons, schools and boards of management in co-operating with the National Council for Special Education, NCSE, particularly in the provision and operation of new special classes. The Deputy is seeking to amend a new function being placed on the school patron but has not proposed similar amendments to that function in respect of a school or indeed a board of management.

The Bill provides for school patrons, schools and boards of management to co-operate with the NCSE without any conditions being attached to such co-operation. Accepting this amendment, which relates specifically to school patrons, would result in a lack of consistency in the new functions of school patrons, schools and boards of management in co-operating with the NCSE.

I want to assure the Deputy that my Department and the NCSE are committed to resourcing and supporting schools to open new special classes. Some 300 additional special classes have been opened in the 2021-22 school year. At least 315 more classes are expected to open for the incoming 2022-23 school year. A relevant provision already exists in section 7 of the Education Act 1998, which relates to the functions of the Minister. Under section 7, the Minister is required to ensure that there is made available to each person who is resident in the State, including a person with a disability or other special educational needs, a level and quality of education appropriate to meeting their needs and abilities. Under section 7, the Minister is also required to provide appropriate funding to schools.

In relation to the specific wording of the amendment, without some clarity on what is meant by “the adequate provision of resources and supports”, it may be difficult to define what is involved when engaging with a range of school patrons in an effort to provide additional special classes.

I have outlined a number of issues, including the need for consistency with other provisions in the Bill and the practical issue of the interpretation of the amendment. For those reasons, I regret that I cannot accept this recommendation.

Deputy Aodhán Ó Ríordáin: What we are trying to express here is the reality on the ground, which is that schools do not feel supported. I must strongly make the point that the Minister of State, Deputy Madigan, saw fit to malign four schools, two of which are in my constituency and all four of which are Delivering Equality of Opportunity in Schools, DEIS, schools.

Minister of State at the Department of Education (Deputy Josepha Madigan): That is not the case.

Deputy Aodhán Ó Ríordáin: Actually, what the Minister of State was said was not true. Indeed, she maligned them unfairly, without any evidence. She put forward an incorrect assertion that they were not engaging with the system in terms of what was expected of them. However, it is her form to punch down on vulnerable groups. I have not had the opportunity to engage with her on-----

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Deputy Josepha Madigan: May I have an opportunity to speak?

Deputy Aodhán Ó Ríordáin: I am speaking to the amendment.

Deputy Josepha Madigan: I dealt with this-----

An Leas-Cheann Comhairle: No, if the Minister of State could-----

Deputy Josepha Madigan: -----from Deputy Ó Ríordáin in the convention centre.

Deputy Aodhán Ó Ríordáin: Well, you have not dealt with it with me.

Deputy Josepha Madigan: You and I remember that occasion.

Deputy Aodhán Ó Ríordáin: No, I am-----

Deputy Josepha Madigan: I am not going to take intimidating or intimidatory accusations from you.

An Leas-Cheann Comhairle: Could I-----

Deputy Aodhán Ó Ríordáin: I am speaking to the amendment. I am giving call as to why I am-----

An Leas-Cheann Comhairle: I do not wish to stand up-----

Deputy Josepha Madigan: You always personalise your comments.

Deputy Aodhán Ó Ríordáin: -----so strong about pressing this amendment.

Deputy Josepha Madigan: You remember your behaviour in the convention centre.

An Leas-Cheann Comhairle: The Minister of State will resume her seat. Both of you-----

Deputy Josepha Madigan: Does Deputy Ó Ríordáin remember his behaviour towards me in the Convention Centre? I will not accept it.

An Leas-Cheann Comhairle: I am now standing up. Both Deputies must resume their seats for a moment. The clock is running. Could we refrain from making personal comments, please? We are speaking to an amendment. Could we refrain from making the personal comments, and speak to the amendment?

Deputy Aodhán Ó Ríordáin: A Leas-Cheann Comhairle, let me be perfectly clear here what the issue is in terms of this argument.

An Leas-Cheann Comhairle: No, we are speaking to the amendment.

Deputy Aodhán Ó Ríordáin: Yes.

An Leas-Cheann Comhairle: That is okay.

Deputy Aodhán Ó Ríordáin: It is very difficult because schools sometimes feel completely unsupported in embracing issues, particularly when the actions of the Minister of State in the Department are part of the problem. That is what we are trying to achieve here. I absolutely stand over my comments. To be quite frank, only for the fact that we are focusing on children

this week, the Minister of State with responsibility for special education would be facing calls for her resignation.

An Leas-Cheann Comhairle: We are speaking to amendment No. 1. We must speak to the topic. Does anybody else wish to make a contribution? I call Deputy Ó Laoghaire.

Deputy Donnchadh Ó Laoghaire: Although my amendment No. 7 has not been grouped with this amendment, both amendments seek to address the same issue and have the same objective. It is challenging for Members of the Opposition to raise issues in relation to resources, given the Standing Orders.

It has been well articulated by schools, parents and campaign groups that a special class does not just comprise four walls. It is the resources that go with it. This goes beyond the Department of Education. It is vitally important that adequate resources are put in where this power is being used. Obviously, there are schools that are reluctant to open special classes, whether for a good reason or for a bad one. My experience is that any school that has opened a special class has never regretted it. It has enhanced their school and their school community enormously.

9 o'clock

I have never come across a school that felt it was a mistake but clearly there are schools that are reluctant. Some of them have reasonable grounds and others may not but whatever the reason, it is vitally important that when the power is used, the resources that are in place are adequate. As I outline in amendment No. 7, that goes to adequate special needs assistant, SNA, support, mental health support for schools and child and adolescent mental health services, CAMHS, to be fully staffed to support them in the community and an adequate number of qualified special education teachers but, crucially, access to multidisciplinary teams including speech and language therapists, psychiatrists, occupational therapists and nursing staff. Therefore, that access to therapy is vitally important.

This goes to the HSE and the Department of Health as well. We want to ensure that any special classes or special schools that are opened under this or any other powers or, indeed, voluntarily are a success. We want to ensure that schools, teachers and school communities feel supported and that they have the resources they need. For that reason, I support amendment No. 1, which has the same effect as my amendment No. 7. I should say I have no issue with amendment No. 16 either but that is not what I intended to address.

Deputy Norma Foley: At the outset, I acknowledge the work of the Minister of State, Deputy Madigan, and our absolute determination to ensure appropriate provision for all students, irrespective of their abilities and capabilities, and ensure that all children and young people are provided for in the education system. The Minister of State is working extremely hard to make sure that becomes a reality and I am working very closely with her. Together we are committed entirely to ensuring there is proper provision for all of our students.

To specifically address the question around resources being made available, I want to be very clear to the Deputy that there is no question that the appropriate resources are not being provided to our schools. They are absolutely being provided. I assure the Deputy that the Department of Education and National Council for Special Education, NCSE, are 100% committed to resourcing schools to ensure they can provide for children with special educational needs. I am confident that is reflected in the work and what we see the length and breadth of

this country in terms of excellent provision by schools in making the necessary provisions. As I said previously, my Department and the NCSE are working with schools to open at least 315 new special classes in mainstream schools for the coming year. Providing the necessary resources and supports is a huge part of this work. I will give the Deputy a flavour of the types of supports that are available.

Mainstream schools opening new special classes are informed in advance of the range of supports available both from my Department and the NCSE. The supports include the Department's planning and building unit being available to work closely with schools opening new special classes. The Department has a framework of contractors in place to facilitate necessary work in schools and all works, whether they involve reconfiguration, additional accommodation needs or whatever is required, are 100% funded by the Department of Education.

There is also the issue of staffing with the sanctioning of one additional teaching post at primary level or 1.5 additional teaching posts at post-primary and at least two SNAs for every special class of six children in place. There is a programme of professional support for schools with newly-established special classes, which is being developed by the NCSE. These supports include seminars for principals, four-day intensive training courses for teachers, two-day training courses for new teachers and whole-staff continuing professional development, CPD. The school is also linked with a NCSE adviser. There is, of course, the enhanced funding through increased capitation rates, a special class start-up grant and furniture and ICT grants. I want to be very clear about that.

We can see that so many schools right throughout the country are taking up the opportunity when it comes to provision of special classes. We already have 2,118 in place since the 2021-2022 school year and 2,433 will be in place for the 2022-2023 school year, catering for more than 14,500 pupils. Clearly, therefore, the supports are being provided. Again, there is a very open policy of working hand-in-hand with schools in terms of meeting and identifying the individual needs schools might have, but also putting in place the resources they require.

Deputy John McGuinness: On the matters raised already by other Deputies and the response given by the Minister, I accept there has been a considerable improvement all round. The special classes are really exceptional when they get up and running and so on. What happens when a school is not happy and requires further supports or further SNAs, and school representatives come to Members of the House to raise the issue directly with the Minister and, of course, the decision on that is outsourced?

We can learn from our mistakes, if you like, by looking at the reasons schools ask for extra support and looking at the response from the appropriate agency or, indeed, Department that refuses to grant it. When questions are asked here, the replies Deputies get are usually just a Department blurb. I would like to see much more than that happen.

I refer the Minister to School of the Holy Spirit in County Kilkenny, which asked for support and was refused, as have many other schools. Schools are not just asking for the sake of asking; they are asking for a reason. They believe the supports are needed. Some other method of response in terms of the allocations has to be put in place. Certainly, some other method of appeal has to be put in place.

Likewise, we must look at the DEIS schools. I refer to Scoil Mhuire Gan Smál and St. Joseph's National School in County Carlow. The young girls attending school are not under

the DEIS system and the boys are. Who reached that decision when they are all on the same campus? We must question the decisions that are being made. We have to seek the answers from the Department or whoever is making those decisions as to why that is the case. No one in County Carlow can fathom why the decision was made to make one school a DEIS school and not say that the other one is the same. The chairman of the board of management contacted me on that case. Quite frankly, the response back from the Department is not good enough. More questions are being asked as to why the appeals are not fair-handed and why the original decisions, in fact, are not fair-handed. There is a glaring example of that in Scoil Mhuire Gan Smál and St. Joseph's National School. I ask the Minister to maybe explain that process to us and also explain what she is going to do about that particular case. It is essential for me as a representative for that constituency to understand why that has happened. I cannot understand it.

Deputy Norma Foley: I very clearly outlined the significant resources that are being made available to schools. The special needs organisers and the NCSE work hand-in-hand with schools where there are issues and difficulties or challenges in terms of opening up or providing provision for children with additional needs. We work individually with schools to ensure that all issues or challenges can be met.

As I said, very significant resources are being made available in terms of staffing. In terms of teaching staff, we have one teacher and at least two SNAs for six students at primary level and an allocation for 1.5 additional teaching posts, with the least two SNAs for six pupils, at post-primary level.

Equally, I acknowledged the availability of the planning and building unit and that any re-configuration of rooms and additional building work that is required are 100% funded by the Department. There is a programme of professional supports available to schools for newly-established special classes, whether that is the intensive training course for teachers, seminars for principals, two-day training course for new teachers, whole-staff CPD and, of course, the availability of the NCSE special adviser. As I said, there is the enhanced capitation rate, special start-up grant for special classes and furniture and ICT grant. I already outlined all of that.

Specifically with regard to DEIS, although it is not part of the discussion this evening, I will be very clear that the model employed for DEIS, and the appeals process, was applied fairly across all appellants using an objective, data-based approach. The results are the results. They are fairly and evenly applied across the country. Indeed, I note with regard to Carlow that there were approximately 13 schools that were successful in their applications. The model is open and transparent and it is an even-handed and fair application of the Haase and Pratschke, HP, index. There is no question of unevenness in that respect.

Deputy John McGuinness: I have to disagree with that, a Leas-Cheann Comhairle.

Amendment put and declared lost.

Section 3 agreed to.

Sections 4 and 5 agreed to.

SECTION 6

An Leas-Cheann Comhairle: Amendment No. 2 is out of order.

Amendment No. 2 not moved.

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An Leas-Cheann Comhairle: Amendments Nos. 3 to 9, inclusive, amendment No. 1 to amendment No. 9, and amendment No. 17 are related. Amendment No. 17 is consequential on amendments Nos. 6 and 9. Amendments Nos. 3 to 9, inclusive, amendment No. 1 to amendment to amendment No. 9 and amendment No. 17 will be discussed together.

Deputy Aodhán Ó Ríordáin: I move amendment No. 3:

In page 5, between lines 26 and 27, to insert the following:

“(2) Where, following consultation with the Minister and having regard to any information provided to the Council by the Minister in relation to any planned additional provision of education for children with special educational needs and available lands and buildings, the Council remains of the opinion that there is insufficient capacity in an area for the provision of education to children with special educational needs, it shall prepare and submit a report on the matter to the Minister.”.

I will give an overview of my amendments, and my colleagues will want to speak on theirs. First, in consultation with the Minister, which I appreciate, I am happy to accept the amendment to amendment No. 9.

Amendment No. 3 inserts, “Where, following consultation with the Minister and having regard to any information provided to the Council [the NCSE] by the Minister in relation to any planned additional provision of education for children with special educational needs and available lands and buildings, the Council remains of the opinion that there is insufficient capacity in an area for the provision of education to children with special educational needs, it shall prepare and submit a report on the matter to the Minister.”

Amendment No. 4 relates to timing and states that, “such a notice shall issue no later than the 31st of March”. The idea here is that it is unfair not to give a school enough time to open in September. Our contention is that later than 31 March would be too late.

Amendment No. 6 states, “Prior to preparing a report under subsection (2), the Council shall consult with the Minister...”. This relates to consultation, and it is important. In the briefing that was afforded to us by the Minister, and we very much appreciate that, this Bill is about truncating the process so we do not have an elongated process. However, it is still important that we have a list of those who we should consult. It is similar with amendment No. 9. The Minister has proposed an amendment to that amendment and we accept that. The other amendments are similar to that as well.

I have given a broad sweep of what we are intending to do here. It is mainly about consultation and making sure the school is given the best opportunity to open in September. The timeline would be important there. We are accepting the amendment to amendment No. 9.

Deputy Norma Foley: With regard to amendment No. 3, I must point out that the primary aim of this urgent new legislation is to truncate and streamline the current section 37A process. It is generally accepted by all stakeholders that the current process is too long, and I know the Deputy is of a similar view, as is the House. On one of the two occasions the section 37A process was used, it took 18 months to conclude.

I note that this amendment is the first of a number of amendments the Deputy is proposing which seek to reintroduce existing provisions and steps from the current section 37A process

into this new legislation. The Deputy's amendments aim to extend the shorter section 37A process provided for in the Bill, and would have the effect of delaying the issuing of a ministerial direction to a school. Assuming that this legislation is enacted in the coming weeks, these amendments together would have the effect of preventing the use of the new shorter section 37A process to address the immediate challenge facing us of providing places for children with special educational needs and requiring an appropriate place for the coming school year.

There is already a significant level of engagement between my Department and the National Council for Special Education, particularly in the last two years, with regard to the forward planning of special educational needs placements. A significant level of information is shared by my Department's planning and building unit with the National Council for Special Education from the geographical information system. I am therefore confident that the NCSE will have a significant level of information from my Department which can be considered before the NCSE decides to prepare and submit a report to the Minister. As this amendment goes against the primary aim of the Bill, I cannot accept it.

Regarding amendment No. 4, I understand the intention of the amendment. I assure the Deputy that it will be absolutely my intention that any future section 37A processes commence in a timely manner and well in advance of the beginning of a new school year. I know that this would be important for parents and children with special educational needs, and for the schools that might be subject to notices under section 37A. However, while understanding what the Deputy is trying to achieve in this amendment, the amendment does not allow for any flexibility in how the section 37A process could be used, and the flexibility in the process is important. There are situations which may arise where a Minister may need to issue notices in April or the month of May in advance of a new school year in September, and I do not want to preclude that being a possibility. The biggest reason for needing the flexibility relates to a situation where there may be a delay in a cohort of children being diagnosed and receiving a recommendation for a special class or special school placement or, indeed, regarding students coming from abroad and arriving in the month of April.

The amendment would suggest that for five months there would not be an opportunity for us to progress. Assuming that the legislation is enacted in the coming weeks, this amendment would have the effect of preventing the use of the new shorter section 37A process to address the immediate challenge facing us in providing places for children. Therefore, I cannot accept the amendment, but I assure the Deputy that I am committed to ensuring that any section 37A process commences in good time. However, I do not believe we should restrict ourselves in the manner intended by the Deputy should an unforeseen circumstance arise where the section 37A process may be required for a small number of children or young people in a small circumstance, as it were.

As regards amendment No. 5, as mentioned previously this is another amendment which seeks to lengthen the section 37A process. This cuts across the primary aim of the Bill, which I know the Deputy supports. The amendment would require the Minister in every instance to consult with stakeholders before specifying what resources the Minister considers appropriate to provide to a school to assist the school in making additional provision for education for children with special educational needs. The amendment does not provide a defined timeline for this consultation and the details of the range of stakeholders to be consulted are not provided. I assure the Deputy that the Department and the National Council for Special Education are committed to resourcing and supporting schools to open new special classes. Under the proposed new section 37A process, after the issuing by the Minister of the initial notice schools will have

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two opportunities to make representations, including representation in respect of resources. The Minister will also be required to consider any representations before moving to the next step in the process. Assuming this legislation is enacted in the coming weeks, these amendments together would have the effect of preventing the use of the new shorter section 37A process, which is what we are seeking to achieve here. In fact, amendment No. 5 has the effect of extending the proposed section 37A process and, therefore, I cannot accept it.

With regard to amendment No. 6, I accept the importance of engagement with all education stakeholders and special educational needs advocacy groups on special education classes and special school places. In fact, I was very happy that the announcement of all this was supported by at least four of the advocacy groups, who welcomed this urgent legislation and asked that it be enacted as soon as possible. Amendment No. 6, however, would require the NCSE in every instance to engage with a range of education stakeholders before preparing a report under section 37A. The NCSE and the Department have ongoing engagement with education stakeholders on the provision of additional special classes and special school places. It is envisaged that the NCSE will have engaged with schools that might be considered under any section 37A process on a number of occasions before any such process would commence and, therefore, it would not be an unexpected development for the schools involved, and wider education stakeholders, for those particular schools to be considered under a section 37A process. As outlined in this amendment, it will have the effect of extending the proposed section 37A process and for those reasons I cannot accept the amendment.

I fully appreciate the intention of amendment No. 7, but there are a number of issues with it. I assure the Deputy that it is my intention, and that of the Department and the NCSE, to provide appropriate educational resources to schools providing additional special classes. The Department and the NCSE can only make this commitment in respect of resources under our control. It is not the function of the Department or the NCSE to provide a number of the resources highlighted in the Deputy's amendment. These resources are under the remit of other Departments and State bodies. This amendment and other amendments proposed by the Deputy relate to the core functions and role of the NCSE and their staff, in particular, the special education needs organisers, SENOs. Most of the amendments relate to the Education for Persons with Special Educational Needs, EPSEN, Act. Given the pace at which this urgent legislation has been drafted, and how quickly it is now progressing, I suggest that we need more time and space to consider the issues being addressed in the Deputy's amendments. The current review of the EPSEN Act might be an opportunity for us to consider these matters further.

I apologise to Deputy Ó Laoghaire. I thought amendment No. 7 had been moved.

Deputy Donnchadh Ó Laoghaire: I think it is in a different group.

Deputy Norma Foley: No. It is amendment No. 7 straight through to amendment No. 17.

An Leas-Cheann Comhairle: It is with amendments Nos. 3 to 9, inclusive.

Deputy Norma Foley: I apologise. I assumed Deputy Ó Ríordáin moved all of them.

Deputy Aodhán Ó Ríordáin: I moved the amendment for Deputy Ó Laoghaire.

An Leas-Cheann Comhairle: Only one amendment needs to be moved, but we are speaking to all of them, namely, amendments Nos. 3 to 9, inclusive, and amendment No. 17.

Deputy Donnchadh Ó Laoghaire: I am satisfied I have addressed amendment No. 7 in the previous group.

Deputy Norma Foley: That is grand. For the reasons outlined, I cannot accept amendment No. 7.

On amendment No. 8, when the section 37A process is being used, it must be open and transparent. This is important for everyone involved. Openness and transparency must be at the heart of it for the schools involved and, in particular, for the parents of children and young people with special educational needs, their representative bodies and advocacy groups. Deputy Ó Ríordáin's amendment seeks to remove that openness and transparency. I assure him that the section 37A process will continue to be an option of last resort. The preference remains for all parties involved to work together collaboratively to provide additional special classes. The Department and the NCSE will continue to engage with school authorities in a collaborative manner to provide additional special classes and special school places. It is through this engagement that the vast majority of additional classes are successfully provided for at present. However, where schools do not co-operate with the NCSE, and there is an identified need for additional provision in a particular area, it may be necessary to use the section 37A process. It is not intended that this will be a surprise development at any point for any school involved. To ensure the continued openness and transparency of the section 37A process, I cannot accept the amendment.

I appreciate the Deputy has agreed to the new wording relating to amendment No. 9. On amendment No. 17, as I have said previously, in drafting this urgent legislation the Office of the Attorney General and the Department were anxious to ensure that the general purpose and objective of the legislation was reflected in the recitals section. I understand the purpose of what the Deputy suggested in his amendment. I agree it is vitally important that all organisations and individuals tasked with implementing the provisions of the Bill consult and work with parents of children with special educational needs. In recent times the Department has had significant engagement with special educational needs advocacy groups and representative bodies on a range of education matters. A special educational needs stakeholder forum is now operating, which is positive and helpful, and is leading to excellent co-operation and consultation, as it should. As I said previously, I am pleased, as I am sure everybody in the House will be, to acknowledge a number of the advocacy groups have welcomed this urgent legislation. It is also at their request that it be enacted as soon as possible. I confirm that myself and my Department are committed to continuing to work with parents, their representative bodies and advocacy groups on the implementation of this legislation and on special educational needs provision and policy into the future.

This Bill provides for a new function of the NCSE to co-ordinate and manage the admission of children to special classes and special schools. Where the council decides to take on this role in a particular area, it will be done so only after consultation with parents and schools. I am confident that if the council decides to take on this new role in specific areas, it will be of significant assistance to parents, children and young people. I am satisfied that the legislation promotes the need for all parties to engage with parents of children with special educational needs regarding school admission and other matters. For that reason, I do not believe the Deputy's amendment is necessary and, therefore, I cannot accept it.

Deputy Paul Murphy: I will briefly speak to amendment No. 7, which gets to the heart of the issue, in the sense that it is not enough to just have the power to compel schools to open

special education classes more rapidly. The resources have to be in place so these classes actually work for children, teachers and schools.

I hear the Minister's objection, which is twofold. One part of it is that some of the resources being referred to are from the HSE rather than the Department of Education and, second, she thinks it will delay the process or whatever. What is outlined in the amendment, which is a good one tabled by Deputy Ó Laoghaire, is that a report would have to be produced to indicate whether the necessary resources are in place to provide children with an adequate education or not. It is about saying it is just not good enough that a room, library or cupboard will be turned into a special education class so a box can be ticked stating we now have another special education class. That is the point. If the schools, principals or boards of management say, when they very clearly have the resources, that they still do not want to open special classes, that is not on. They should be directed to open such classes, but the resources have to follow. I am hearing that in many cases the resources do not exist and, therefore, we are just talking about a classroom that is not providing what we need.

I hear what the Minister is saying but I will make two comments in response. If the objection was that some of this stuff is not provided by the Department, she could have addressed that by means of an amendment to remove those elements, but that does not hold water because we are only talking about a report here. It is appropriate that we, the Department and the NCSE should have a holistic view of children's education, which, of course, includes resources for therapists, etc., that are allocated by the HSE rather than the Department.

Deputy Donnchadh Ó Laoghaire: I partially addressed his matter in the previous amendment, but I will take the opportunity to discuss it. I will be brief because I am anxious to move to the next group of amendments.

The Minister may say there is no question of resources not being in place but we hear from schools - maybe more so special schools than special classes but the legislation relates to that - that resources are not being put in place. The primary issue is typically the availability of therapists. It is not the only issue. Certainly, there are issues with the provision of SNAs in special classes and special schools. However, there are issues with the provision of therapies, in particular. I know that it falls outside the remit of the Department of Education. It may not be the case with motions and so on, but it is not unusual for legislation to refer to different Ministers and to cut across different Departments. It is vitally important and integral to ensuring that these children can reach their full potential that they have access to therapies. Currently, they do not have such access. It is particularly important for children who are in special classes or special schools. As I am sure the Minister and the Minister of State agree, early intervention is essential to ensuring that children are in a position to progress and potentially to move from a special school to a special class, or from a special class into a mainstream class. Without the adequate provision of therapies, that will not happen. What I am asking the Minister for in relation to this report is to ensure that confidence can be given to schools where they are opening a special class, and to ensure that the schools can be encouraged to do so on the basis of that.

Deputy Aodhán Ó Ríordáin: It is not in any way our intention to prolong the process. The briefing that the Minister's Department provided is very clear. It is trying to truncate the process and is trying to take simultaneous steps along the way rather than sequential steps. What we are saying here is very much that schools can prepare if it is something that needs to be utilised. The Minister has said she does not want to be in a position to utilise it unnecessarily and it is not the best way to go. Schools have to prepare. If a school opens a special class

for the first time, it changes the dynamic of the schools. It is a good and positive change. It is something that will benefit everybody, but schools have to be empowered to embrace that change. They need to know how to change properly and well. That is what our amendments are trying to achieve. We are in no way trying to exhaust the scenario or to make the Bill in front of us redundant because it effectively does what the previous Act would have done. I wish to make that case strongly. I appreciate where the Minister is coming from on the issue of the 31 March cut-off and emerging situations. I can appreciate that the Minister wants the leeway to engage with schools in the months of April and May. I am happy to withdraw the amendment. However, I wish to state that the point of the amendment is that we are not in a situation where schools have no time. I think the Minister will accept that it would be better, in the majority of cases, that such a decision or such an introduction be made well before the month of April. I can appreciate that the Minister would want the leeway within legislation to be able to act in an emerging situation. On that basis, I will withdraw amendment No. 4.

Deputy Norma Foley: I thank the Deputies for the points they have raised and for the amendments they have put forward. I absolutely accept in good faith the manner in which they were all made. I think we have a shared objective here, which is to realise the maximum potential for all students, and in this instance, particularly for students with additional needs, and the provision of special classes or placements in special schools for them. I have referenced the various issues with the amendments that have been proposed. There is an absolute priority here in streamlining the section 37A process. We know that it has been used in two previous instances. On one occasion the process lasted for more than 18 months. It is imperative that the process should be streamlined and the legislation enacted as quickly as possible. That is also the view of the advocacy groups. I know that the Deputies are aware of that. Through what we are doing today and as we move forward with it, we are ensuring that the process will take no more than six to eight weeks.

On the provision of resources, I have outlined very clearly to the House that significant resources are provided by the Department of Education. I also wish to state that this is a step-by-step process that is undertaken with the schools, the NCSE and the special needs organisers working on the ground. It is a step-by-step process where schools are worked with collectively and individually to ensure that they have the confidence and the ability to open special classes or to provide for additional places in the special schools. Again, I wish to reiterate that significant resources are provided by the Department of Education, including the provision of additional teaching staff, with one teacher and at least two SNAs being provided for every six pupils in a special class and 1.5 teachers and at least two SNAs being provided for every six students at post-primary level. As I have said, all of the works in terms of reconfiguration from a planning and a building point of view are resourced by the Department, and equally, accommodation is 100% funded by the Department. Additional grants are also provided by the Department, such as the classroom start-up grant, the furniture grant, the ICT grant and improved capitation funding in recognition of what is happening in the schools. Training is provided for staff in schools opening special classes, and there is liaison between the school and the relevant NCSE adviser. As has been referenced, there are some aspects that are not within the remit of the Department of Education, specifically in relation to amendment No. 4. I appreciate the good faith in which Deputy Ó Ríordáin has brought the amendment. In an ideal scenario, 31 March would be the cut-off point. Indeed, that is our intention. However, as I have outlined, there will always be exceptions. It will not be workable for us if there is a lack of flexibility, with a period of five months when we cannot engage with schools on provision for exceptional cases as they can arise. There are limited circumstances, as we know, in which issues can arise and

impact a school's engagement with the NCSE. It could be a case of delayed diagnosis. It could be a student is arriving from abroad. Indeed, a number of such students have recently arrived in Ireland. It is for that reason that we have included the provision. I appreciate that the Deputy has acknowledged those points in his withdrawal of amendment No. 4.

Amendment put and declared lost.

Deputy Aodhán Ó Ríordáin: I move amendment No. 4:

In page 6, line 5, after "person" to insert the following:

" , such a notice shall issue no later than the 31st of March preceding the new school year and shall not be issued during the months of July and August".

Amendment, by leave, withdrawn.

Deputy Aodhán Ó Ríordáin: I move amendment No. 5:

In page 6, line 15, after "Minister" to insert " , following consultation with stakeholders,".

Amendment put and declared lost.

Deputy Aodhán Ó Ríordáin: I move amendment No. 6:

In page 6, between lines 36 and 37, to insert the following:

"(4) Prior to preparing a report under subsection (2), the Council shall consult with the Minister, bodies representatives of patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.".

Amendment put and declared lost.

Deputy Donnchadh Ó Laoghaire: I move amendment No. 7:

In page 7, between lines 35 and 36, to insert the following:

"(11) (a) The Council shall publish, concurrent with the giving of such a direction referred to in this section a report outlining the adequacy of resources provided by the Department, the NCSE, and the HSE and other relevant organisations to the Schools, and stating whether in the council's view if the resources meet the needs of the school community and the children in the Special Class or School.

(b) These resources shall include, but not be limited to:

(i) adequate SNA support;

(ii) access to Multi Disciplinary teams incl Speech and Language Therapists, Psychiatrists, Occupational Therapists, Psychiatrists and Nursing Staff;

(iii) Mental Health supports for pupils in schools and CAMHS fully staffed to meet the needs of all children with emotional and behavioural disorders; and

(iv) adequately qualified special Education Teachers.”.

Amendment put and declared lost.

Amendment No. 8 not moved.

An Ceann 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 5 July 2022: “That amendment No. 9, as amended, and the amendments set down by the Minister for Education and not disposed of are hereby made to the Bill; in respect of each of the sections undisposed of, that the section, or as appropriate the section as amended, is hereby agreed to in Committee; the Preamble and Title are hereby agreed to in Committee; the Bill, as amended, is accordingly reported to the House; Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

An Ceann Comhairle: The Bill will now be sent to the Seanad.

Permanent Structured Cooperation (PESCO) Projects: Motion (Resumed)

The following motion was moved by Deputy Simon Coveney on Tuesday, 5 July 2022:

That, in accordance with the Programme for Government commitments, Dáil Éireann approves Ireland’s participation in four Permanent Structured Cooperation (PESCO) Projects:

- i) Cyber Threats and Incident Response Information Sharing Platform,
- ii) Deployable Military Disaster Relief Capability Package,
- iii) Special Operations Forces Medical Training Centre, and
- iv) Maritime (semi) Autonomous Systems for Mine Countermeasures.

An Ceann Comhairle: I must now deal with a postponed division relating to the motion regarding permanent structured cooperation projects. On Tuesday, 5 July 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 again put:

<i>The Dáil divided: Tá, 78; Níl, 61; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Berry, Cathal.</i>	<i>Andrews, Chris.</i>	
<i>Bruton, Richard.</i>	<i>Bacik, Ivana.</i>	
<i>Burke, Colm.</i>	<i>Barry, Mick.</i>	
<i>Burke, Peter.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Butler, Mary.</i>	<i>Brady, John.</i>	
<i>Byrne, Thomas.</i>	<i>Browne, Martin.</i>	
<i>Cahill, Jackie.</i>	<i>Buckley, Pat.</i>	

<i>Calleary, Dara.</i>	<i>Cairns, Holly.</i>	
<i>Canney, Seán.</i>	<i>Carthy, Matt.</i>	
<i>Cannon, Ciarán.</i>	<i>Clarke, Sorca.</i>	
<i>Carey, Joe.</i>	<i>Collins, Joan.</i>	
<i>Carroll MacNeill, Jennifer.</i>	<i>Collins, Michael.</i>	
<i>Chambers, Jack.</i>	<i>Connolly, Catherine.</i>	
<i>Collins, Niall.</i>	<i>Conway-Walsh, Rose.</i>	
<i>Cowen, Barry.</i>	<i>Cronin, Réada.</i>	
<i>Creed, Michael.</i>	<i>Crowe, Seán.</i>	
<i>Crowe, Cathal.</i>	<i>Cullinane, David.</i>	
<i>Devlin, Cormac.</i>	<i>Daly, Pa.</i>	
<i>Dillon, Alan.</i>	<i>Doherty, Pearse.</i>	
<i>Donnelly, Stephen.</i>	<i>Donnelly, Paul.</i>	
<i>Duffy, Francis Noel.</i>	<i>Ellis, Dessie.</i>	
<i>English, Damien.</i>	<i>Farrell, Mairéad.</i>	
<i>Farrell, Alan.</i>	<i>Fitzmaurice, Michael.</i>	
<i>Feighan, Frankie.</i>	<i>Funchion, Kathleen.</i>	
<i>Flaherty, Joe.</i>	<i>Gould, Thomas.</i>	
<i>Fleming, Sean.</i>	<i>Guirke, Johnny.</i>	
<i>Foley, Norma.</i>	<i>Healy-Rae, Danny.</i>	
<i>Griffin, Brendan.</i>	<i>Howlin, Brendan.</i>	
<i>Harkin, Marian.</i>	<i>Kelly, Alan.</i>	
<i>Harris, Simon.</i>	<i>Kenny, Gino.</i>	
<i>Haughey, Seán.</i>	<i>Kerrane, Claire.</i>	
<i>Heydon, Martin.</i>	<i>Mac Lochlainn, Pádraig.</i>	
<i>Higgins, Emer.</i>	<i>McGrath, Mattie.</i>	
<i>Humphreys, Heather.</i>	<i>McNamara, Michael.</i>	
<i>Kehoe, Paul.</i>	<i>Mitchell, Denise.</i>	
<i>Lahart, John.</i>	<i>Munster, Imelda.</i>	
<i>Lawless, James.</i>	<i>Murphy, Catherine.</i>	
<i>Leddin, Brian.</i>	<i>Murphy, Paul.</i>	
<i>Madigan, Josepha.</i>	<i>Mythen, Johnny.</i>	
<i>Martin, Catherine.</i>	<i>Nash, Ged.</i>	
<i>Matthews, Steven.</i>	<i>Nolan, Carol.</i>	
<i>McAuliffe, Paul.</i>	<i>O'Callaghan, Cian.</i>	
<i>McConalogue, Charlie.</i>	<i>O'Donoghue, Richard.</i>	
<i>McEntee, Helen.</i>	<i>O'Reilly, Louise.</i>	
<i>McGrath, Michael.</i>	<i>O'Rourke, Darren.</i>	
<i>McGuinness, John.</i>	<i>Ó Broin, Eoin.</i>	
<i>Moynihan, Aindrias.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Moynihan, Michael.</i>	<i>Ó Murchú, Ruairí.</i>	
<i>Murnane O'Connor, Jennifer.</i>	<i>Ó Ríordáin, Aodhán.</i>	

<i>Murphy, Verona.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Naughten, Denis.</i>	<i>Pringle, Thomas.</i>	
<i>Naughton, Hildegard.</i>	<i>Quinlivan, Maurice.</i>	
<i>Noonan, Malcolm.</i>	<i>Ryan, Patricia.</i>	
<i>O'Brien, Darragh.</i>	<i>Shortall, Róisín.</i>	
<i>O'Brien, Joe.</i>	<i>Smith, Bríd.</i>	
<i>O'Callaghan, Jim.</i>	<i>Smith, Duncan.</i>	
<i>O'Connor, James.</i>	<i>Stanley, Brian.</i>	
<i>O'Dea, Willie.</i>	<i>Tóibín, Peadar.</i>	
<i>O'Donnell, Kieran.</i>	<i>Tully, Pauline.</i>	
<i>O'Donovan, Patrick.</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>Shanahan, Matt.</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 Jack Chambers and Brendan Griffin; Níl, Deputies Thomas Pringle and Richard Boyd Barrett.

Question declared carried.

Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 37 and the name of the Member in each case: (1) Deputy Pauline Tully - to discuss adding spinal muscular atrophy to the medical conditions tested for in the newborn heel prick test; (2) Deputy Michael Moynihan - to discuss an update on infrastructure works in Castlemagner, County Cork; (3) Deputy Colm Burke - to discuss action to assist health staff who suffer from long Covid and have had State support withdrawn; (4) Deputy Verona Murphy - to discuss challenges facing the scallop fishing sector; (5) Deputies

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Mark Ward and Pat Buckley - to discuss the 2022 report from the Mental Health Commission; (6) Deputy Michael Ring - to discuss funding for four new consultant anaesthesiology posts in Mayo University Hospital; (7) Deputy David Stanton - to discuss a system to accommodate Irish students training on foreign-registered cruise liners; (8) Deputy Pádraig O'Sullivan - to discuss recruitment challenges in the health service; (9) Deputy Neale Richmond - to discuss the allocation of public health nurses in Dublin 18; (10) Deputy Danny Healy-Rae - to discuss funding to deal with the provision of section 39 services by the Kerry Parents and Friends Association; (11) Deputy Seán Crowe - the need for an additional driving test centre in south Dublin; (12) Deputies Mattie McGrath and Michael Collins - to discuss the efforts the Government is making to highlight the persecution of Christian and other minority groups worldwide; (13) Deputy Kathleen Funchion - to discuss the decision to refuse DEIS 1 status to Scoil Mhuire gan Smál in Carlow town; (14) Deputy Thomas Gould - to discuss the delivery of affordable housing in Cork city; (15) Deputy Ruairí Ó Murchú - to discuss the anomaly whereby taxi drivers with Northern driving licences and living in the North cannot get licensed to drive PSVs or taxis in the South; (16) Deputy Darren O'Rourke - to discuss with the Minister of State with responsibility for sport the urgent need to secure playing pitches for Stamullen Football Club, Stamullen, County Meath; (17) Deputy Brendan Griffin - to raise the need for further funding for local improvement scheme roads; and (18) Deputy Dessie Ellis - to discuss concerns about proposals by the NCT test centre in Ballymun to replace existing highly skilled staff.

The matters raised by Deputies Funchion, Tully, O'Sullivan and Stanton have been selected for discussion.

Saincheisteanna Tráthúla - Topical Issue Debate

Departmental Programmes

Deputy Kathleen Funchion: This matter relates to Delivering Equality of Opportunity in Schools, DEIS, status for Scoil Mhuire gan Smál in Carlow town. The response will mention the number of schools, including in my constituency, that entered the DEIS system, which is welcome. However, this school's situation is unique in that it is literally adjoining St. Joseph's National School, which was granted DEIS 1 status in the recent round. The two schools are identical in respect of criteria set out for eligibility and share a campus. Pupils in both schools come from the same socioeconomic area and, in many cases, the same families. The only difference is the gender of the schools. One is for boys and one is for girls.

St. Joseph's DEIS band 1 status is needed and welcome and I am not trying to take away from that, but it is a boys' school and the girls' school has missed out. The optics of that are not good. The only difference we see between the two schools is gender. I welcome the opportunity to hear what the position is. I appeal to the Minister, whom I know the school has been in contact with. If we send on the information, can this be examined or appealed? It seems unusual, particularly given that they share a campus. It is difficult for pupils, parents, teachers and everyone involved to see how one school qualified and the other missed out. I welcome whatever the Minister has to say on this.

Minister for Education (Deputy Norma Foley): I thank the Deputy. In March I announced, as she outlined, a major extension of the DEIS programme, which means that for the

first time since 2017 the programme is being significantly expanded and eligible schools will gain access to targeted supports to address educational disadvantage. This is the largest ever single investment in the programme, at a cost of €32 million, and will extend DEIS status to schools serving the highest proportions of pupils at risk of educational disadvantage. Scoil Mhuire gan Smál in Carlow was granted DEIS band 2 status in the March announcement. From 2023, my Department will spend in the region of €180 million on the DEIS programme, which is an increase of €32 million.

This announcement follows an extensive body of work by the DEIS technical group to develop the refined DEIS identification, ID, model to identify the concentrated levels of disadvantage in schools. That is the key point: that it is concentrated levels of disadvantage in a school. All schools in the country, including the two schools raised by the Deputy, were considered for inclusion in the programme under the DEIS ID model. The model uses information from the school's individual enrolment database and 2016 national census data, as represented by the Pobal HP deprivation index.

10 o'clock

The model takes into account the student cohort and the relative disadvantage within a given school. A detailed document outlining the refined DEIS identification model is published and available on *gov.ie*. The model also takes into consideration the significant educational disadvantage experienced by Traveller and Roma learners and by students residing in direct provision or emergency homeless accommodation.

Schools that were not satisfied with the outcome following the application of the model to their school enrolment data were provided with the opportunity to have that outcome reviewed. Schools were also provided with the opportunity to update their details on the Department's enrolment databases, the primary online database, POD, or post primary online database, PPOD, depending on the school. While Scoil Mhuire gan Smál in Carlow did appeal this decision, there was no change to the outcome of the initial application of the refined DEIS ID model. The DEIS appeals process was applied fairly across all appellants using an objective data-based approach and the results are final. I understand the concerns expressed by the school but I assure the Deputy that the model was correctly applied on foot of the data provided by the school.

Deputy Kathleen Funchion: I welcome the fact that the Minister is present. I should have acknowledged that at the start. I understand that the school has band 2 DEIS status but it is really difficult to get your head around how two schools on the same campus that serve the same geographical area and, to a large extent, the same families fall into different DEIS bands with one in band 1 and the other in band 2. Around the country, where schools are side by side, they tend to be given the same DEIS status. That is what would be expected when that status is based on the socioeconomic and geographical situation. What exactly is the difference here? I know the Minister mentioned concentrated on disadvantage but these schools are literally on the same campus and in the exact same area and, therefore, I do not understand how one can be in DEIS band 1 while the other is DEIS band 2. Is there any way to get further information on that? Where does this leave the school now? I understand that it has gone through the appeals system but what are the next steps? Is this status decided annually? Can it apply next year? The outcome we are hoping for is that this would be looked at again. There has to be some sort of oversight. These are two schools in the same area sharing the same grounds and serving the same community. The schools serve many of the same families because one is a boys' school and the other is a girls' school and many families send their daughters to one and their sons to

the other. I will mention the issue of gender because it does not look good that the boys' school qualifies for one status while the girls' school does not. I would welcome a bit more detail. I understand if it is not available right now but if it could be sent on, it would be appreciated.

Deputy Norma Foley: I acknowledge the Deputy's concerns. The extension of the DEIS programme has been significant. The programme for Government committed to completing the new DEIS identification model and to extending DEIS status to those schools that serve the highest concentration of pupils at risk of educational disadvantage. It is important to say that the extension of the DEIS programme to new schools is just one phase of work in the development of an inclusive education system that supports all learners to achieve their fullest potential. While the programme supports those schools with the highest levels of concentrated educational disadvantage, I recognise that there are students at risk of educational disadvantage in all schools. Conscious of this and recognising the need to target resources to those schools that need them most, the next phase of work begins now. This will explore the allocation of resources to schools to tackle educational disadvantage. This will consider all schools both within and outside the DEIS programme.

With specific regard to the gender aspect the Deputy has raised, there is no question of gender playing a part in the DEIS ID model; the HP index is used. This is used across multiple Departments. There were three additional weightings provided for. These include acknowledgement of children of Traveller or Roma background, children who reside in direct provision facilities and children whose families present as homeless.

The appeals process was applied absolutely fairly across all appellants using an objective, data-based approach. The results are final. The decision was based on the information provided by the school. I understand the concerns the school has expressed but I assure the Deputy that the model was applied on foot of the data provided by the school.

Deputy John McGuinness: May I just indicate that I raised this matter with the Minister earlier on and would appreciate the information that was asked for?

Deputy Jennifer Murnane O'Connor: I have also raised this with the Minister several times and received the same answer.

Health Services

Deputy Pauline Tully: Last Tuesday, 28 June, marked world newborn screening day. I initially submitted this Topical Issue matter last week to coincide with that date after a parent who has two children with spinal muscular atrophy, SMA, contacted me and asked me to ask the Minister for Health a very simple question: why is there a continued delay in adding spinal muscular atrophy to the conditions tested for in the newborn heel prick test? We need progress on this important issue without further delay.

Each year in Ireland, an average of six babies are born with the neuromuscular condition, SMA. This degenerative condition means that most who are affected will never walk. Left untreated, 95% of children with the severest form do not live past 24 months. There are different levels of severity of the condition. We should be thankful that there have been significant advances in drug treatments for SMA over the past five years and that these medicines have the potential to dramatically alter the prognosis for those who receive them. They represent a

significant step forward for the treatment of SMA in Ireland. Clinical data prove that the earlier a patient receives treatment for SMA, the better the outcome will be. Many children born with the disease do not present with symptoms until the age of 12 months or later. Regrettably, it is often the case that, by the time an accurate diagnosis is made, significant neuromuscular damage has been done. Receiving one of the SMA medicines makes a significant difference but, again, the earlier it is administered, the greater that difference will be.

A simple PCR test can diagnose SMA with near perfect accuracy from a spot of blood. Each year, approximately 60,000 babies are born in Ireland and each of these receives the heel prick test for a small number of serious medical conditions. It is possible to add SMA to this list for an additional cost of just €5 per individual. Ireland led the way in newborn screening when it introduced the heel prick test in the 1960s but in the years that have followed we have unfortunately failed to keep up with our European peers and now trail in the newborn screening league tables.

In December 2021, SMA Ireland, the representative group for people affected by spinal muscular atrophy in Ireland, wrote to the newborn screening advisory committee to ask for SMA to be screened for in the heel prick test. This submission was looked upon favourably but six months later the group is still waiting for SMA to be formally included. The HSE has clearly signalled that SMA is a condition that should be treated. Considerable resources are directed towards this endeavour every year. However, as a result of SMA not being added to the heel prick test, children are not being diagnosed at the earliest possible opportunity. Precious months are being lost. The medicine is eventually administered but it would be much more effective if each child received it at the very beginning. The *status quo* makes no sense ethically or financially. I ask that SMA be immediately added to the list of conditions tested for as part of the heel prick test.

Minister of State at the Department of Health (Deputy Frankie Feighan): I thank the Deputy for the opportunity to update the House on this important matter. The Minister and myself are aware of how difficult it is for parents whose children have received a diagnosis of a rare disease and how challenging daily life can be for those families and children. Advances in technology and treatment for many of these rare, but serious, conditions are continually emerging, which is very welcome for the families and carers of these children. Newborn bloodspot screening, or the heel prick test as it is more commonly known, can identify some of these treatable, rare conditions in infants. The expansion of the national newborn bloodspot screening programme, which aims to add more conditions to the heel prick test, is a priority for the Minister for Health. I am pleased to report that progress is being made on the expansion of newborn screening, with the recent addition of a ninth condition, ADA-SCID, in May 2022.

Work on further expansion, and the assessment of evidence for the addition of further conditions, is under way by the National Screening Advisory Committee. This independent, expert committee makes recommendations to the Minister and the Department of Health on population screening in Ireland. The assessment of the evidence for making changes to screening programmes is a thorough process, done in line with internationally accepted criteria and with scientific rigour. In addition to the scientific and technological information required to make evidence-based decisions, there are ethical, legal and societal issues that arise when planning an enduring population-based screening programme of this nature. The committee works closely with the HSE, HIQA, clinicians and patient advocates in its approach to the expansion of screening programmes such as the newborn bloodspot programme. HIQA is conducting a health technology assessment to look at the evidence for the addition of a tenth condition to the

newborn bloodspot programme. This is due to be finalised in the near future and the National Screening Advisory Committee hopes to make a recommendation to the Minister before the end of this year. The committee will also publish its full work programme, including its work plans on further expansion of newborn screening, shortly.

Spinal muscular atrophy, or SMA, is a rare genetic condition causing progressive muscle wasting and weakness leading to loss of movement. This may affect walking and upper body movement, breathing and swallowing. A new innovative gene therapy treatment called onasemnogene abeparvovec, brand name Zolgensma, was granted EU marketing authorisation for treating SMA in May 2020. Following the first joint agreement on the price of the drug between Belgium, Ireland and the Netherlands, the HSE approved Zolgensma for reimbursement in the treatment of SMA for patients who meet the specified criteria in October 2021. This was a welcome and significant development for the State as it is the first time Ireland has agreed to fund a drug for rare diseases in partnership with other countries, as part of the BeNeLuxA initiative. In light of all this, I trust the public can be assured of the Minister's ongoing commitment to further progress in this important area. I again thank the Deputy for raising this important issue.

Deputy Pauline Tully: I welcome the Minister of State's response and his statement that it is a priority for the Minister for Health. He also said the National Screening Advisory Committee is considering adding a tenth condition, but he did not say if it would be SMA specifically. I ask him to clarify that. Is the tenth condition to be added to the testing SMA? SMA Ireland represents children already diagnosed but it wants to ensure the best possible treatment for children going forward, so all children born with the condition receive treatment at the earliest possible opportunity. We are talking about approximately €300,000 per year. It is not huge money. It makes financial sense. It also makes moral sense because there would be better outcomes for children going forward but if someone was just looking at it from a financial point of view, which unfortunately the HSE and the Department of Health tend to do, it would make sense in that regard as well.

The Minister of State mentioned different treatments that are coming on stream. Other treatments that have already come on stream have made a huge difference. I acknowledge that. The earlier a child is diagnosed and gets treatment, the better the outcome for the child, and the better the financial outcome for the Department of Health and the HSE. I ask the Minister of State to provide that clarification. Is the tenth condition SMA or is it just that the committee is considering a number of conditions and SMA might be one of them?

Deputy Frankie Feighan: I will get those criteria for the Deputy and I will ask the Minister's office to follow up on that. I reiterate that the expansion of the national newborn bloodspot screening programme is a priority for the Minister for Health and this work has been ongoing since the establishment of the National Screening Advisory Committee. The work in this important area is continual and is evidenced by the addition of a ninth condition to the programme in May 2022. As I said, work is under way on consideration of the addition of a tenth condition. I will try to clarify that for the Deputy. The Minister is committed to the further expansion of newborn screening in Ireland and to identifying opportunities for future additions to it in accordance with internationally accepted criteria and best practice.

Dáil Éireann
Health Services Staff

Deputy Pádraig O'Sullivan: I thank the Minister of State for coming in this evening. I also thank the Ministers of State, Deputies Rabbitte and Butler, for previously taking questions on behalf of the Minister for Health. Some day I might get lucky and he might be able to get here in person to debate these issues.

Our health services are stretched. That is evident in the significant waiting lists in various areas within health. The pandemic has also taken its toll on the workforce and there are significant backlogs on foot of the pandemic. We are facing a cliff edge of GP retirements in the next few years. Many employees are approaching retirement and that is going to create significant challenges for staffing. There are also many younger professionals looking for better working conditions and a better work-life balance. These are all issues the Department of Health and the HSE are juggling. We are also reliant on agency staff in many areas, particularly nursing. Despite all this, we are repeatedly told money is not an issue. That is evidenced by the record budget of €22 billion we had last year. It is an inescapable truth that the HSE is recruiting record numbers of staff. That is a fact. Unfortunately, that recruitment is not keeping pace with demand, the backlog and the waiting lists we are all familiar with. There are difficulties in recruiting consultants, nurses, particularly specialised nurses, therapists and psychologists. There is a significant inability to recruit in those areas.

I have accumulated some statistics over the past few weeks through responses to parliamentary questions. With regard to clinical genetics in Crumlin and St. James's hospitals, five posts have thankfully been filled but two are vacant. That is nearly one in three posts unfilled. Some 391 Irish doctors were granted working visas in Australia in the last year while 837 consultant posts are not filled on a permanent basis. Nine highly remunerated consultant posts were advertised last year and none were filled. There are 4,787 older people without a carer due to chronic staff shortages. There were five unfilled posts in BreastCheck last year and 63 unfilled consultant psychiatry posts. In the child and adolescent mental health services, CAMHS, waiting lists have increased significantly, by about 23%.

Parliamentary questions always get the same kind of mundane response, detailing long-standing workforce challenges and so on. I was here a number of weeks ago with the Minister of State, Deputy Butler, talking about paediatric patients with type 1 diabetes. The issue there was the delay in getting insulin pumps. Two additional diabetes nurse specialists were advertised in Cork, and one advanced nurse practitioner, but those posts remain unfilled. In 2022, the Cork-Kerry community healthcare area received an additional 14.5 posts for its children's disability network teams, CDNTs. We have no information about any of those posts being filled.

Another issue I raised previously was that of home care workers. At the most recent Cork-Kerry HSE briefing in Ballincollig, we could see from the details presented to us that it takes seven to eight months to hire a home care worker. If I was a home care worker, which is predominantly part-time work, and I was waiting seven or eight months to be told I was getting a job, I would probably have found a different job in that time. There is clearly an issue here with recruitment. What are we going to do about it?

Deputy Frankie Feighan: I thank Deputy O'Sullivan for giving me the opportunity to update the House on this important matter. Recruitment and retention of health and social care workers is a top priority. As the Deputy outlined, budget 2022 provided funding for a large expansion of the health workforce, up to an additional 11,369 whole-time equivalents, reflect-

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ing the Government's ambition and desire to invest in our health services and to ensure health services are appropriately staffed. The HSE has identified a minimum recruitment target of 5,500 whole-time equivalents alongside a more challenging stretch target of 11,369 whole-time equivalents to be hired in 2022.

Employment levels at the end of May 2022, show there were 134,711 whole-time equivalents, equating to 153,578 personnel, directly employed in the provision of health and social care services by the HSE and the various section 38 hospitals and agencies. This is due to an unprecedented growth rate during the last three years. Since 2019, the workforce has grown by a record 14,893 whole-time equivalents, or 12.4%. In addition to this, approximately 3,000 people were recruited in 2020 and 2021 through third party agencies for Covid-related roles such as vaccinators and contract tracers. The workforce has grown by a total of 2,387 whole-time equivalents in the period between the end of 2021 to the end of May this year, with an increase of 138 whole-time equivalents in May alone.

Officials in the Department are working with the HSE on actions including the HSE's resourcing strategy 2022, which sets out a suite of actions to address recruitment challenges. It sets out the HSE's overarching governance and oversight arrangements which are in place to monitor, on a monthly basis, performance against the target.

A small HSE subgroup has been established which is developing pathways to fill difficult to fill posts for various categories of health professionals. This includes international pathways together with grow your own strategies where they are not available internationally. The HSE has developed a relocation package to ease international recruitment across all grades and, following a Department of Health business case to the Department of Enterprise, Trade and Employment, the critical skills list has been expanded to facilitate international recruitment of pharmacists, cardiac physiologists, medical scientists, occupational therapists, physiotherapists, podiatrists and chiropodists, psychologists and speech and language therapists. The HSE is reviewing international recruitment for specialist posts, such as nursing and midwifery specialists, with further actions identified to expedite recruitment.

Targeted work is ongoing on the recruitment of medical consultants which includes a streamlining of the recruitment process to reduce the times to hire, focusing on existing consultant posts that are challenging to fill and developing targeted strategies relating to these posts. This includes the development of marketing material to attract applications to certain locations and direct links with the medical training bodies. A microsite is also in development to increase international reach. I conclude by assuring the Deputy of the Minister's ongoing commitment to working with the HSE to address recruitment challenges.

Deputy Pádraig O'Sullivan: I thank the Minister of State for the response. I have two questions on the response and then I will conclude with a few other remarks. The Minister of State said the HSE has identified a minimum recruitment target of 5,500 whole-time equivalents alongside a more challenging stretch target. What is a stretch target? What does that mean? Is the Minister of State telling me that the 5,500 are to keep things running as they are now, which is chaotic at times? We are all familiar with emergency departments over the last couple of weeks, particularly in certain regional hospitals. I would love to know what the definition of "stretch target" is. How do we get from 5,500 to 11,000? Is somewhere in the middle, at 6,000, 7,000 or 8,000 a success? Can the Minister of State provide clarity on that?

The Minister of State said the HSE is reviewing international recruitment to specialist posts

such as nursing and midwifery, with further actions identified to expedite recruitment. Will the Minister of State outline those further actions? I would love to know what actions are being taken. Are we going to roadshows across the world? Are we attending exhibitions? Are we at universities? What specific actions are being referred to?

To conclude more generally, the majority of us here hold weekly clinics. I am Fianna Fáil's party spokesperson on special education. It is well documented that people have been waiting for a physiotherapy appointment with a children's disability network team. People may be waiting two, three or four years, if they are lucky, for a speech and language therapist to come to see them. In my opening statement, I acknowledged that the HSE is hiring more staff than ever, but it is clearly not sufficient. Nothing drives me more demented than to see budget underspends and funding not being drawn down. We need to do more. We need to engage internationally and to look at waiving work visas for non-EU applicants. We need to throw the kitchen sink at it. I would appreciate any further feedback.

Deputy Frankie Feighan: I understand a stretch target is a target that makes the organisation alter the process to get the result it wants to achieve.

An Ceann Comhairle: Is it not shocking that the Department did not provide for an answer for a fairly straightforward question? It is not the Minister of State's fault but whoever writes answers could maybe do a training course in basic English and communication. I recommend that to the HSE and Department officials.

Deputy Frankie Feighan: I will bring the Ceann Comhairle's view on it back to the Department.

An Ceann Comhairle: I thank the Minister of State.

Deputy Frankie Feighan: That is what I understand about stretch targets. It sets a parameter that people have to work within to try to achieve the target. "Stretch target" is a first for me too. The continued growth of the health and social care workforce is a top priority for the Department. The Deputy will appreciate that given the competitive international situation and the high demand for skilled health and social care workers, we will probably continue to face ongoing difficulties despite our best efforts. Many factors have impacted international recruitment. We will continue to market Ireland as an attractive destination and we will endeavour to retain as many of our current employees as possible to provide timely and quality health and social care for the citizens of Ireland. It is good to note that recruitment activity and employment levels of those directly employed in the provision of health and social care services shows continued sustained growth in the HSE census figures for each month, with a 1.9% growth increase, equating to 2,387 whole-time equivalents since the end of 2021. Officials in the Department continue to liaise with the HSE and other Government Departments and stakeholders to address recruitment challenges and to ensure we recruit and retain the required workforce to deliver our health services.

An Garda Síochána

Deputy David Stanton: I thank the Ceann Comhairle for selecting this item and the Minister, Deputy McEntee, for being here to respond. I think this issue is fairly simple to rectify. It should not cost any money.

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I have been approached on behalf of students working on ships who are required to go to sea in a training capacity. Many of these companies operate in Europe and are not registered here, but they require police certificate clearance. Police certificates state whether somebody has a criminal record. They are issued by the Garda in certain circumstances, solely for the following purposes. One is for foreign consular authorities, foreign visa applications, naturalisation applications and so on. Other reasons include establishing and registering a business in another EU member state; employment in EU institutions; and for development and humanitarian aid workers deployed overseas on behalf of an NGO. Another one, which I thought might be used in this case, is Irish citizens participating in or engaging in an accredited academic programme on a full-time basis for a minimum period of one academic year with a recognised third level education institution in the host state outside this jurisdiction. Basically, these certificates are sought in other countries when people go abroad to work or live. None of those five criteria can be used for the purposes I am requesting.

Other jurisdictions issue police certificates for the purposes of training on ships but we do not do so here. The student in question was sent off to maybe get Garda vetting. However, Garda vetting is only used for people who work in Ireland with vulnerable children or adults. That will not work for the student. The final option is a subject access request. This comes under the GDPR regulations. This could be obtained but it specifically states that it is not a police certificate, nor is Garda vetting. The students I am talking about are stuck. They cannot get their berths on a ship to complete their training. I suggest that the Garda Commissioner and Minister make one small change to the five conditions by adding in this one. In other jurisdictions, if employers in foreign countries look for a police certificate, they can get it. That is not the case in Ireland.

I do not know what underpins these police certificates, whether it is legislation or regulations, and who decides on these five criteria. I have been chasing this matter for a while and I have not been getting very far. At the same time, the students in question are totally frustrated and may not be able to complete their training. Cobh is in my constituency and we have more and more cruise liners coming in to the harbour, up to 100 per year. There are lots of companies involved and there are fantastic opportunities for our young people. Ireland is a seagoing nation, or we should be because we are surrounded by water.

I ask that the Minister use her good offices with the Garda authorities to make these changes to allow these certificates to be issued to students in the circumstances I have outlined. It would make a huge difference to their lives and careers, would not cost any money and should fit in, broadly speaking, with the criteria already outlined. I look forward to the Minister's response.

Minister for Justice (Deputy Helen McEntee): I have vivid memories of my own father covering a Topical Issue matter one night and having the same response read out but that is for another day.

I thank the Deputy for raising this Topical Issue matter. As he correctly outlined, police certificates are issued for the following five purposes: the foreign consular authority and foreign visas; the establishing or registering of a business in another EU member state; employment in the EU institutions; development or humanitarian aid workers employed overseas; and, as the Deputy mentioned, Irish citizens participating in and-or engaging in an accredited academic programme on a full-time basis for a minimum period of one academic year with a recognised third level education institution in the host State. As the Deputy said, the fifth criterion is perhaps one that might suit the individuals the Deputy mentioned, but it clearly does not.

The Deputy has clearly done the groundwork, as the students have, in engaging with members of An Garda Síochána in this instance. We have had limited time to engage to enable us to respond this evening. In the interaction we have had with An Garda Síochána, the issuing of police certificates is done on a non-statutory basis. It seems that there is enough scope and flexibility within that for An Garda Síochána to include or expand that if it considered it possible. The initial conversations we have had suggest the Garda does not believe there is room for police certificates to be provided under the current rules in relation to the exact areas the Deputy mentioned. However, this is based on an early conversation we have had with the Garda and it is important that I speak directly with the Garda Commissioner or someone on his team to try to identify if this is an issue we can address as a matter of urgency. I appreciate there are people who need this now and it cannot wait until the next term or beyond.

I will give an absolute commitment to follow up with the Garda Commissioner to see whether it is something we can do, while obviously acknowledging that it is an operational matter for the Garda and one for the Garda Commissioner to decide, particularly if it is done on a non-statutory basis. There is clearly a gap here where certain individuals do not fit within the police certificate criteria and do not come under Garda vetting. As the Deputy stated, a subject access request would not be accepted by those the students wish to work for. In addition, An Garda Síochána does not recommend the use of subject access requests in this instance, so people find themselves in circumstances where there is nothing available that would be sufficient.

It would be interesting to get information on other countries or EU member states that provide this type of certificate. Perhaps the Deputy already has this information. We could look at how it is done in those countries and perhaps replicate what they are doing. Without overstepping my reach, it is important that I first speak with the Garda Commissioner to examine where we can go with this. I will certainly revert to the Deputy as quickly as I can.

Deputy David Stanton: I thank the Minister for her response. I know the Garda Commissioner, having engaged with him in a previous role, and he is very reasonable. I am sure that when the Minister and Garda Commissioner have a conversation, they will be able to find a way of resolving this issue.

Other cruise liners and shipping companies across Europe also have these demands and they work with other jurisdictions, I am told, with no issues. They can get these police certificates from every jurisdiction except Ireland. It is a matter of changing the five rules we have in place here or adding a sixth to allow people who work on ships and cruise liners as part of the training to apply for and be given a police certificate. That is a requirement of these shipping companies for people to complete their training, get certification and have a career. This broadens their skill sets. We talk about skill sets here in Ireland. This is a way we can do it. It will not cost anything but it means somebody has to think about this and put something together.

The Minister has acknowledged that there is some urgency about this. As we speak, there are students waiting for this to be done. They are very frustrated and their careers could go down the Swanee unless this is sorted. I encourage and support the Minister in her work and in talking to the Garda Commissioner. Perhaps he is listening this evening and, knowing the man, he may already be working on this to get it done. It is a small matter but for these young people it is a very big and important matter.

Deputy Helen McEntee: I fully agree with Deputy Stanton. We are not talking about students going on holidays on a cruise liner. This is something different, which would benefit

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them for their entire lives. It is about their career and, unfortunately, through no fault of their own, they find themselves in a position where there is no police certificate or vetting procedure and nothing that would allow them to continue their training. I am sure this was never the intention when the various criteria were set out. They are quite broad criteria and one would assume they would cover most reasons for which people travel abroad, be that to work, study or for humanitarian reasons. Unfortunately, these individuals have found themselves stuck in this situation. I give a commitment to Deputy Stanton to speak to the Garda Commissioner as a matter of urgency to try resolve this matter as soon as possible.

An Ceann Comhairle: I thank the Deputy and the Minister for raising this important matter and dealing with it so efficiently and pragmatically.

Teachtaireacht ón Seanad - Message from Seanad

An Ceann Comhairle: Seanad Éireann has passed the Institutional Burials Bill 2022, without amendment.

Cuireadh an Dáil ar athló ar 10.38 p.m. go dtí 9 a.m., Déardaoin, an 7 Iúil 2022.

The Dáil adjourned at 10.38 p.m. until 9 a.m. on Thursday, 7 July 2022.