



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 2 Iúil 2015

Thursday, 2 July 2015

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Colm Burke that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Education and Skills to review the current pupil-teacher ratio with a view to reducing the number of pupils from 56 to 53 in order to facilitate smaller schools in retaining a third teacher.

I have also received notice from Senator Kathryn Reilly of the following matter:

The need for the Minister for Education and Skills to discuss why a child (details supplied) has been refused a special needs assistant, despite having been recommended previously for one, and what interventions can be made to ensure this child will have adequate classroom assistance for the upcoming year, given his reintegration into a mainstream classroom.

I have also received notice from Senator Paul Coghlan of the following matter:

The need for the Minister for Justice and Equality to outline the position on the remit of the Property Services Regulatory Authority in view of the concerns of the Institute of Professional Auctioneers and Valuers about the significant number of unlicensed auctioneers in practice throughout the State.

I have also received notice from Senator Paul Bradford of the following matter:

The need for the Minister for Transport, Tourism and Sport to examine the planning restrictions on the building of new houses adjoining national secondary roads arising from the National Roads Authority's roads policy and indicate if he is aware of the detrimental impact on farm families where family members who wish to work on the home farm cannot obtain planning permission.

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I regard the matters raised by the Senators as suitable for discussion and they will be taken now.

Commencement Matters

Pupil-Teacher Ratio

An Cathaoirleach: I welcome the Minister of State, Deputy Damien English.

Senator Colm Burke: I welcome the Minister of State. As I understand the current situation, once the pupil-teacher ratio is at or above 56, the school is entitled to retain or get a third teacher, but I am open to correction on that point. I further understand there are about 20 schools which will lose a third teacher in the coming months. If the ratio was dropped to 53, that would not arise.

I have a personal interest in this matter as I started off in the same class in primary school as the current president of the Irish National Teachers Organisation, INTO. She raised the matter when I met with her recently and I agreed to raise it in the House. It needs to be reviewed. It is not easy to manage 55 or 56 pupils in a two-teacher school. There might also, for example, be one school with 54 pupils and two teachers and another up the road with 57 pupils and three teachers. That is causing problems in rural areas. I ask the Department of Education and Skills to give consideration to the matter.

Minister of State at the Department of Education and Skills (Deputy Damien English): I thank the Senator for giving me the opportunity to outline to the House the position on the staffing of small schools. I am pleased to inform him that the Minister has introduced a retention rate of 53 pupils for a three-teacher school for the coming school year.

The criteria used for the allocation of teaching posts are published annually on the Department's website. The key factor for determining the level of staffing resources provided at individual school level is the staffing schedule for the relevant school year and pupil enrolments on the previous 30 September.

The staffing arrangements for the 2015-16 school year are set out in Circular 0005/2015 which is available on the Department website. These arrangements include details of the implementation of two new policies which the Minister announced in February 2015, namely, improved retention thresholds for the second, third and fourth classroom teacher and the improved appointment and retention thresholds for isolated one-teacher schools. Under these arrangements, the retention figure for a two classroom teacher school has been reduced from 20 pupils to 19. For a three classroom teacher school, the retention figure has been reduced from 56 pupils to 53 and in four classroom teacher schools, an enrolment of 83 pupils, rather than the previous 86, is required to retain the fourth classroom teacher.

The introduction of these changes means that schools with three teachers that had an enrolment of 53 pupils on 30 September 2014 will retain their third teacher for the 2015-16 school year. Previously, such schools would have lost a teacher as the retention figure for the third teacher was 56 pupils.

In addition to the reduced retention figures, a threshold of 15 pupils applies for the appointment and retention of the second classroom teacher for schools situated 8 km or more from the nearest school of the same type of patronage and-or language of instruction.

The two new policies will provide some improvement to the staffing levels of some of the smallest schools. These improvements particularly recognise the challenges faced by very small schools that are more than 8 km from the next nearest school of the same type. This package of measures will provide rural communities with security about the future of their small schools, recognising the essential social function which small schools can play, especially in isolated communities.

The staffing arrangements also include an appeals mechanism for schools to submit an appeal under certain criteria to an independent appeals board. A school with four classroom teachers or less which is losing a teacher or failed to gain an additional teacher can submit an appeal to the primary staffing appeals board. Where such schools can provide evidence that the enrolment will increase sufficiently in the coming September so as to allow the post to be retained for the following school year, a classroom post may be allocated on appeal. The primary staffing appeals board operates independently of the Minister and the Department and its decision is final.

I again thank the Senator for giving me the opportunity to outline to the House these improvements in the staffing schedule for small schools which the Minister has introduced for the coming school year.

Senator Colm Burke: I thank the Minister of State for attending and his reply which is exactly what I was looking for. I also thank him for the information and the comprehensive review of this matter which will be welcomed by a number of small schools. I ask him to convey my thanks to the Minister.

Special Educational Needs Service Provision

Senator Kathryn Reilly: I welcome the Minister of State. This matter relates to the provision of a special needs assistant for a particular child who shall re-enter mainstream school in September. His parents are about to appeal the decision on the grounds that they do not believe the criteria of the Department of Education and Skills was met. The reality is that he requires, particularly in his formative years, a lot of help and attention which can only be provided by a special needs assistant in the classroom. He has been granted four and half hours of resource help, but it is insufficient for his needs. If he does not get the support, he will fail to reach his potential and he may end up becoming dependent on State supports rather than the independent young man who his parents believe he can become once he receives support at this critical time. He currently behind his peer group in terms of his educational competence and that is further supplemented by his particular self-care needs. He is a nine year old boy, but as he has grown, he has become more aware of the level at which his classmates are compared with himself and he has become frustrated as a result. In the absence of SNA support in the classroom, he is likely to fall further behind as he becomes more frustrated, a view supported by a professional opinion.

The discharge report dated March this year from the speech and language therapy class he attended for two years highlights that he continues to have severe difficulties with receptive

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and expressive language skills. In the notes, it is stated he will continue to need support in the school given his dual diagnosis of developmental co-ordination disorder and specific language impairment, as well as his difficulties with working memory and processing speed, as assessed by a psychologist. The report also states that not only will he find it hard to access the curriculum because of this, but that it will support any application made for additional help.

Recently, the boy has been referred to the primary care clinical psychology services under the Disability Act 2005 and the child development team for an autism spectrum disorder assessment. He is waiting for the team to carry out a multidisciplinary assessment which has led to a delay in getting an updated professional report to identify his needs. I mention the delay in carrying out an assessment because the NCSE mentioned that it wanted a more recent report than the 2013 report that it has on file.

The 2013 report stated that he should have access to a special needs assistant. Despite interventions by various teams on a one-to-one basis, he is still in serious need of a classroom assistant. Classroom assistance is not just relevant to his receptive and expressive language skills but to his self-care needs. I will not go into the detail, but they are very important. The information that the NCSE has, coupled with the result of an assessment that I hope will soon take place, underlines and illustrates the breadth and gravity of the additional supports that he needs. It especially highlights the full-time classroom support that he needs. His needs would be above those of other children of the same age who do not share his diagnosis.

Under the current rules to qualify for a special needs assistant, a child generally must be on the more extreme side in terms of needs and-or require assistance with feeding, going to the toilet or lifting. This particular child meets a lot of those criteria and the 2013 report stated he would need a special needs assistant. He was two years away from the mainstream education to which he will return in September. That addressed some of his needs but not all of them. The report states that he has severe difficulties, in particular with language skills. He has had some one-to-one sessions about self-care but they have not been successful in terms of long-term practical application. Therefore, he still needs the care and assistance in the classroom that a full-time SNA would provide.

The boy has been given four and half hours of resource teaching, but it is only a drop in the ocean in terms of meeting his needs in the classroom. I do not usually raise individual cases in the Seanad but his parents approached me. I have dealt with them for a long time and know them very well. This issue is of grave concern to them. His mother is frantic with worry that a lack of a special needs assistant will stunt his development completely and he will be left behind in terms of educational and self-care issues. He has not reached the same standard as other children his own age who are becoming aware that he has particular needs and they are starting to point them out which has made him feel self-conscious. It is not just his educational development but his personal development that is being affected, which is why I raise the issue today.

Deputy Damien English: I thank the Senator for raising this matter. I assure the House that the education of children with special educational needs remains a key priority for the Government. We have been resolutely committed to protecting and, in some instances, increasing the level of investment being made to support children with special educational needs at a time when there has been a requirement to make expenditure reductions across a range of areas. It is an area of spending which has been prioritised above most other areas by the Government, despite the enormous pressures on all areas of public spending. This year alone, over €1.37 billion or 15% of the Department's budget is being spent to provide supports to enable learners

with special educational needs access an education appropriate to their needs.

The SNA scheme, in particular, has been a major factor in both ensuring the successful integration of children with special educational needs into mainstream education, and the provision of support to pupils enrolled in special schools and special classes. As part of budget 2015, the Minister announced that an additional 365 SNA posts will be provided in 2015 to take into account increased demand and demographic growth and to ensure children can continue to have access to additional supports in school. There is now provision for 11,330 SNA posts in 2015 which is the highest level of SNA provision that we have ever had. These increases, building on increases which have already been provided in recent years, will ensure children with special educational needs can continue to participate in education and be supported in a manner appropriate to their needs.

I take the opportunity to assure the House that schools which have enrolled children who qualify for support from an SNA will continue to be allocated SNA support. The House will be aware that the National Council for Special Education, NCSE, through its network of local special educational needs organisers, is responsible for allocating resource teachers and SNAs to schools to support children with special educational needs. The NCSE operates within the Department's criteria in allocating such support and these criteria are set out in Department's Circular 30/2014.

All schools were asked to apply to the NCSE for resource teaching and SNA support for the 2015-16 school year by 18 March 2015. The NCSE continued to accept applications after this date in recognition that enrolments may not have been completed or where assessments were not completed. On conclusion of this process, the NCSE evaluated the level of SNAs required to meet the needs of schools for the coming year and advised the Department on the quantum of SNAs that would need to be provided to meet this need. Advice from the NCSE has been received and the Department is working to finalise its consideration of this as quickly as possible. Details of SNA allocations to schools for 2015-16 will be available on the NCSE website on completion of this process.

The Senator's specific query relates to the allocation of an SNA for an individually named child. It is important this House is aware that SNA allocations are not made to individual children but are made to schools to support the care needs of children with assessed special educational needs, like the example given. I will ask the NCSE to examine the matter and to respond directly to the Senator. I thank her once again for raising this matter and will make sure it is followed up.

Senator Kathryn Reilly: I thank the Minister of State for his response. Time is of the essence. The family, in particular, the parents are trying to gather all of the documentation to lodge an appeal. They are afraid they will miss the deadline and, therefore, their son will not have supports for a year. Anything that can be done to make sure the NCSE replies in a timely manner would be greatly appreciated.

Auctioneering Licences

An Cathaoirleach: I welcome the Minister of State, Deputy Aodhán Ó Ríordáin.

Senator Paul Coghlan: I recently attended the AGM and conference of the Institute of

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Professional Auctioneers and Valuers, of which I am an honorary member. Quite a number of its members spoke about a certain matter at the event. While I was aware of one instance I must confess that I had not heard such concern before. Apparently, there are a number of unlicensed auctioneers operating throughout the State. A recent article featured in the *Irish Farmers Journal* alleged that a number of marts do not have licensed auctioneers. I understand such auctioneers are able to advertise freely alongside licensed auctioneers and the public are unaware of the status of the former. Also, it was alleged to me that agents from Northern Ireland practise in some of the Border counties. I was reminded by one person that the national Property Services Regulatory Authority is three years in existence. That fact disturbed me slightly and that is why I am interested in hearing what the current position is and how it is viewed. I am grateful to the Minister of State for coming to the House to answer today.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): On behalf of the Minister for Justice and Equality, I thank the Senator for raising this matter. As he is aware, the Property Services Regulatory Authority, PSRA, was established on a statutory basis in 2012, in accordance with the provisions of the Property Services (Regulation) Act 2011. The authority is independent in the performance of its functions.

A key role of the authority is to set and enforce standards in the provision of property services by property service providers who fall into four categories - auctioneers of all types, estate agents, letting agents and property management agents. The 2011 Act provides for the licensing of all companies and individuals engaged in the provision of property services. There are in excess of 4,000 companies and individuals licensed to provide property services. A publicly visible register of these licensees is maintained on the PSRA website at www.psra.ie. Under section 28 of the Act, it is an offence to provide a property service, or purport to be available to provide a property service, unless the person is appropriately licensed. A company or person who contravenes this section of the Act is liable to a fine or imprisonment, or both.

It is the authority's policy to prosecute all of those found to be trading without a licence. A number of prosecutions have already been before the courts in the Dublin area. The Minister for Justice and Equality has been informed that two cases have so far resulted in convictions and more cases are pending. She has been advised by the authority that 242 instances of companies or individuals suspected to be trading without a licence have been brought to its attention since 2012. Some 23% of these cases involved companies of individuals who were, in fact, already licensed. A letter campaign instructing companies to cease trading without licences resulted in a further 6% applying for and being granted licences. Another 31% have ceased trading or were never trading in the first place and no current evidence can be found of trading. The authority is investigating the remainder of the cases.

Senator Paul Coughlan: I am grateful to the Minister of State for his response. I am glad to hear that there have been some prosecutions and that the authority is investigating a number of outstanding cases. In terms of the people whom I heard speak about this matter and one or two individuals spoke to me directly, I will communicate with them and have them examine the register which is available. I shall advise them that they should give the authority whatever information they have. I am grateful to the Minister of State for his assistance.

Planning Issues

An Cathaoirleach: I welcome the Minister for Transport, Tourism and Sport, Deputy Pas-

chal Donohoe.

Senator Paul Bradford: In welcoming the Minister back to the Seanad, I express a sincere hope this is not a sign of things to come.

I raise this issue with the Minister because several weeks ago, when I raised a similar matter with the Department of the Environment, Community and Local Government, I was advised by the Minister of State at that Department, Deputy Ann Phelan, to contact the Minister for Transport, Tourism and Sport as his Department liaises closely with the National Roads Authority.

I am seeking a review of the impact a rather black-and-white policy being pursued by the National Roads Authority is having on the ability of families, especially farming families, to build residences on national secondary roads. I stress that I am fully committed to road safety. In my time as a county councillor I made many representations on planning matters. In cases in which disputes arise and there is any shred of doubt or difficulty about road safety, we must always err on the side of caution.

I have encountered a significant number of cases where, despite road safety, sight distance, etc., not being compromised or in doubt, the NRA's blanket policy has impinged on a council's decision on whether to grant planning permission for houses on national secondary roads. In one case in north County Cork, in which I was not involved, the authority successfully appealed a decision by Cork County Council to grant planning permission for a residence for a small business operation to An Bord Pleanála. While I fully respect the road safety perspective of the National Roads Authority - long may it continue - individual cases must be considered from a social and economic perspective from time to time. In cases in which a farming son or daughter is unable to build a house on the family farm, we will have a ridiculous scenario in which the applicant will be obliged to build or buy a house three or four miles away and traverse the secondary route in question several times a day. Some dairy farmers will visit a farm two or three times in the middle of the night during the calving season. The broader safety perspective must also be taken into account.

In so far as the Minister has powers in this area, I ask him to liaise with the National Roads Authority to ascertain whether there is a reasonable prospect of council engineers discussing individual cases with a local office of the National Roads Authority in an effort to alleviate problems. I am reluctant to call for discretionary powers, as this term is a throwback to all the funny political decisions made in the past. The number of cases involved is probably not more than a few dozen, or three or four per county, at any given time and certainly does not run into the hundreds. On a day when the Government is launching what will, I hope, be a visionary policy on agrifood and rural areas, it is important to ensure that farming families are facilitated in living on the family farm. This will require a careful examination of planning issues.

I thank the Minister for listening. I do not expect him to perform miracles today. I ask him to discuss with the National Roads Authority the possibility of shifting its black and white policy towards one in which there is a prospect of dialogue in individual cases. County councils will not approve a planning application if there are any doubts about road safety. As a result of a national policy pursued by the National Roads Authority, they are now reluctant to give serious consideration to planning applications for dwellings alongside national secondary roads. I ask the Minister to reflect on the issue with a view to improving the current position.

Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe): I apologise to

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the Cathaoirleach and the Senator for keeping them waiting. I thank the Senator for his comments on my fortunes. I am not sure if I should express a view on whether I look forward to seeing him back in the House. In any case, I extend my best wishes to him in his endeavours and do so in the same spirit as he extended his best wishes to me.

The short answer to the Senator's question is that I am open to examining this issue. This should initially involve engagement with the Department of the Environment, Community and Local Government on planning decisions made by local authorities.

I am aware of the issue the Senator raises, as it has been brought to my attention previously. I take a similar approach to it as he does and expect those who are involved in the relevant decisions to adopt a similar approach. This means, as the Senator acknowledged, that while primacy must be given to road safety, we must also seek to facilitate a relatively small number of developments or applications as a means of supporting ongoing changes in agricultural families and communities.

Having raised matters related to funding previously, the Senator will be aware of the policy background to this issue and my responsibilities in this regard. I have responsibility for overall policy and funding, while the National Roads Authority has a statutory responsibility under the Roads Acts 1993 to 2007. The NRA works with local authorities in performing its duties under the legislation. I understand the Minister of State, Deputy Ann Phelan, commented on this matter and acknowledged that decisions as to whether to grant planning permission in any particular case are a matter for the relevant planning authority, whether a local authority or, on appeal, An Bord Pleanála.

Local authorities must have regard to the local development plan, any relevant ministerial or Government policies, and national guidelines. All of this work must be completed within the framework of planning legislation. As a statutory consultee under planning legislation, submissions or comments on planning applications and proposed developments constitute the National Roads Authority's primary input into the planning process. My understanding is that the approach adopted by the authority in making such submissions or comments is to seek to uphold official policy and guidelines.

The Senator acknowledged the importance of road safety. As he is aware, access to roads must be managed, as must conditions on roads. Access is particularly restricted in the case of national roads, to which speed limits of 60 km/h apply, whereas a less restrictive approach is allowed for in the case of transitional zones close to urban centres and within 50 km/h zones. The Road Safety Authority's strategy for the period from 2013 to 2020 includes an action to reduce the number of access points outside speed limit areas on national roads by 5% by 2020. I accept that this will have consequences for road users, particularly people who are seeking to develop or access roads. However, I am sure the Senator will appreciate that from a Road Safety Authority point of view, the two main issues are the frequency with which additional vehicles access roads, particularly national roads that can be very busy, and the speed at which those vehicles access those roads, which often is very different from the speed at which vehicles already on that road are travelling. This can have consequences for road safety that need to be managed.

As stated by the Minister of State, Deputy Ann Phelan, under section 2.6 of the guidelines, in exceptional circumstances planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or

varying the relevant development plan and having consulted and had regard to the advice of the NRA in line with the approach set out in the guidelines. It is a matter for planning authorities to consider the implementation of section 2.6 of the guidelines in respect of sections of relevant national roads and in the context of the development plan for that region, county or area.

As I said, I am open to looking at the issue in conjunction with the Minister for the Environment, Community and Local Government, but I do not want to create expectations about potential changes in the guidelines as this could lead to further expectations to which I would then have to respond, and, primarily, because of the impact this would have on the progress we are making in relation to road safety. I have listened to the points made by the Senator and agree that this is an issue that merits further examination. My Department will engage on the matter with the Department of the Environment, Community and Local Government in the context of the planning laws already in place.

Sitting suspended at 11.15 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015 - Report and Final Stages, to be taken at 12.45 p.m. and adjourned not later than 3 p.m., if not previously concluded; and No. 2, Employment Equality (Amendment) (No. 2) Bill 2013 - Committee Stage (resumed), to be taken at 3 p.m. and adjourned not later than 5 p.m., if not previously concluded. For the information of Members, with regard to sitting days, the provisional arrangements are that the Seanad will sit five days in the week beginning, Monday 13 July - the week after next - and two days the following week.

Senator Darragh O'Brien: I thank the Leader for outlining the business of the House. There is one point relating to the Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015. Only 90 minutes were provided for amendments on Report Stage. An e-mail was sent at 7.30 p.m. stipulating a deadline of 9 p.m. This is not of the Leader's making, but it is a very short timeframe and we did not get to include our amendments. I will address them by way of discussion on the section during the debate. I may not be able to do so and in that case I will refer to them on Fifth Stage. A deadline of 90 minutes, particularly when the e-mail is sent in the evening, is not sufficient.

I have previously asked that the Minister of State at the Department of the Environment, Community and Local Government, Deputy Paudie Coffey, or the Minister, Deputy Alan Kelly, come to the House to address my grave concerns about the operation of the pyrite remediation scheme. I know that the Leader has requested the Minister to come here to debate that issue. The scheme is far too cumbersome and not getting the traction we thought it would. There are major problems relating to the local property tax exemption, as many home owners suffering pyrite issues are not being given the local property tax exemption promised as part of the legislation. The Department and the Revenue Commissioners are insisting on a specific test that can cost up to €3,000, so why would anybody bother seeking an exemption in such circumstances? I know that there will be much work to do before the end of the session, but it would be useful, if possible, to get in the Minister of State before the recess. I will table a Commencement matter on the subject otherwise.

I give the following notification to Members in order that there will be no confusion similar

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to what we saw on a motion last week. I will be circulating a motion to all Members seeking their support for a call by the Seanad for the urgent filling of the pancreas transplant surgery post in Beaumont Hospital. I have raised the matter on a number of occasions, as have other Members. We are all concerned at the fact that transplant patients now have no access to organ donor co-ordinators and are being told to go to accident and emergency units. I have raised this issue in the past two weeks and I am trying to be helpful, as we are not getting the answers we should from the HSE or the Department of Health. I will circulate the motion to all Senators later today seeking their support and I will be looking for a specific debate next week, even if it is for only half an hour. Members might let me know by close of business next Tuesday whether they are willing to support it. If anyone reads the testimony published on *thejournal.ie* last night of someone waiting for a pancreas transplant, they will see that she feels the rug has been pulled from under her. There is no access to pancreas transplant co-ordinators and we have no pancreatic surgeon. The post remains vacant. I ask Members to put their names to the motion if they feel they can, as the Seanad has a role in this regard. If word goes out from the Seanad that we are as one in calling for this matter to be addressed urgently, we will have done a good job. I ask Members to consider it.

Senator Ivana Bacik: I thank the Leader for scheduling the resumed Committee Stage of the Employment Equality (Amendment) (No. 2) Bill for this afternoon. I advise colleagues that the Bill started life as a Private Members' Bill introduced by me and Senator Mary Moran on behalf of the Labour Party in March 2013. On Second Stage, 11 Members spoke and, as such, there is significant interest in the legislation, which is intended to amend section 37 of the Employment Equality Act to ensure discrimination against teachers, in particular, on the basis of sexuality or family status will no longer be possible. It is a very important Bill and there is great interest in it from civil society, the unions and LGBT rights groups. It was delayed and we had Committee Stage over two dates in March 2014, at which time there was again a great deal of interest from colleagues. In the light of that, we are scheduling the resumption of Committee Stage which will I hope conclude this evening, as the Government has now approved a set of amendments for Report Stage. We hope Report Stage will take place next week. Those Senators who tabled amendments on Committee Stage, Senators Katherine Zappone and Averil Power, have been briefed by the Minister of State, Deputy Aodhán Ó Ríordáin, and a further briefing has been arranged for next Tuesday, 7 July, at 3 p.m. for all Senators with an interest in the Bill in order that Members can have a full briefing on what the Report Stage amendments will entail. The meeting will take place in meeting room C in LH 2000. I have circulated a notice on that at the request of the Minister of State. It is a very important Bill and it is a good day for the Seanad to see it progress as a Government Bill, having started life as a Private Members' Bill. It is broadly welcomed on both sides of the House.

I also welcome the announcement this week, about which other colleagues spoke yesterday, of the extension of GP cards to all children under 18 years who receive a cancer diagnosis. The Minister of State, Deputy Kathleen Lynch, announced it earlier this week and it is a hugely important and very welcome extension.

I commend Alcohol Action Ireland, the alcohol health alliance, for the work it is doing in support of the Public Health (Alcohol) Bill, which was published in February 2015 and which will provide for minimum pricing of alcohol and various restrictions on alcohol advertising. The Bill, which has been greatly anticipated, received a broad welcome.

Senator Katherine Zappone: The day has finally come. What shall we call it - One Parent Family Day or Children's Day? Perhaps a more apt description might be Jobseekers' Day. As

we are all aware, today is the day thousands of lone parents throughout Ireland, most of whom are women, will find their payment to support themselves and their families has been cut. It will be cut because their youngest child is seven and because they are working part-time but less than 19 hours a week. These people have jobs, but these low-paid, low-quality jobs are not in any way lifting them out of poverty. The Government says the cuts and changes are going through in order that lone parents can get a job and no longer be poor, but we have evidence to the contrary. It just does not work that way. In fact, I am getting reports from some lone parents today that the new cut payment is not in their bank accounts yet. Can the Cathaoirleach imagine how they must feel? Even the bureaucracy appears to be getting it wrong and it is causing distress.

My first question to the Leader is whether he can confirm that all lone parents will get their payment today and explain why it is not there now. Many Members in both Houses protested vehemently against the cuts as recently as last night, but our voices have fallen on deaf ears. More importantly, lone parents have also protested vehemently against the cuts. What I find hardest to take is the Government's deafness to their voices. The Government has told us for the last four years that it is about reform of this and that. A reform of politics that would make a most significant difference to how we do our business would be to listen and have a dialogue with citizens, especially those who are affected directly by what we do in these Houses. Yesterday, I published findings from a civic forum that I held in Leinster House, attended by more than 30 lone parents, at which we debated what changes they wanted to see so that they and their children might have an equal chance to flourish in Ireland. With its publication, I call on Government to immediately establish a special working group with a predominance of lone parents and their representatives to review the cuts and conditions in one-parent family policies and to feed their recommendations into budget preparations, beginning with the national economic dialogue that will be held later this month.

That brings me to my other question. Who is being invited by the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, to the national economic dialogue? The Minister has said every Government has a duty to engage with its citizens and that he is committed to ensuring the process is as open and inclusive as possible. Will the Government invite some lone parents to the dialogue? Are any Members of the Seanad being invited? I would love to attend.

Senator Paul Coghlan: What happened yesterday in the vicinity of the front gate of Leinster House was shameful and disgraceful. Certainly, it was not related to peaceful protest. I am delighted to hear this morning that the other House has taken action and that the Garda Commissioner will be in Leinster House tomorrow morning to discuss the matter. We are all aware of the constitutional position, and while we do not want to go heavy on it, two Members of this Chamber were accosted. I am not speaking for them, as they can do that for themselves, but the way they were treated was shameful and disgraceful. Apparently, at least one Member of the other House was also so treated, and he has spoken for himself.

Seanad Members need to take up the matter within the Committee on Procedure and Privileges. I do not have the remedy, but I am sure the Garda Commissioner will talk to whoever is there tomorrow. It may be that more gardaí are required here at certain times. It may be that the Garda did not think this group was verging on violence. From what I have heard and from what I saw on television last night, it certainly was not peaceful. We all believe in peaceful protests, but protests that are determined not to be peaceful or to break the law - I gather some people were arrested last night - should not be allowed up to the gates of the Houses. It is as

though some protests are coming right up against the property. While they may not be defacing it, some Members may have been roughed up coming in and out. I have not witnessed it personally, although I am aware of the two Members who tried to leave by car last night and had to be rescued by gardaí. In any event, the situation has to be addressed. We cannot simply sit back and do nothing. I am delighted that some action has been initiated, apparently, by the other House. It may be a matter for the Cathaoirleach and his office to examine. The Leader is probably more aware of matters than me and I look forward to hearing any news he has. He might liaise with the other Chamber in order that both Houses will act on this matter jointly.

Senator Feargal Quinn: Yesterday marked the passing of the Government's deadline for banks to reduce their mortgage rates and the banks have almost completely ignored it. Some of them have said they have no intention of doing so. I ask that the House debate as a matter of urgency No. 32 on the Order Paper, Central Bank (Emergency Powers) (Variable Interest Rates) Bill 2015, which I introduced three weeks ago. Hard pressed home owners who have carried the economy through the recession are being punished on a monthly basis by banks which they, as taxpayers, have bailed out. The banks need to be forced to act in this manner and it is in our hands to do so. It is the Central Bank (Emergency Powers)(Variable Interest Rates) Bill, which should be at the top of the agenda taking into account what happened yesterday.

The recently published building regulations technical guidance document is very interesting. I am delighted it includes the provisions in the carbon monoxide alarm Bill. It took some time to have it included but it is now part of the building regulations technical guidance document, although I am a little concerned that it seems to recommend rather than insist in terms of that issue.

I read recently - I am not referring to the unfortunate deaths in Baltimore in recent days - that 150 people die each year from drowning. France introduced mandatory swimming lessons for children under the age of 13 years, therefore, everybody leaving primary school is able to swim. That is a measure to which we should give serious consideration. It would not take very long to do it, but I believe it could be done and would be very valuable. There have been a number of deaths from drownings because people could not swim, and I am not referring to the unfortunate incident the other day.

Senator John Kelly: I support Senator Katherine Zappone's call for a review of the changes to the lone parent's allowance. I do not believe that initially this was meant to be a cut that would result in people losing money. The idea was to try to find more work for people but, unfortunately, situations will arise where people will lose money and they need to be addressed.

I support Senator Paul Coghlan's point about what happened outside the Kildare Street gate yesterday. It was outrageous. It is legally unacceptable that these anarchists could hold the Parliament to ransom. Senator Paschal Mooney and I engaged with them and they consider themselves to be democrats. None of the Deputies or Senators could leave this area from 3 p.m. yesterday until almost 10 p.m. It is amazing that, legally, a parliamentarian cannot be stopped by a garda on the way to or from the Seanad or the Dáil, yet these protestors managed to do that yesterday. Many Deputies and Senators had genuine reasons for leaving Leinster House yesterday, but that did not matter. The people protesting did not care that somebody had a hospital appointment or that Senator Landy wanted to go home last night for personal reasons. They stopped his car and threw bollards at it. They spat at him. He had to abandon his car. He had no legal protection.

I agree that people have the right to protest, but we have to define what is a protest. We have to make the distinction between a protest and total disruption. Buses bringing people home from work had to stop for 40 minutes outside Leinster House. Eventually, the people had to leave the buses and walk home or get taxis. People travelling in their cars to collect their children after work, some of whom might have been lone parents, could not collect them because of the protest. These people did not care. Would that be allowed outside Downing Street or the White House? The answer is that it would not be allowed.

We can be critical of the gardaí and people were critical of them when nothing happened on the occasion the Tánaiste, Deputy Joan Burton, was held hostage in her car for two and a half hours. People said the gardaí were wrong because they did not act. That was followed some weeks later by a garda friend of mine pulling a lady off the bonnet of the Taoiseach's car, who then fell against a bollard. He is now the subject of an investigation by the Garda Síochána Ombudsman Commission. We have to know where to draw the line. We need clear legislation that outlines what is and what is not a protest and that must be done as a matter of urgency.

Senator David Cullinane: I send my condolences to the family of Val Doonican, a Waterford man, who died yesterday. It is a tragedy for his family and I offer my condolences to his wife, Lynn, and his extended family. He was bestowed the freedom of Waterford city a number of years ago. I had the pleasure of being in the council chamber on that occasion and to hear about his life and the many stories he had to tell. He had a programme on the BBC for many years which was watched by many people in Britain but also in Ireland. He was a hugely popular Waterford figure and a proud Waterford man. The Leader of the Seanad will have warm memories of Val Doonican also. I again extend my sympathy to his family.

I raise again an issue that was raised on several occasions in this House about the changes to the lone parent payment. It is disgraceful that despite weeks of calls by Senators on this side of the House, the Minister has not been able to come in to justify this change.

Senator Mary M. White: Shame.

Senator David Cullinane: Almost every day last week Senator Gerard P. Craughwell and others tried to move a motion he placed, democratically, on the Order Paper. He gave the Minister every opportunity. He did not push the matter to a vote and yet she was not able to come into the House to discuss these changes. This will drive women out of work. That is the core of the argument against these changes. They will not facilitate all those 12,000 mainly women back into work because the work simply is not there for all of them. Even if it were available, they would be unable to meet the cost of child care. That is the reality for many of these families. I support the sentiments of Senator Katherine Zappone who also raises this issue on a regular basis both inside and outside the House. It is not too late. The budget will be introduced later this year. The Government tells us it has €1.5 billion to give away, and we will see all sorts of auction politics in the coming months. Why can it not do something for lone parents now? There is the capacity but it seems the political will is not there. It is important to make the call, on the day this change comes into effect, that the Minister would come into the House to discuss these issues.

Senator Mary Moran: I add my voice to Senator Feargal Quinn's call for mandatory swimming lessons for young people. As somebody who worked in a swimming pool facility as a lifeguard and a swimming instructor for many years during my youth, I know the value and importance of people being in control in the water and knowing how to swim. I convey my

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sympathy to the families of the unfortunate people who lost their lives this week.

I extend my condolences to the family of Val Doonican. He was a great statesman and a wonderful person to highlight all the good things coming in the country with his very successful career. I hope he can now walk tall through the gates of Heaven.

I raise also the events that took place outside the gates of Leinster House yesterday. Mine was one of two cars surrounded by protestors last night while trying to leave. I had to leave to deal with an emergency which had serious knock-on consequences for me at midnight. I was shocked by the tone and the animosity shown to the gardaí last night and could not praise the gardaí highly enough for their behaviour and bravery. No amount of money would
12 o'clock pay anybody to stand on the street and take the abuse they took last night. We go into this job knowing that we have to take the rough with the smooth, but I saw a young garda who was standing right beside my car being hit by a cone and knocked out - she fell like a ton of bricks - and 20 minutes later she insisted that she wanted to go back on duty. That was above and beyond the call of duty. I understand the garda is still in hospital this morning, having been taken to hospital last night.

It is not right. We can all engage in peaceful protests, but nobody should be subjected to having their car thumped or being spat at, or to the absolutely abusive language that was used last night. That protest was supposed to start at 6 p.m., yet from 3 p.m. yesterday people were stopped from getting in and out. I looked on social media this morning and people are passing comments. At no stage did gardaí tell me last night that I could not leave. I explained the position to them.

An Leas-Chathaoirleach: The point has been well made.

Senator Mary Moran: I express my personal thanks to the gardaí who did an amazing job in protecting us last night.

Senator Mary M. White: I wish to address the abolition of the one-parent family payment from yesterday, 1 July, for parents whose youngest child is over seven years, by the leader of the so-called Labour Party, Deputy Joan Burton. I am trying to come up with a new name for that party, as it no longer reflects my ideals of what a labour party should be about.

Senator Darragh O'Brien: The party of Connolly.

Senator Mary M. White: Fr. Peter McVerry, in a letter to *The Irish Times* last week, wrote that these cuts

will cause unnecessary hardship for thousands of lone parents and their children, and should be abandoned. [...] My experience over the last few years is that, increasingly, the Department of Social Protection has become hard-hearted and even ruthless, to the dismay of some of its own staff.

The crux of the problem is the chaos of child care in Ireland these last years. The last good policy change was when Fianna Fáil introduced the free preschool year. Nothing has happened since, and Ireland's child care costs are among the highest in the 34 OECD countries. The average weekly cost of child care here is €167, although it is much higher than that in Dublin.

Speaking on "Tonight with Vincent Browne" last night, I said it was a gendered cut, as 98% of lone parents are women. This is the most gendered cut in the history of the State and the fact

that it has been done by a woman adds to the disgrace of it. The Survey of Income and Living Conditions, SILC, from 2013 showed that 23% of one-parent families lived in consistent poverty. This represents an increase of 32% in the consistent poverty rate for those families from 2012 to 2013. Another person whom I revere very much, Professor Kathleen Lynch, professor of equality studies in UCD, compared the situation to welfare cuts in the United States and cited a study describing those US cuts as creating “intractable conflict for poor people trying to care for kids.” Could someone tell me how one does a job as a lone parent while looking after children? I would like to think the women in this House are very ambitious and big into their careers. How can a woman be ambitious in her career if she is a lone parent and has nothing to live on?

Senator Darragh O’Brien: Well said.

Senator Mary M. White: I was with a woman last Friday who has two children. She is a qualified nurse with degrees in nursing management, yet the Society of St. Vincent de Paul is paying for her food and electricity. She lives in the wealthiest constituency in this country, Dún Laoghaire-Rathdown.

Senator Darragh O’Brien: Disgraceful.

An Leas-Chathaoirleach: The point has been well made.

Senator Colm Burke: I agree with Senators who have expressed concern about the protest yesterday and compliment the members of the Garda on the manner in which they dealt with it. In fairness to them, they put up with a lot of abuse and threats and managed very well in a difficult situation. I do not think any garda should have to put up with the abuse endured yesterday.

On the matter of social welfare reform, we have the highest number of people in households with no income other than social welfare across Europe. There has to be reform for a very fundamental reason. Whether we like it, we will have 20,000 more people reaching pension age every year from now on. That means 20,000 extra people per annum will be in receipt of the pension and will require additional care such as health care. We need to plan for this and part of that planning is reform. Whoever comes into government in 2016 - I hope it will be Fine Gael and the Labour Party - by the time they leave Government five years later, there will be 100,000 more people in receipt of the old age pension. We currently have 3.5 people working for every old age pensioner, and if we want the same ratio in 15 years we will need 2.7 million people working. We need to bring about reform. The Tánaiste has brought about necessary reform of-----

Senator Mary M. White: It is not reform if no alternatives are created.

Senator Colm Burke: It is reform. We are reforming and we need to have it in place; it is all part of the long-term planning we have to deal with.

Senator Darragh O’Brien: The Minister, Deputy Alex White, said last night that he was proud of this cut as a work activation measure. Did Senator Colm Burke see him?

Senator Paschal Mooney: I support my friend and colleague Senator Mary White in her impassioned plea to the Minister. I had intended proposing an amendment to the Order of Business and would like to do so in her name and the name of our group. I propose that No. 67, non-Government motion No. 16 on the Order Paper, be taken before No. 1.

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I support those Members of the House who referred to yesterday's disgraceful and anti-democratic scenes outside this House of democracy. Senator Mary Moran is right. I attempted to move my car at 3.30 p.m. and was confronted by a line of gardaí at the front gate. In front of them were at least 40 or 50 anarchists who certainly had no interest whatsoever in democracy and were only concerned about starting a fight. The gardaí, in discharging their duties, attempted to clear a way for my car to make its way out. As Senator John Kelly said, I had an appointment that I had to go to - I had no choice - and the car was parked at the front of the House, not the back. Gardaí tried to clear a way in the most diplomatic manner possible. There was no attempt to push or shove people but rather to move them out of the way, yet the gardaí were immediately set upon. iPhones were produced and there were shouts of abuse and "Shame" because the gardaí were attempting to do their duty in what I thought was a very diplomatic and orderly fashion. People stood in front of the car, totally oblivious to the pleas of the gardaí that they move. I eventually withdrew, reversed back in and took a taxi to my appointment, as I did not really want to put the gardaí under any extra pressure. Subsequently, a garda was injured. There was no question in my mind that if I had persisted and if the gardaí had continued to attempt to allow me out there would have been injuries to the gardaí, and I was not prepared to subject them to that.

We engaged with some of these anarchists a little later on, as Senator John Kelly said, and we might as well have been engaging with the wall. One of them actually said, when I put it to him that it was most unlikely that he would be allowed to do what he was doing in any other country, that this was his country and he was entitled to do so. I said, "Yes, you are entitled, but what about the rights of other people?" That was what seemed to be missing yesterday afternoon.

I want to separate what happened in the afternoon from what went on later. I have no doubt there were people who were there legitimately to protest, and they were perfectly entitled to do so. A Member of this House who had expressed a particular view earlier in the day was actually one of those on the platform later on. I do not want to be critical of him in any way for taking a party line. It gives an indication of the depth of feeling among all parties and none about what was going on in the earlier part of the afternoon.

I hope the Leader will answer my next question, in the light of the fact that the Garda Commissioner will be coming before Members of the other House. Given the Garda and the authorities must have known in advance that there was to be a protest, why were the people concerned allowed to congregate in front of the gates of Leinster House? Why were they not put behind barriers in Molesworth Street which would have prevented much of what happened later? Some weeks ago parents and young children who had come from all parts of Ireland to legitimately protest about child care costs were corralled behind barriers on Molesworth Street and were not allowed to cross the street.

An Leas-Chathaoirleach: The Senator is over time.

Senator Paschal Mooney: I refer to people who were innocently and inoffensively going about legitimate protest. After that, Members of this House who attempted to bring friends and neighbours who had attended what was a peaceful protest into this House were denied access, yet there were people yesterday, who I can only describe as anarchists, who were actually in this House earlier. We saw them coming back out.

An Leas-Chathaoirleach: The Senator is well over time.

Senator Paschal Mooney: The saddest aspect of it all was that there were young children present yesterday and some of them were laughing at the fact that a cone was thrown at that poor unfortunate garda who was injured. There was a left-wing academic-----

An Leas-Chathaoirleach: The Senator's point has been well made.

Senator Paschal Mooney: I will finish on this because it is so important. This is about a threat to democracy and the democratic institutions. A left-wing academic was quoted in *The Irish Times* today as saying legitimate protest was quite valid. There was nothing legitimate about what happened yesterday afternoon and I wish that man would realise that he would need to look into his own heart and not defend the indefensible.

An Leas-Chathaoirleach: Before I call Senator James Heffernan, I welcome the members of the DPE camera club from St. John of God in Drumcar, County Louth, who are guests of Senator Mary Moran. I remind Senators that we all are subject to time limits and that we cannot allow some Senators have five minutes and others have only one, as that would be grossly unfair.

Senator James Heffernan: I do not intend to go on too long. We have heard a lot about the incidents last night on Kildare Street. I attended that protest earlier in the day. I listened to many of the speeches made from the podium which came from a wide variety of different groups such as those who were there concerned about the cuts to lone parents and those from Right2Water, We Won't Pay, support the boycott and other groups. A degree of sensationalism can come into this but, in the main, those I engaged with at that protest yesterday were decent and sensible people who were certainly passionate about the cuts affecting their lives. However, there was a fringe group of what can only be described as ludramáns and idiots who became part of the protest and took it over. They certainly do not speak for the majority of people. That is a problem with the water charges protest. The movement is being sullied by these plonkers who think it is a good idea to take on and have a bit of an argy-bargy with, the Garda. It is a scandal for the likes of Senator Denis Landy, one of the most decent Members of this House, to be treated in such a fashion, as he was last night, when trying to get home. This is something that has occurred on a number of occasions with protests since I have been a Member of this House. I refer to the management of protests. I do not know whether it comes down Garda resources or whatever else, but the idea that Kildare Street can be completely blocked off from those who are trying to get home from work, catch buses up the street and go about their daily lives is wrong. I am not a security expert but surely a cordon should be placed at the bottom of Molesworth Street to contain a protest there.

If the Leas-Chathaoirleach can bear with me for one more minute, I want to speak about the cuts to lone parents. There are many lone parents this morning, of whom the Deputy Leader may be aware, who have not received the transitional payment into their bank accounts. These are lone parents who are depending on this payment to provide a child's lunch, bus fare or whatever. It is adding to the distress. I suppose we will hear the yarn that the Department's computers are to blame, it is a technology glitch or whatever, but that is not good enough.

An Leas-Chathaoirleach: The Senator's time is up.

Senator James Heffernan: I support Senator Paschal Mooney's call that No. 67, non-Government motion No. 16, be taken today because this issue must be discussed and teased out.

An Leas-Chathaoirleach: Is the Senator formally seconding the amendment?

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Senator James Heffernan: I formally second it.

An Leas-Chathaoirleach: Some Senators are taking advantage of time. One Senator who had indicated to speak a long time ago, Senator Labhrás Ó Murchú, had to leave because he was under time pressure because some Senators have taken four or five minutes. Senators are abusing privilege. There are seven more Senators to speak and if they all want to take five minutes, I will take a sos for a half an hour and come back at 1 p.m.

Senator David Norris: Excellent.

Senator Diarmuid Wilson: I apologise, but it was brought to my attention that there was a long-lost cousin of mine in the Visitors Gallery and I just wanted to say hello.

I second the amendment to the Order of Business by my colleague, Senator Paschal Mooney. I support my colleagues who have spoken on the incidents that occurred outside Leinster House yesterday. Intolerant, undemocratic and fascist is how the former Minister for Justice and Equality, Deputy Alan Shatter, described what happened yesterday outside this House to him, to colleagues in this House and to members of the public, which was totally unacceptable. Accompanied by a colleague from this House and a gentleman who was in with me on other business, we decided to go out at 3 p.m. to get a cup of coffee. Through no fault of his own, that gentleman happens to be fairly large in size and as we were passing a group of approximately 150 protestors, they started shouting, "We are paying to feed him." That was said. Thankfully, he did not notice it, but I did. Those are the types of individuals who were outside of Leinster House. I am sorry if some feel that is funny but as I am concerned, it is certainly not funny nor is it for the gentleman concerned who, thankfully, did not pay much notice to it.

Senator Darragh O'Brien: It certainly is not.

Senator Diarmuid Wilson: It is totally unacceptable that these people who claim to believe in democracy do not have much time for the democratically elected Members of this House. While acknowledging that at least 50% of the people outside were genuine and believed in what they were there for, I would say to those thugs who already have their representatives in the other House, who I have no difficulty in naming - Deputies Paul Murphy, Ruth Coppinger, Richard Boyd Barrett, Joan Collins-----

An Leas-Chathaoirleach: It is unfair to refer to Members in another House.

Senator Diarmuid Wilson: It is fair.

Senator David Norris: It is a roll of honour.

Senator Diarmuid Wilson: They have already got their elected representatives in the other House-----

Senator James Heffernan: They do not represent the IRSP, Éirigi or any of those.

Senator Diarmuid Wilson: -----who were not satisfied with trying to undermine the State in the other House without trying to subvert democracy in this House.

An Leas-Chathaoirleach: That is a matter for the other House.

Senator Diarmuid Wilson: It is a fact.

An Leas-Chathaoirleach: It is unfair to name Members of the other House who are not here to defend themselves.

Senator Diarmuid Wilson: With respect, it is not unfair to name people who were inciting hatred and violence outside Leinster House yesterday.

An Leas-Chathaoirleach: That is an unfair charge to make.

Senator Diarmuid Wilson: It is time we stood up and said what exactly is going on in this country or it will be too late for us. As I was leaving, having been prevented from leaving Leinster House for two and a half hours last night, there was a small group holding the flag of the nation shouting abuse at me and photographing me as I left.

An Leas-Chathaoirleach: The Senator has made his point.

Senator Diarmuid Wilson: I have made my point forcefully.

I pay tribute to the members of An Garda Síochána, especially the sergeant in charge, Sergeant Gavin O'Reilly, who had to deal with a lot of abuse yesterday that they should not have had to put up with. I acknowledge exactly what my colleague, Senator Paschal Mooney, said about the child care protesters.

Senator Paul Coghlan: Well said.

Senator Fidelma Healy Eames: Today, as others have said, is D-Day for lone parents when their payment is cut if their youngest child has turned seven years of age. This is quite amazing. One must remember that these are lone parents and a seven year old is a very young child who cannot be left alone. If such children are left alone, that is neglect. The parenting would be called into question if that happened. I voted for this proposal when I was on the other side of the House because the Minister for Social Protection, Deputy Joan Burton, promised me and members of Fine Gael and Labour Party that the cut would not come into operation until appropriate supports had been put in place. She mentioned in particular child care of the same quality as that which is available in Scandinavian countries. A month ago Senator Gerard P. Craughwell and I visited child care facilities in Finland and a comparable child care system is not in place in Ireland. We are probably 50 years away from such quality and standards, and may never have such child care unless we plan for it. The House will rise in a week or so. Some 12,000 vulnerable people - mothers, by and large - will be affected, along with their children. It is a scandal. It is not reform, as Senator Colm Burke said. Mothers are unable to go to work or continue in education because they do not have child care supports, and their young children will be at risk of poverty. How can that be called reform? I would call it State neglect. Before the House rises, I ask the Leader to ensure the Minister will address the issue with us in order that we can go into the summer recess with some understanding and awareness that lone parents will be supported rather than being left high and dry. Why are we singling out people who are at risk of poverty?

An Leas-Chathaoirleach: The Senator's time is up.

Senator Fidelma Healy Eames: Did I or other Senators ever have to parent children alone? When my children were that age, I was glad to have a second parent. I take my hat off to them.

An Leas-Chathaoirleach: The Senator's point has been made.

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Senator Fidelma Healy Eames: I do not know how they do it. Let us not hang them out to dry. I thank the Leader for his time and look forward to the answer.

Senator Jim Walsh: I add my voice to those who have raised the issue of lone parents. It is appalling that many families who, as we know from the statistics, struggle economically to rear their children and make ends meet, as well as being below the poverty line, are being abandoned by the Government. As Senator Fidelma Healy Eames said, the Minister gave a commitment that none of this would be triggered until such time as there were adequate child care facilities in place to enable such women to work. The cost of child care in this country is prohibitive for anyone on a modest income. I ask the Minister to revisit the decision at this late stage.

There is an interesting resolution before the 29th session of the Human Rights Council of the United Nations, currently under way in Geneva, entitled “Protection of the family: The contribution of the family to the realisation of the right to adequate standard of living for its members particularly through its role in poverty irradiation and achieving sustainable development.” It could not be more pertinent in view of the debate we had today on lone parents. The resolution includes a number of points. It urges member states to create a conducive environment to strengthen and support all families; underlines that the family has the primary responsibility for nurturing and protecting children from infancy to adolescence; states the introduction of children to the cultural values and norms of their society begins in the family; urges states to take appropriate measures to ensure that a child is not separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child; and reaffirms the right of the child to education and states that education should be directed to the development of the child’s personality, talents and mental and physical abilities. Ireland is a member of the UN Human Rights Council. It is more in hope than expectation that I say I expect Ireland to support this, given the record of the Government on child protection and the family. In the event that Ireland does not support or opposes the resolution, I ask that the Minister for Foreign Affairs and Trade come to the House to explain why an anti-family course of action was taken.

Senator Gerard P. Craughwell: For the past few days I have asked for an amendment to the Order of Business to the effect that the Minister for Social Protection be brought to the House to discuss the issue of lone parents. Yesterday I received a message from a supporter of one of the Government’s parties, stating, “I think you want a culture of schoolgirls in gym frocks pushing prams and on social welfare for life.” I have two sisters who were lone parents and went through extreme hardship to rear four children, attend university, get good jobs and live productive lives. I am damn well not going to take that sort of rubbish from anybody.

Senator Paschal Mooney has asked for an amendment to the Order of Business, which has been seconded, and I hope this time the Government has the guts to bring the Minister to the House, have the figures on the table and see who is suffering. I have been inundated with messages from lone parents who have not received their payments. There are people who cannot afford to take the bus to Dublin today. What is going on? We have to do something about this. It is like Irish Water: something is pushed and driven through, no matter what happens, and to hell with what anybody thinks. This is a democratically elected House. The Minister is quite happy to speak to Sean O’Rourke on the airwaves but will not address the House. It is not good enough.

I was with Senator Paschal Mooney at the gates of the Houses yesterday. I have supported

the Irish Water campaign and other things that go against Government policy. What I saw happen to the Senator yesterday was totally unacceptable. He was accosted while minding his own business. It was outrageous. Many good people travelled from all over the country to be outside the gates of this House, but there were about 25 thugs there, who should be nowhere else but in jail. I support Senator Mooney.

Senator Brian Ó Domhnaill: I support all of the comments made about the protest, if one could call it that, outside the gates of Leinster House. Members were accosted and people who probably thought a legitimate protest was being organised were overtaken by the usual thuggery we have seen in the country in the past 18 or 24 months. Individual elements from a past that this country should not recognise are involved in situations outside the gates of the Houses. It is an absolute disgrace. The brave members of An Garda Síochána had to take the abuse hurled at them, and there was spitting. It was disgraceful and disgusting behaviour. The individuals involved undermined any legitimate campaign they may have had. I listened to some of the contributions at the protest and I did not know what they were talking about. They did not proclaim any cause on behalf of any group or individuals. A lot has been said about the protest and I commend the staff of the Houses and members of An Garda Síochána.

I ask the Leader to bring the Minister for Agriculture, Food and the Marine before the House. The report on the future of agriculture, Food Wise 2025, was launched today in the RDS. It is a template which follows the strategy introduced by the former Minister, Deputy Brendan Smith, known as Food Harvest 2020. It is a ten-year blueprint for agricultural development and the agrifood sector. However, the sheep sector is currently at a crossroads and is facing a major crisis. According to the current flock register, there are 3.53 million sheep in the country. There are around 450,000 in my county and some 5,500 flocks. In the past fortnight alone, the price per head for a ewe or lamb going to a factory has fallen by €17 on average. It is fast approaching €5 per kilo. Some commentators in the agriculture sector are predicting that it could fall to €4 per kilo. Even if it the price falls below €5 per kilo for lamb production it will become economically unviable and farmers will be forced out of business. This affects particularly counties Donegal, Mayo, Sligo, Galway, Cork and Kerry. We need a debate on the issue and I hope given the urgency of the issue the Leader can facilitate it with the Minister for Agriculture, Food and the Marine.

An Leas-Chathaoirleach: Does Senator Martin Conway wish to speak?

Senator Martin Conway: Yes. I will be brief.

An Leas-Chathaoirleach: As the train is just leaving, I will allow the Senator on.

Senator Martin Conway: That is very generous of you. I add my voice to those across the House in condemnation of the behaviour of individuals outside the House. I commend An Garda Síochána and members of the staff of the Houses. The 300 or 400 staff who work full time in the Houses have an expectation that they can come to and go home from work. I am always mindful of speaking about this type of issue because we are just feeding into the headline grabbing which some of the individuals in question are seeking. They want us to be outraged and to express our outrage in order that they can get headlines. To them, in whatever warped sense of political judgment they have, they believe that by us being outraged and disgusted it feeds into whatever they are trying to achieve. It would be no harm if there was a re-examination of the protocols in place between the Houses of the Oireachtas and An Garda Síochána for this type of protest. It is not fair that anybody should have his or her car damaged. It is not fair that

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any member of the Garda should be injured and knocked unconscious. Neither is it fair that any Member of the House or any member of staff of the Houses should not be able to leave in safety and with dignity.

Senator Maurice Cummins: Senator Darragh O'Brien mentioned the deadline for the tabling of amendments. We will certainly look at that issue, as we want everybody to have an opportunity to table amendments. I am not aware of the circumstances, but we will look at the issue.

On the issue of pyrite remediation, I suggest it is a topic to be discussed in a Commencement debate. I expect the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, and the Minister of State at that Department, Deputy Paudie Coffey, to be in the House on numerous occasions between now and the end of the session. As one of the debates will be on urban regeneration, it may be possible to raise the issue if the Senator does not seek to debate it by way of a Commencement matter.

Senator Darragh O'Brien: I thank the Leader.

Senator Maurice Cummins: The Senator has mentioned that he intends to table a motion on the filling of a vacancy in Beaumont Hospital in relation to transplant patients.

Senator Darragh O'Brien: And other matters.

Senator Maurice Cummins: I do not think anybody in the House would disagree with the filling of any such vacancy. There are hundreds of vacancies for consultants in the HSE and I am sure we would all support the filling of them-----

Senator Darragh O'Brien: It is life and death, Maurice.

Senator Maurice Cummins: -----but, unfortunately, it is not as easy as that. There is a difficulty in the recruitment of consultants and key personnel in the health service.

Senator Ivana Bacik referred to the Employment Equality (Amendment) (No. 2) Bill and outlined that a number of amendments would be tabled on Report Stage. She also mentioned the briefing for Members on the matter.

Senator Katherine Zappone, among many other Members, referred to the reform of the system for lone parents. I do not propose to accept the amendment to the Order of Business. The Minister has been in the House on a couple of occasions to take the Social Welfare Bill and so on. The reforms had been flagged for a number of years-----

Senator Darragh O'Brien: On the basis that there would be a changed child care system.

Senator Maurice Cummins: Will the Senator, please, allow me-----

Senator Darragh O'Brien: Will the Leader, please, address the issue?

Senator Maurice Cummins: If I cannot address the people outside the gates who cannot speak-----

Senator Darragh O'Brien: Come on, the Leader cannot stand over this. I never stopped him from speaking.

Senator Maurice Cummins: People cannot speak without being given a reply.

Senator Diarmuid Wilson: This is an outrage.

An Leas-Chathaoirleach: Please allow the Leader to respond.

Senator Maurice Cummins: We have been on the Order of Business for 65 minutes.

Senator Darragh O'Brien: Tá brón orm.

Senator Maurice Cummins: Prior to the reform of the one-parent family payment scheme, lone parents could have been on the scheme until their youngest child turned 18 years, or 22 years if in full-time education. The non-conditional nature of the payment, coupled with its very long duration, engendered long-term welfare dependency for many lone parents and their children. Supports for lone parents in Ireland have been out of line with international norms. There has been a move away from long-term non-conditional supports towards adopting a more active and supportive approach. In New Zealand, the Netherlands and the United Kingdom the equivalent lone parent supports cease when the youngest child reaches the age of five years.

Senator Darragh O'Brien: The Leader might also mention the equivalent child care schemes in place.

Senator Maurice Cummins: Senator Katherine Zappone asked that a working group be wet up to review the matter. That is something I will certainly raise with the Minister for Social Protection, Deputy Joan Burton. I heard Senator Mary White of Fianna Fáil condemn the cuts, but that is like the kettle calling the pot black.

Senator Darragh O'Brien: We do not, actually.

Senator Maurice Cummins: It is a little rich for Fianna Fáil Members to shout-----

Senator Darragh O'Brien: It is not.

Senator Maurice Cummins: -----having cut child benefit, supports for the disabled and blind people.

Senator Mary M. White: We introduced the free child care year.

Senator Darragh O'Brien: Will the Leader, please, try to address the issue?

Senator Maurice Cummins: As usual, they are being hypocritical.

Senator Mary M. White: Fr. Peter McVerry-----

Senator Darragh O'Brien: The Leader cannot stand over the cuts that have been made.

An Leas-Chathaoirleach: Please, Senator.

Senator Maurice Cummins: On the other major matter Senators have raised about what happened outside Leinster House yesterday, Members were accosted in going about their business, while a female garda was injured and hospitalised. There were vile remarks directed at people; cars were damaged and people spat at. When the garda was injured, people were taking photographs and laughing at her. This is anarchy and unacceptable in a parliamentary democracy and should not be tolerated. I am delighted to hear that the Garda Commissioner is

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coming tomorrow for a meeting to review the issue of security and what happened. I know how inconvenienced Members were. I also know about the difficult family circumstances faced by Members who could not get to their destinations. Their families were very hurt as a result. I will not delve into the matter, but I have heard about the personal circumstances of some Members and they were appalling. It was certainly an attack on democracy.

Senator Mary M. White: I am sorry for interrupting, but on a point of order-----

An Leas-Chathaoirleach: Will the Senator, please, allow the Leader to speak?

Senator Maurice Cummins: If it is a point of order-----

An Leas-Chathaoirleach: I will rule on the issue. What is Senator Mary White's point of order?

Senator Mary M. White: My information is that it was the dissident Continuity IRA that was involved. We have to-----

An Leas-Chathaoirleach: The Senator knows that that is not a point of order. Will the Leader, please, continue

Senator Maurice Cummins: I thank the Senator for supporting me. They were anarchists. It was an attack on democracy and should not be tolerated. There may have been people who had engaging in a legitimate protest on their minds, but it was certainly overtaken by these thugs. I reject the assertion that there is sensationalism about the coverage. Members know exactly what happened which can be viewed on social media. However, those involved will probably not include footage of the attacks they made on gardaí and Members. I hope the issue will be addressed, as any right-thinking person does not want to see this thuggery. Some 95% of people do not want to see it outside Parliament, any house or building where thuggish elements attack gardaí who do so much for us in protecting democracy.

Senator Feargal Quinn raised the issue of mortgage interest rates and asked that No. 28 be discussed. We will certainly consider his request. Some of the banks have reduced their variable interest rates and I hope action will be taken against those which have not done so.

The Senator also referred to the building regulations guidelines and said the provisions of the carbon monoxide alarm legislation were included in them. Our input fed into the regulations and I am glad that the Seanad played a part in that regard.

On swimming lessons for children, I am told that aquatics is a component part of the physical strand of the primary school curriculum. Many schools provide swimming lessons for children. I do not know whether they are compulsory, but I agree with the Senator and hope such lessons will be extended to everyone.

Senators David Cullinane and Mary Moran referred to the passing of Val Doonican. He was made a freeman of my city, Waterford. I knew him and know many of his family in the city. He was certainly a proud Waterford man and Irish man. He often said he was an overnight success, but he had been ploughing the ground-----

Senator Jim Walsh: For 40 years.

Senator Maurice Cummins: -----for up to 40 years before he became a success and what

a success he was. He had his own television programme on the BBC. He was a former and very proud past pupil of the school I attended, De La Salle College in Waterford. I express my condolences and good wishes to his family and sympathise with them at this sad time. He was certainly a great ambassador for his city and the country.

Senator Colm Burke raised the issue of the reform of the social welfare system and referred to the challenges that would face us in the future. There is no doubt that we will face many challenges. On lone-parent payments, I understand the vast majority have come through today and that where there is a difficulty, it will be attended to as a matter of urgency.

Senator Gerard P. Craughwell: On a point of order, will a press release be issued to inform those who have not been paid? They will not have money for the weekend.

An Leas-Chathaoirleach: That is not a point of order.

Senator Maurice Cummins: Members have been told by Leas-Chathaoirleach what a point of order is; many Members seek to raise points of order which are not points of order. It happens on a daily basis. It is used as an excuse by Members to make a point. Members should read Standing Orders to know what a point of order is.

An Leas-Chathaoirleach: I have ruled on that matter.

Senator Diarmuid Wilson: There should be a tutorial on it.

An Leas-Chathaoirleach: Please allow the Leader to continue.

Senator Maurice Cummins: I note Senator Brian Ó Domhnaill's point about agriculture and the sheep sector which I will bring to the attention of the Minister for Agriculture, Food and the Marine. Yesterday the Leas-Chathaoirleach made a point about razor clam fishermen which I raised with the Minister. I understand there is an inland fisheries forum and that recently up to 40 minutes was spent with the Minister in dealing with issues affecting razor clam fishermen. The Senator should encourage them to engage with the forum. The Minister would be very receptive to their representations.

Senator Darragh O'Brien: The forum is a joke. It is not working.

An Leas-Chathaoirleach: Senator Paschal Mooney has proposed an amendment to the Order of Business: "That No. 67, non-Government motion No. 16, be taken before No. 1." Is the amendment being pressed?

Senator Paschal Mooney: Yes.

Amendment put.

The Seanad divided by electronic means.

Senator Paschal Mooney: Under Standing Order 62(3)(b), I request that the division be taken again other than by electronic means.

Amendment put:

The Seanad divided: Tá, 21; Níl, 22.	
Tá	Níl

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Bradford, Paul.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Craughwell, Gerard P.	Burke, Colm.
Crown, John.	Coghlan, Eamonn.
Cullinane, David.	Coghlan, Paul.
Healy Eames, Fidelma.	Comiskey, Michael.
Heffernan, James.	Conway, Martin.
Leyden, Terry.	Cummins, Maurice.
Mooney, Paschal.	D'Arcy, Jim.
Mullen, Rónán.	Hayden, Aideen.
Norris, David.	Henry, Imelda.
Ó Domhnaill, Brian.	Keane, Cáit.
O'Brien, Darragh.	Kelly, John.
O'Brien, Mary Ann.	Moloney, Marie.
Quinn, Feargal.	Moran, Mary.
Reilly, Kathryn.	Mulcahy, Tony.
van Turnhout, Jillian.	Mullins, Michael.
Walsh, Jim.	Naughton, Hildegard.
White, Mary M.	Noone, Catherine.
Wilson, Diarmuid.	O'Neill, Pat.
Zappone, Katherine.	Sheahan, Tom.
	Whelan, John.

Tellers: Tá, Senators Paschal Mooney and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 21; Níl, 18.	
Tá	Níl
Bacik, Ivana.	Bradford, Paul.
Brennan, Terry.	Byrne, Thomas.
Burke, Colm.	Craughwell, Gerard P.
Coghlan, Eamonn.	Crown, John.
Coghlan, Paul.	Healy Eames, Fidelma.
Comiskey, Michael.	Heffernan, James.
Conway, Martin.	Leyden, Terry.
Cummins, Maurice.	Mooney, Paschal.
D'Arcy, Jim.	Mullen, Rónán.
Hayden, Aideen.	Norris, David.
Henry, Imelda.	Ó Domhnaill, Brian.
Keane, Cáit.	O'Brien, Darragh.

Kelly, John.	O'Brien, Mary Ann.
Moloney, Marie.	Quinn, Feargal.
Moran, Mary.	Reilly, Kathryn.
Mulcahy, Tony.	Walsh, Jim.
Mullins, Michael.	Wilson, Diarmuid.
Naughton, Hildegard.	Zappone, Katherine.
Noone, Catherine.	
O'Neill, Pat.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Paschal Mooney and Diarmuid Wilson.

Question declared carried.

Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015: Report and Final Stages

Question proposed: "That the Bill be received for final consideration."

Senator Darragh O'Brien: I understand why the Minister was otherwise detained when Second Stage of the Bill was taken. The Minister of State was not available either and the Minister of State with responsibility for European affairs and data protection, Deputy Dara Murphy, came to the House to discuss this very important Bill. I assume the Minister's officials have given him details of the comments made and some of the points I raised on behalf of my group on some of the concerns I have with the Bill and what is omitted. Will the Minister review this in his own time? The legislation needs to be kept under review.

My biggest concern is the owner of any loan, be it a residential mortgage or a business loan, is not covered under the legislation. To give a specific example, Goldman Sachs purchased small and medium enterprise loans and established Beltany, a special purpose vehicle, in Ireland to manage them, but the loans are being managed by Pepper Asset Servicing. I will not mention any companies, but stories have been printed in the media of specific examples whereby Goldman Sachs is trying to exert its influence and control over companies via performing loans. These loans are fully paid up and Goldman Sachs is trying to put in place its own consultants and is coming down very heavily. I have specific examples of this and I know that the Department has been made aware of them. I would have thought the Bill could have been used to address this.

What we have now is a watered-down version of the Bill as it was mooted and published, whereby the protection that should be given is not nearly as strong as it should be. I am particularly concerned about loans which have been sold on to companies such as Goldman Sachs operating through a special purpose vehicle in this country and managed by someone else. In such instances companies and mortgage holders are at the mercy of those international companies and they are not covered by the Bill. Will the Minister keep this matter under close review and if specific cases are brought to the attention of the Department will it give them the consideration required and not just state it cannot get involved in an individual commercial

transaction? I fully understand this is the case, but the regulations in place should protect Irish companies and Irish mortgage holders who are doing everything they should under the original loan agreements but find these agreements altered by a company such as Goldman Sachs. If over the course of the coming months I continue to see this happen I will continue to raise it.

I raised many of my concerns on Second Stage and will not repeat them now. I would not be given the time to do so. I raised them with the Minister of State, Deputy Dara Murphy, and hope he has passed them on to the Minister. I genuinely ask the Minister to keep under review this type of situation where a company such as Goldman Sachs can establish a special purpose vehicle, have the loans administered by someone else and exert control over companies in full compliance with making payments on their loans. It is not acceptable. I ask the Minister to keep it under review and the Department to take seriously any complaint it receives.

Senator Tom Sheahan: I welcome the Minister. I concur with my colleague on the other side regarding Goldman Sachs specifically. Anecdotal evidence has been made available. While the case in question involves large sums, the organisation involved has the wherewithal to take on Goldman Sachs and defend itself. My greatest fear is when it trickles down the line, smaller organisations and SMEs under the grasp of Goldman Sachs will be pulverised. Some of the conditions imposed on the people concerned are unethical and unwarranted. In this specific case, although the company has made repayments of €6.5 million this year and has not come anywhere near a default or a missed payment, a representative is being sent to board meetings to put pressure on the company, and aggressive communication is also being used. Warning letters are sent out stating that if something is not signed by this evening it will be taken as a default. In fairness, when the banks were pestering and pulverising homeowners, telephoning them at weekly intervals and sometimes daily, a halt was put to their gallop. Something similar needs to be done in this case. I understand that in January 2016, legislation is coming forward to increase regulation, but will that be too late. As Senator Darragh O'Brien has said, if we are made aware of other anecdotal evidence about the likes of Goldman Sachs - or Goldman Sachs specifically - coming down heavy-handed on performing businesses and putting jobs at jeopardy, we should do something about it. Such pressure should not be put on companies with performing loans. They were not interfered with as a core tenet of banking. If cases are brought to the attention of the Department, as has been sought by Senator Darragh O'Brien, perhaps this legislation could be used to deal with it. I know the Bill deals specifically with homeowners, but where commercial loans are involved, especially with regard to companies that employ large numbers of people, they need protection too.

Minister for Finance (Deputy Michael Noonan): I thank Senator Darragh O'Brien for his contribution today and all Senators for their contributions on Second and Committee Stages. I apologise for not being here for the early Stages of the Bill. On account of the situation in Greece, over a ten-day period we have had Eurogroup meetings outside the country, one in Luxembourg and four in Brussels, as well as two full teleconferences. The seven meetings in one form or another have thrown the schedule and the plans I had for processing legislation in the Seanad. I am glad the Ministers of State, Deputies Simon Harris and Dara Murphy, were able to attend.

The background to this legislation is that the Central Bank had protocols and regulations in place as to how lending agencies should treat people with mortgages and loans, which applied to any institution that was licensed by the Central Bank, but developments in the market resulted in a situation, affecting 14,000 or 15,000 mortgage holders to date, in which loan books were acquired by non-regulated institutions. The first step was that we got the non-regulated

institutions to voluntarily comply with the Central Bank's protocols and regulations. As far as I know, they honoured the commitment to apply these protocols voluntarily, but we thought it would be prudent to legislate.

The legislation seeks to apply the same regulatory regime and the same code of practice to the new owners of loan books and to the acquisition of loan books in order that all mortgage holders are treated equally. When we examined it first we thought that if we simply widened the scope of what the Central Bank was doing to include unregulated owners as well as regulated owners, that would meet the requirements. As we scrutinised it, however, we found that the practice for new owners of loan books was quite frequently to hire a credit servicing firm, which would then act as an interface with mortgage holders; therefore, there was not much point in regulating the owner when it was the credit servicing firms' procedures and practices that needed to be regulated. That is why the focus is on the credit servicing firms, but it does capture the owners also. If an owner acts as his or her own credit servicing firm or if he or she is in and out of it and not fully at arm's length, he or she is caught by the provisions of this measure also. Therefore, it does capture owners that are intermittently involved in the practices we want to control under the Bill.

My advice and the advice from the Attorney General is that the legislation does what it says on the tin. It extends the Central Bank's regulation and its protocols and codes of practice to all loan books that are sold on at the point where it is relevant with the agencies that relate to them. I will take Senators' views into account and monitor the Bill. Principally, it is a job for the Central Bank. We have good relationships with the Central Bank and we will monitor what happens in practice. If there is any lacuna that has not been brought to my attention we will fix it. The intention is that, whether or not an institution falls within the scope of the Central Bank's regulation, its treatment of mortgage holders has to be in line with the Central Bank's protocol, and this now is a matter of law. That is the position and I am assured this is what the legislation does. I take the Senator's point. It is always worth keeping an eye on things. If the Senator comes across an instance such as that mentioned, I would appreciate it if he would send us the details.

Senator Darragh O'Brien: I certainly will.

Deputy Michael Noonan: The Senator can be assured it will be treated confidentially.

Senator Darragh O'Brien: I thank the Minister.

Senator Aileen Hayden: I echo the concerns of both of my colleagues. Perhaps this is an issue to which the Minister might return. In certain situations in which firms have removed themselves from the Irish market but, for the sake of argument, still own mortgages in the Irish market, even where those mortgages are performing, letters are being sent to those with loans - people have come to me with copies of such letters - which imply that if one does not get in touch with the lender advising how one intends to repay the loan in the longer term, or if one does not update it on one's current financial situation, one is in default. That is not the case. I am concerned that a number of people feel they are being pushed towards an early redemption of their mortgage in circumstances in which lenders no longer wish to be engaged in the Irish market. It is an issue that I will be keeping an eye on, but I draw it to the Minister's attention.

Senator Darragh O'Brien: I thank the Minister for his response and commitment to keep this matter under review. Certainly, I will forward to him a couple of instances I have come

across. I know that colleagues have come across instances also. I thank the Minister for his response.

Senator Tom Sheahan: I will be brief. Likewise, I thank the Minister. On a point of clarification, is the legislation retrospective to loans that have already been taken over? What the Minister said was that loans would from now on be covered by this legislation and the owners of the loans would be covered. Under the code of conduct, is it right and proper that they have consistently refused to meet and discuss the terms of facility agreements, that they have continued to use aggressive communications, that they have sought to impose the appointment of an external consultant to review businesses, despite the fact that there is no breach or potential breach of the loan terms, and that they insist that its nominated consultant be allowed to attend board meetings? Would that come within the remit of the Central Bank, its terms and conditions or its code of conduct?

Deputy Michael Noonan: The legislation is not retrospective in so far as we use the word in legal terms. It is very difficult to legislate retrospectively. However, the legislation will apply to all loans as defined, regardless of when they were acquired, thus capturing loan books that have already been sold, which is the net point. A similar approach was used in 2013 on debt management firms. Also, when the requirements for retail credit firm authorisation were introduced in 2007, existing non-deposit-taking lenders which up to then did not require authorisation from the Central Bank had to get the authorisation from it in order to continue their business. The Bill has transitional provisions to allow existing firms to seek and obtain authorisation from the Central Bank to continue to do business. It fully covers what Members want it to cover.

I do not want to get into the detail of the protocols the bank has but we will acquire them for Senator Tom Sheahan. We will send him a copy of the obligations and how the Central Bank applies the protocols.

Senator Aileen Hayden: I thank the Minister for attending. This legislation was previously discussed by the Joint Committee on Finance, Public Expenditure and Reform, of which I am a member. It is very welcome, as I am sure a lot of people never thought they would see themselves in a position where a loan they originally had with a well known high street Irish lender would find it being sold on and administered by a third party. This will ease the disquiet of a lot of the people concerned.

While this will cover some of the issues, particularly around the extension of the code of conduct on mortgage arrears, we will have to keep an eye on the practices of firms which have secured distressed loan books. They did this to make a profit and there are other aspects to the arrangements, such as the rate of interest charged, over which they will have a free hand and they may do business in a way in which a traditional high street bank would not. I ask the Department to keep a close eye on this. We now find ourselves in a new situation and need to keep an eye on how these businesses progress. As ordinary citizens who took out loans with high street names now find themselves in a position they could never have envisaged, I ask the Minister to keep this matter under review.

Question put and agreed to.

Question, "That the Bill do now pass," put and agreed to.

Sitting suspended at 1.35 p.m. and resumed at 3 p.m.

Employment Equality (Amendment) (No. 2) Bill 2013: Committee Stage (Resumed)

SECTION 2

Debate resumed on amendment No. 4:

In page 4, to delete lines 1 to 4 and substitute the following:

“(ii) it takes action, on the religion or belief ground, which is reasonably necessary to prevent an employee or prospective employee from undermining the religious ethos of the institution, and that, by reason of the nature of the employment concerned or the context in which it is carried out, the action taken is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary.”.

- (Senator Katherine Zappone).

Acting Chairman (Senator Pat O'Neill): Senator Katherine Zappone was in possession, if she wishes to make further comments on the amendment.

Senator Katherine Zappone: I welcome the Minister of State. It is great to have him here to take this Bill. I understand this is his first time to take Committee Stage of the legislation, this being our third session on this Stage of the Bill.

We are all aware that the Government will bring forward its own amendments on Report Stage. These amendments were prepared almost two years ago and I offer the rationale that I constructed then and I very much look forward to hearing the Minister of State's response because it would help me to understand where he is going with this on Report Stage and also whether to resubmit some of the amendments. It is great also to know that the Minister of State had a background in the origins of this Bill before us with the leadership of Senator Ivana Bacik.

Amendment No. 4 proposes “In page 4, to delete lines 1 to 4” and substitute what is set out in the text. I tabled the amendment with the following legal logic in mind. The way I viewed section 2(1)(b) was that it was an attempt to bring some of the provisions and wording of article 4(2) of the EU framework directive into Irish law. That is a sound approach. What we have is a section that attempts to offer additional protections to employees so that discriminatory treatment can only be taken with regard to an employee where there is a genuine occupational requirement to do so. As the Bill stands, it appears that it is intended to mean that an employee is still protected with regard to his or her private life, that is, anything that happens outside the context of employment. That is some of my thinking in trying to understand this section of the Bill and the thinking behind this amendment.

As the Bill stands, it is very cumbersome in its efforts to bring the EU framework to bear on our domestic law. It conflates or fuses genuine occupational requirements and broader religious ethos type exceptions. These should be separated out once and for all in order that with legislative changes we can ensure for employees, or perspective employees, that the balancing of religious ethos concerns can only be done with regard to the characteristic of religion or belief or the characteristic of the equality ground. Balancing religious ethos concerns can only be done with regard to that one ground and this balancing must have regard only to a genuine occupational requirement. I propose that the best way to do this is to bring the protections of a genuine occupational requirement, to which the framework directive refers, into the subsec-

tion where it states “takes action which is reasonably necessary to prevent an employee... from undermining the religious ethos of the institution”. In other words, I am trying to bring up and integrate the language used in section 1(b)(ii) into section 1(a)(ii) because the drafters separated that out. I wonder why they did that. Was it to enable them to put in additional protections only for employees who work for institutions that receive public moneys? What about employees who work for private institutions or private individuals who do not receive public moneys such as churches, synagogues or the housekeeper of a presbytery? Why should they not be protected with the notion that they can only be treated unfavourably with regard to religion or belief if this is a genuine occupational requirement of the job? If section 1(a)(ii) is retained without the change I propose, then those employees who work for a religious institution who do not receive public moneys could still be discriminated against by virtue of their sexual identity, disability, age or race, by virtue of who they are, because their private lives are not off-limits for the institution when it reflects on what does or does not undermine its religious ethos. That was my thinking at the time.

Senator Ivana Bacik: I will be brief. I welcome the Minister of State, Deputy Aodhán Ó Ríordáin, on this his first appearance before us on this Bill. I welcome members of the Gay and Lesbian Equality Network, GLEN, and other stakeholders in the Visitors Gallery. I very much welcome the resumption of Committee Stage. There has been a long gap, as colleagues will be aware, of more than a year since we first started Committee Stage and I very much welcome the news that Government amendments for Report Stage were approved earlier this week. I look forward to the Minister of State’s response to Senator Katherine Zappone’s amendment and to his outlining what may be in the Report Stage amendments that we will deal with next week. I know we will have a briefing for all Senators on those next Tuesday. All of us share the same objective, which is to see this Bill made as strong as possible to ensure the strongest possible protection against discrimination, in particular, on grounds of sexual orientation or on grounds of family or marital status in employments, particularly in the education and health sectors. I look forward to the Minister of State’s response on this amendment and I very much welcome our resumption of Committee Stage today.

Senator Averil Power: I also welcome the Minister of State, Deputy Aodhán Ó Ríordáin. He is the fourth Minister to deal with legislation in this area in the House. The former Ministers, Deputies Ruairí Quinn and Alan Shatter, dealt with it when I tabled a Bill in 2012. The Minister of State, Deputy Kathleen Lynch, dealt with Senator Ivana Bacik’s Bill in 2013 and the Minister of State is taking it. It has been a long time coming. Ending discrimination against lesbian, gay and bisexual teachers, medical staff and other employees is a personal priority of mine. It is for that reason that I brought forward the Bill in 2012 to amend section 37 of the Employment Equality Act and unequivocally outlaw any discrimination against employees solely on the grounds of sexual orientation or on other inherent personal characteristics such as gender or marital status. I was disappointed at the time that the Government did not accept the Bill, but it is welcome that this issue has stayed on the agenda for the past three years. I appreciate the work other Members of the Oireachtas have since put in, including Senator Ivana Bacik on this Bill. Senator Katherine Zappone has been pushing it along and other items of legislation have been put forward in the Dáil. I hope the Minister of State is the last Minister who will have to come into this House to discuss this issue with us. I know this is an issue to which he has a personal commitment, both in his current role and as a former teacher. I hope we can work together on a cross-party, cross-group basis to get properly robust and progressive legislation through both Houses as soon as possible.

There is one standard that the final legislation will be held against, and that is whether employees can be secure in knowing they are free to be themselves at work, that there is no doubt about that and that they no longer have to hide any aspect of their personalities, including sexual orientation. I know that the Minister of State has heard from teachers about the heartbreak of going into the staff room on a Monday and not being able to speak about their weekends or their partners, or not being able to tell people that they participated in a civil partnership or got married abroad. I hope they will soon be able to say they got married in Ireland when that legislation is passed. People should be able to have the same conversations that everybody else has about their lives, and be open and comfortable in doing that. No employee can be really happy in his or her job in those circumstances. It is particularly cruel that people who are good at their jobs - people whom everybody knows to be good teachers, doctors or other top-class professionals - are still unhappy in their work for that reason, especially in 2015.

The standard will be that people do not have any fear, and that requires that the final text give people certainty that there are no circumstances whatsoever in which any employer will have a legal basis for arguing that an inherent personal characteristic of an employee is a threat to the ethos of the workplace or a ground for taking any action against him or her. I am concerned, as I stated in the debates on earlier Stages of this legislation, that the current text of the Bill does not meet that test. That is something that the Gay and Lesbian Equality Network, GLEN, the Irish National Teachers Organisation, the INTO, and the Irish Council for Civil Liberties, ICCL, have stated publicly also. The ICCL stated on the last occasion that the Bill would be a partial thawing of the current chill factor that exists for LGBT staff, but not a full thawing. The Minister has indicated that he will table amendments on Report Stage and it is welcome that he met me and Senators Katherine Zappone and Ivana Bacik yesterday to indicate his intentions. It would be helpful if he could outline those to the House. A particular issue, which I have highlighted previously, is that it can only ever be legitimate to take action against any employee - gay or straight, male or female, religious or non-religious - on the basis of some form of misconduct in the workplace. That is not a requirement in the current Bill and it is essential that it be included.

I have tabled amendments on the separation of public and private institutions, which we can discuss later, including amendment No. 5. It is essential that people in private institutions have some protections.

As Senator Katherine Zappone stated, in the current draft of the Bill the Minister of State is not changing the religion ground. As the legislation stands, an employer can discriminate on the grounds of religion by saying it is reasonably necessary to protect the ethos of the workplace, but it is not a genuine occupational requirement, as mentioned in the European Union directive. None of us would argue that it would be appropriate to insist that the church hire female priests, but it would be utterly inappropriate not to hire somebody as a gardener, youth worker or some other employment that does not have a religious teaching element to it on the basis of a personal characteristic that is not related to the job. It is something the Minister of State needs to examine.

I have tabled a number of amendments that I would like to discuss with the Minister of State and on which I would like feedback from him before Report Stage. In the first instance, however, it would be helpful to get his views on the record about the Government's intentions for Report Stage. There is a long way to go and I hope we will go there together.

Senator Mary Moran: I, too, welcome the Minister of State, Deputy Aodhán Ó Ríordáin,

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to the Seanad. I am proud to have seconded the Bill proposed by Senator Ivana Bacik and I am delighted that it has reached Committee Stage. As someone who taught in a religious school for years and took part in conversations in the staff room, it is only right and proper that every member of staff in whatever job, be it in our religious schools or in our hospitals, has the right to free speech in terms of coming into work and describing our weekends and talking about the people we love without fear of being discriminated against in our employment.

I am delighted also that there was approval for the amendments this week and look forward to Report Stage next week. I also look forward to listening to the debate this afternoon.

Acting Chairman (Senator Pat O'Neill): I, too, welcome the Minister of State, Deputy Aodhán Ó Ríordáin.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): I am very pleased to be here on the resumption of Committee Stage of this important Bill. To respond to Senator Averil Power, it is my intention and my hope that I will be the final Minister to deal with it.

Senators will be well aware of my strong opinions on the need to amend the current section 37(1) of the Employment Equality Act 1998 and that, together with Senators Ivana Bacik and Mary Moran, as well as Deputies John Lyons, Dominic Hannigan and Ciara Conway, I first introduced this Bill to the Houses in 2013. I also acknowledge the work done by Senator Averil Power on her previous Bill on the issue and a similar Bill two weeks ago from Deputies Catherine Murphy, Ruth Coppinger and Joe Higgins.

The existing section 37(1) of Employment Equality Act 1998, as amended by section 25 of the Equality Act 2004, provides that where a religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person if it gives more favourable treatment, on the religion ground, to an employee or prospective employee where it is reasonable to do so in order to maintain the religious ethos of the institution, or it takes action that is reasonably necessary to prevent an employee or prospective employee from undermining the religious ethos of the institution.

The provision was previously contained in the Employment Equality Bill 1996, which was referred by the President to the Supreme Court under Article 26 of the Constitution. While the court held that Bill to be unconstitutional on other grounds, the constitutionality of what is now section 37 was upheld as a reasonable balance between the competing constitutional rights involved. While we can seek to find a new balance that better meets the needs of employees, the logic of the Supreme Court decision is that a balance does need to be struck; it is not simply a matter of deleting certain elements of the existing Act.

For this reason, the Government, in the programme for Government, committed to amending section 37(1) to ensure its operation leads to a fairer and more equitable balance between the rights of freedom of religion or association, on the one hand, and, on the other, the right of persons in employment, or prospective employees, to be free from discrimination and to privacy in their personal lives.

A key feature of the Bill is the distinction it makes between religious institutions that are entirely privately funded and those which are funded by the taxpayer. The rationale is that in the

case of the second category, the Government has the right - and arguably the duty - to protect employees who are paid from the public purse from unfair treatment or discrimination.

On examination by the Attorney General's office, the Bill was found to be essentially constitutionally sound, although some amendments are required to the text as published to enhance its constitutional robustness.

Aside from some technical changes, the most significant change that needs to be made - the precise details of which I will bring before the House on Report Stage - is to replace a proposed power for the Minister for Justice and Equality, in consultation with the Minister for Health or the Minister for Education and Skills, to issue directions or guidelines to relevant employers for the purpose of giving effect to the proposed amended provision. It was felt that this approach would be unsafe, as the courts could find it to be an unlawful delegation of authority by the Oireachtas. Instead, the Government amendments will oblige relevant employers in religious-run schools and hospitals to show that favourable treatment of an employee or prospective employee is limited to the religion ground and that action taken against a person is objectively justified by reference to that institution's aim of protecting its religious ethos and that the means of achieving that aim are appropriate and necessary.

The proposed new subsection will provide that action taken against an employee or prospective employee on the religion ground shall not be regarded as justified unless it is rationally and strictly related to the institution's religious ethos; a response to conduct by a person which undermines or would undermine the religious ethos of the institution, rather than a response to that person's status under any of the other discrimination grounds, such as sexual orientation, that are set out in equality legislation; and proportionate to the conduct of the employee or prospective employee, having regard to alternative action the employer could take, the consequences of any action taken for the employee or prospective employee and the actual damage caused to the religious ethos of the institution. The aim is to raise the bar in order that religious run schools and hospitals will have to show real damage to their ethos, are precluded from discrimination on any of the other equality grounds and that any action taken is reasonable and proportionate. I wish to signal my intention to the House to use the opportunity afforded by the Bill to advance on Report Stage a number of other, mainly technical, amendments to existing equality legislation.

On rent supplement and housing assistance payment, the most significant amendment is to prohibit discrimination in the letting of residential accommodation on the basis that a person is or is not in receipt of rent supplement or housing assistance payment. It will eliminate the inclusion, by some landlords, of references to rent supplements not being accepted in advertisements for residential rented property. This will involve an amendment to sections 2 and 6 of the Equal Status Act 2000.

I also intend to amend the definitions of indirect discrimination in the Equality Acts to follow precisely the definitions in the relevant EU directives and their evolving interpretation by the European Court of Justice. Therefore, amendments will be advanced to the definitions of indirect discrimination in the Employment Equality Act 1998, Equal Status Act 2000 and the Pensions Act 1990 to bring the letter of the legislation into line with those directives.

While the Employment Equality Act 1998 prohibits discriminatory advertisements, there is no provision to allow an aggrieved party in relation to an employment opportunity to take a case to the Equality Tribunal other than a referral by the Irish Human Rights and Equality Com-

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mission, formerly the Equality Authority. I intend to remedy this deficiency by allowing the person, himself or herself to take a complaint, as distinct from allowing cases to be taken solely by the IHREC. This will involve amendments to sections 2, 8(5), 12 and 13 of the Employment Equality Act 1998.

While the Framework Employment Directive 2000/78/EC, which outlaws age discrimination in employment, was transposed into law by the Equality Act 2004 based on the wording in the directive, the case law of the European Court of Justice has since established that national provisions laying down retirement ages could amount to age discrimination if they cannot be justified under the specific provisions of the directive. The court has also held that the provision of fixed-term contracts on the basis of age constitutes age discrimination and would require justification under Article 6 of the directive. I, therefore, intend to bring forward amendments to bring our domestic legislation more into line with these judgments. The amendments required are to sections 6 and 34 of the Employment Equality Act 1998.

The State is obliged under the European Economic Area agreement and the EU-Swiss agreements to ensure that benefits in admission to any course of vocational training offered by an educational or training body are extended to EU nationals and are also extended to EEA and Swiss nationals, in the absence of an explicit provision to the contrary in these agreements. In practice, the same benefits in terms of such fees and admission are afforded to EEA and Swiss nationals, but the equality legislation does not refer to Swiss and EEA nationals and needs to be amended to explicitly reference them. I will bring forward the necessary amendments on Report Stage. Amendments required here are to section 12 of the Employment Equality Act 1998 and to section 7 of the Equal Status Act 2000. As these amendments will extend the scope of the Bill, it will be necessary to amend on Report Stage the Bill's Long and Short Titles along with the collective citations.

I look forward to engaging further with Senators on Report Stage and ensuring an effective Bill is passed by both Houses and enacted as quickly as possible.

Senator Averil Power: I thank the Minister of State for outlining his intentions for Report Stage. I also acknowledge the additional criteria he has set out, the new test, in requiring that actions taken are rational, proportionate and are responses to actual conduct and not to a person's individual characteristics, as I had called for. It is a significant improvement in the Bill, which I welcome. I believe the Minister of State has listened to earlier debate on the requirements for forms of conduct in the workplace. However, I have a number of concerns on which I ask the Minister of State to reflect before Report Stage.

The Minister of State has indicated that a distinction should be retained between public and private institutions. I can accept that if an institution is publicly funded then it should be subject to the highest possible standards and the most rigorous application of our equality law, but I am not convinced that we cannot go further in respect of private institutions. I do not believe that an institution being a private one should give it a licence to discriminate without any requirement that its action is rational and is related to a genuine occupational requirement.

The Bill, as drafted and as the Minister of State has indicated, intends to retain the section that private institutions' actions are reasonably necessary to maintain the ethos. The reason we are changing the language for the public institutions is that we all accept that that language is too vague and a source of insecurity for people. They are unsure what it does and does not mean; what does "ethos" mean and what is "reasonably necessary"? The Minister of State is

putting in a higher test for public institutions that requires their actions to be rational and related to an occupational requirement. The absence of such a test for private institutions is problematic and I ask the Minister of State to look at this again.

It is fair enough to require that somebody be of a particular faith where that is a genuine occupational requirement for the job, but that may not always be reasonable in respect of the post involved, as seen in case laws from other countries. A religious run youth service discriminated against a person on the grounds that the person was not of the same faith. It was struck down because the person, a youth worker, was not involved in any form of religious service; therefore, the employer lost on the basis that it could not show a genuine occupational requirement.

The European directive does not make a distinction between public and private institutions. The Irish Human Rights and Equality Commission points this out in its report; that there are no grounds for a blanket distinction between the two. I ask the Minister to reflect on that issue.

I welcome the test which is introduced in the Bill. The Bill refers to recurrent grants and, in this context, perhaps the Minister of State might clarify the language around what is and is not considered to be a private institution. For example the Mater public hospital is a public institution but is the Mater private a fully private institution? Will the Bill lead to a situation where a doctor who is working in both can feel comfortable working in the public hospital but still be nervous working in the private one? Greater clarification is needed around what is and is not a public institution and what is meant by recurrent annual grants? Could it be the case that the State could give a significant capital grant to an institution which would still be able to evade responsibilities?

I would also look for more clarity on the conduct tests. There have been problems in the United States in situations where, for example, a teacher has been out openly for years without any difficulty, and then married. The act of getting married is taken by the employer as conduct contrary to the ethos, and then the person faces discrimination. We need to be clear in respecting the will of the people, as overwhelmingly expressed in our referendum in May in favour of marriage equality. There can be no question of a person being discriminated against in any form of employment, public or private, simply for exercising their constitutional right to get married. I believe this is unclear under the current wording and under the Report Stage amendments, which is why I have tabled an amendment stating no action could be taken against somebody for being married, for being clear in the workplace that they are married, for wearing a wedding a ring or for speaking about the fact that they are married. I ask the Minister of State to look at making that clearer in the final wording in the legislation.

The INTO and GLEN are concerned about other scenarios in regard to what does and does not constitute conduct. Take for example the challenging of homophobic comments in the staff-room or the classroom - is that conduct? Is that challenging the ethos of the institution? What about a case in which one child bullies another because the other child has two fathers, but the teacher says every family is equal? Would that be conduct undermining the ethos of the school? People have a genuine concern about clarity around these issues. One of the biggest problems to date has been fear of the unknown. No employer has won a discrimination case on the basis of section 37(1) of the Employment Equality Act 1998. However, the difficulty is that it creates a chilling effect for employees, and people feel the need to self-censor and hide. Many teachers who have come out find that their colleagues and principals are overwhelmingly supportive, while their boards of management do not have an issue. Others are petrified, however, of taking that step. We need to have clarity on this issue. Will the Minister of State respond on what does

and does not constitute conduct that would undermine the ethos of the institution?

Another scenario raised with me is one in which a teacher who works in a religious school attends a gay pride parade. Could the employer take exception to a photograph in the local newspaper of the teacher carrying a banner at a gay pride parade? I hope, rationally, that that would not be the case. However, the Irish National Teachers Organisation, INTO, has raised this concern. What about protests to repeal the eighth amendment? That is not related to an inherent personal characteristic but to a political viewpoint. The teacher unions are concerned about this too. They feel that only conduct that is related to the workplace or directly to the job should be judged by the employer. It should not be about somebody's personal views, private life or political participation which an institution might claim is contrary to its ethos in the broader sense. My concern is that the Bill in its current wording and the wording proposed by the Minister of State does not restrict the conduct to the workplace. It just refers to conduct, which might be too broad.

Senator Katherine Zappone: It is terrific to have the Minister of State's response, which I appreciate. Is the procedure for me to respond to what the Minister of State has just said or to respond generally?

Acting Chairman (Senator Pat O'Neill): I am sorry, Senator, but we are discussing a specific amendment, amendment No. 4, which proposes to substitute a portion of section 2 of the Bill with the following:

it takes action, on the religion or belief ground, which is reasonably necessary to prevent an employee or prospective employee from undermining the religious ethos of the institution, and that, by reason of the nature of the employment concerned or the context in which it is carried out, the action taken is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary.

I have already given a little latitude and we became very general with Senator Averil Power's contribution. We should stick to amendment No. 4.

Senator Katherine Zappone: I appreciate what Senator Averil Power had to say. It is an unusual circumstance in which we find ourselves. I would like to comment on what the Minister of State has said. I have the freedom to do that, as my colleague has done. Senator Averil Power asked several questions which are related to the Minister of State's proposals for Report Stage.

Acting Chairman (Senator Pat O'Neill): The Minister of State said he would be tabling amendments on Report Stage.

Deputy Aodhán Ó Ríordáin: That is my intention and the individual discussions can then take place on Report Stage.

Acting Chairman (Senator Pat O'Neill): For now we need to speak on amendment No. 4.

Senator Katherine Zappone: Let me try it this way. The Minister of State indicated that one of the primary changes will be the replacement of the proposed power of both Ministers in a later section. Does that mean that the section that I am trying to amend is actually going to stay the same?

Senator David Norris: I support this amendment strongly. It seems to be very judiciously

worded and covers all the possibilities. It is very reasonable and moderate in manner. I commend Senator Katherine Zappone for tabling it. It hits exactly the medium targets. I opposed the exemptions for the Catholic Church when they were first introduced in this legislation. However, the Minister at the time, Mervyn Taylor, a very decent man, said it was impossible to do any more in the political climate of the time. He may very well have been right about that. However, on a matter of principle, I felt the exemptions were wrong.

Although nobody, as far as I know, has so far been dismissed from a post on grounds of conflict with the ethos and so forth, there is a very real fear about it, particularly among teachers. I hear this expressed constantly when I meet teachers at their annual conferences and so on - namely, that there is a very real and tangible fear that inhibits and undermines them in their teaching practice.

It seems this amendment is carefully worded. It confines it to what is reasonably necessary to prevent an employee from undermining the religious ethos of the institution. Nobody could disagree with that. It also uses the phrase, “by reason of the nature of the employment concerned or the context in which it is carried out.” Again, there are specific tasks such as teaching religion. I do not think it is appropriate to have an atheist teaching religion. Children pick up immediately on what a teacher feels. In such a case, they will know instinctively that this person does not believe a word of what they are saying. I am not saying atheists should not be employed as teachers; I am saying it is not appropriate to have them teaching religion, for example.

The amendment contains the phrase, “the action taken is objectively justified by a legitimate aim and the means of achieving the aim are appropriate and necessary”. In addition, it would be good if the term “proportionate sanction” was introduced.

It is welcome that the Government is moving towards whittling down these amendments, which is significant. I look forward to the day when they are gone altogether or we have something very close to Senator Katherine Zappone’s amendment.

Senator Ivana Bacik: I am conscious that we have had two goes already on Committee Stage and we are debating this somewhat in a vacuum. I thank the Minister of State for outlining so clearly what will be in the Government’s Report Stage amendments. I particularly welcome the much higher bar that will be set in terms of discrimination on the grounds of section 37(1)(b), which is the real concern for all of us. I am conscious that the Minister of State has set out the three-stage test that will be in the Government’s amendments.

Acting Chairman (Senator Paschal Mooney): I do not want to interrupt the Senator, but a debate on this issue will take place on Report Stage.

Senator Ivana Bacik: In the light of what Senator Katherine Zappone has pointed out in her question about amendment No. 4, I would point out that there is a facility for us on Report Stage, under Standing Order 126, to recommit specific Report Stage amendments if the House believes there has not been sufficient time to deal with them because they were not before us on Committee Stage. That might be the appropriate point for the Minister of State to make the more detailed response on some of the questions that have been raised in this debate. I am conscious that the only text we have before us is the text of the specific amendments, amendment Nos. 4 and 7, which we are debating, and then the other amendments, amendments Nos. 8 to 12, inclusive. Any more detailed debate on the text of the Government amendments should wait until we have those amendments before us. I think that would be more helpful.

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Acting Chairman (Senator Paschal Mooney): I thank the Senator. That is a matter for the House to decide, as she said.

Senator Averil Power: It is very unusual for me to disagree with Senator David Norris. On religion teachers, I think the purpose of Senator Katherine Zappone's amendment is that even on the religion ground, it should be a genuine occupational requirement. In a second level school, obviously somebody opts to teach religion as a core subject. In a primary school, every teacher has to teach religion - it is part of the job. I do not think it is a genuine occupational requirement that a primary school teacher should be of the same faith as the school, provided the person is prepared to teach the curriculum, whether of a different belief or a non-believer. Obviously, there will be more passion from somebody who believes. I appreciate this. With 95% of schools under religious patronage, it is unfair that a requirement to be of the same belief as the school would be a restriction on employment.

Senator David Norris: They should not be required to teach religion if they are atheist.

Senator Averil Power: Yes. All primary teachers have to teach religion. I know that is a broader issue in terms of patronage of schools. We can have that debate another time but until we have that debate, I support the sentiments behind the amendment. When hiring a primary school teacher being a particular faith is not a genuine occupational requirement because the protections are already there that if the employer believes the person is not doing their job or is challenging the ethos, the employer can take action. That is why I support the amendment. In both private and public institutions, where any action is being justified on the grounds of religion, it must be related to a genuine occupational requirement and not just some broad concept of ethos.

Senator Katherine Zappone: Is the Minister of State accepting the amendment? I did not hear whether he was accepting it.

Senator Martin Conway: It is a very interesting discussion. I do not have a deeply held view either way. I remain to be convinced by either side. I have no doubt that the Minister of State is taking on board the various aspects of this. Senator Averil Power spoke about teachers who are not necessarily of a faith teaching the curriculum and I think most teachers are very professional in that regard. When one is a member of a political party, sometimes one has to sell a policy with which one does not necessarily agree.

Senator David Norris: The electorate can smell it a mile off.

Senator Martin Conway: We all find ourselves in that type of unique situation every now and then. I think the Minister of State will reflect all of these concerns on Report Stage or, at least, I hope he will.

Acting Chairman (Senator Paschal Mooney): Therefore, the Senator is agnostic on the issue.

Deputy Aodhán Ó Ríordáin: He reminds me of a good friend of mine, a committed Dublin supporter, who once had to do teaching practice in County Meath and had to convince all the children of the merits of supporting the Meath football team, which really went against his ethics. Not to belittle the point that has been made, the difficulty we have here is a procedural one because it has been two years since we had this conversation in this House. There are various reasons for that, but we are here now.

We cannot accept the amendment on Committee stage. It makes much more sense to do so on Report Stage when the Government amendments are published. The proper context can then be given and a proper discussion can then be had as to reasons various amendments can, should or may not be accepted. I appreciate the Senator's position. We are on amendment No. 4, but we are having a broader debate now on the substance of the entirety of the Bill. I think it would be more appropriate to do this on Report Stage, but I appreciate what everybody here is saying. We have gone off into whole new area with what Senator David Norris said, which will probably capture most of the headlines, but we need to focus back on the procedural element, which is what we are doing on Committee Stage. Report Stage will be taken next week. I accept there is a problem with the procedural elements in the House of having such a long delay between the last discussion two years ago and the discussion we are having now.

Amendment, by leave, withdrawn.

Senator Katherine Zappone: I move amendment No. 5:

In page 4, line 5, after “paragraph (a)” to insert “and the institutions named therein”.

The amendment seeks to change the notion that the additional restrictions that are offered in this subsection refer to religious institutions *per se* as well as educational or medical institutions that are mentioned in paragraph (a). I think that follows logically from my earlier amendment.

Deputy Aodhán Ó Ríordáin: Procedurally, again, my response is the same as to all these amendments. Report Stage would be a better context in which to debate them.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Paschal Mooney): Amendments Nos. 6 and 12 form a composite proposal and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Averil Power: I move amendment No. 6:

In page 4, lines 5 to 8, to delete all words from and including “where” in line 5 down to and including “funds—” in line 8 and substitute the following: “where the institution is an educational or medical institution—”.

This amendment would mean that paragraph (b) would apply to all educational and medical institutions whether they are funded by the State or not. It would remove that somewhat superficial distinction between public and private institutions. We do not generally allow, under equality legislation or workers' rights legislation, for employers to buy their way out of their statutory obligations. Unfortunately, that is what is being provided for here. If people are wealthy enough to set up a religious body or run a religious institution without the need for public funds, they would be subjected to a much lower tests under this legislation which is unfortunate. The Constitution allows religious bodies to impose certain restrictions in limited contexts - for example, the employment of female priests. We might argue that the Catholic Church should revise its thinking on that issue, but we are certainly not going to attempt to change it by law. The situations in which we should allow bodies to opt out of equality legislation should be very restrictive and should only be where there is a demonstrable, legitimate and genuine occupational requirement to do so and this is what this amendment seeks to do.

On a technical point, the reason we are having a somewhat unusual debate is that this Bill has progressed in an unusual way and we are now, effectively, going to have a different Bill next

week on Report Stage but a significantly improved one, which is a good thing. Senator Ivana Bacik's name will still be on the Bill.

Senator Ivana Bacik: It is a greatly improved Bill.

Senator Averil Power: We will be looking at completely different wording and a range of other issues not related to section 37 such as rent supplement. It is an unusual situation. Senator Katherine Zappone and I have not pushed amendments today and instead will seek to resubmit them. This will be somewhat complicated by the fact that if we do not have sight of the actual wording of the Government amendments prior to Report Stage deadline, then we will be writing in a vacuum in terms of even paragraphs and line numbers. That will be very difficult for us. I know the Minister of State did not want to publish the Report Stage amendments or that, technically, the House could not publish any Report Stage amendments until we had concluded Committee Stage, but I know that they have been drafted and the text is ready to go. I ask that they be submitted well in advance of the deadline and that they be circulated to Members in order that we would have a chance to look at the text, or even just its layout, before drafting our amendments. Otherwise, we cannot do our business in a sensible way. That is a technical request.

Acting Chairman (Senator Paschal Mooney): For the information of the House, my understanding is that it will be a matter for Members to table amendments to the Government amendments on Report Stage. In other words, when the Government amendments are published, if Members wish to amend the Government proposals on Report Stage, they can table amendments to the Government amendments. The text of the Bill is still the same. As soon as Government amendments are circulated, the text of the Government amendments can be amended.

Senator Averil Power: There is usually a deadline for submitting Report Stage amendments and if the Government did not submit its amendments until an hour before the deadline, we would only get them at that time, yet we would have to respond. I ask that the Government submit the amendments straightaway in order that they can be circulated now.

Acting Chairman (Senator Paschal Mooney): I understand what the Senator is saying but it is a matter for the Department, rather than the House, to publish the amendments and I presume the Minister of State, in goodwill, will ensure the amendments are published in sufficient time to allow Members to table amendments to the Government amendments if they so wish. Otherwise, this is not proper procedure because it would not permit this House to reflect on Government amendments in order that we can put forward our own amendments. I presume the Department will take cognisance of that reality in order that the business can be ordered accordingly.

Senator Ivana Bacik: I understand the Government amendments are already with the Bills Office; therefore, they can be published without delay and well before the deadline to enable colleagues to table amendments to the amendments.

Acting Chairman (Senator Paschal Mooney): The deadline is governed by when the Bill is ordered to be taken and debated on Report Stage. The business is ordered accordingly.

Deputy Aodhán Ó Ríordáin: We are trying to achieve this together. In the Dáil three weeks ago, a Bill was tabled by three Deputies from the Anti-Austerity Alliance and the Government did not oppose the Bill because it accepted its spirit, despite the fact that a Bill was

already working its way through the process. I hope Senators will accept my bona fides. We are trying to ensure we have full context to what we are doing and we understand that Senators need Government amendments to work on in order that we can have a proper debate on Report Stage. That will be done.

Amendment, by leave, withdrawn.

Amendment No. 7 not moved.

Senator Katherine Zappone: I move amendment No. 8:

In page 4, to delete lines 30 to 33 and substitute the following:

“(c) The Minister, after consultation with the Minister for Education and Skills, and the Minister for Health, will issue guidelines to the institutions identified within this Act, to define and publish their ethos, and may issue further directions or guidelines for the purpose of giving effect to paragraph (b).”.

The Minister of State has made clear he will be taking out this section of the Bill but I will proceed. The Bill states: “The Minister, after consultation with the Minister for Education and Skills, and the Minister for Health, may issue directions or guidelines for the purpose of giving effect to paragraph (b)”. The paragraph in question adds restrictions and protections for employees. My amendment is to substitute the word “will” for “may”. I will explain why I propose stating that, despite the fact that the Minister of State said the word “may” could be unsafe and the courts could find it an unlawful delegation of authority on the part of the Oireachtas.

It would be most helpful to issue guidelines to institutions to give their religious ethos in order that it would be much easier for employees to determine whether they were in tune with it and how they would conduct themselves in the workplace. My amendment would make things clear, it would reduce the chill factor and it would lend sufficient clarity to the law. I am aware of the fact that the Supreme Court acknowledged that the term “ethos” in the Employment Equality Bill 1997 was vague and it was also a contentious issue in the Oireachtas debates on the Bill. Nevertheless, I wonder why it would be so difficult for religious institutions to publish their ethos.

When this issue was debated in the past, the then Senator Brendan Ryan asked:

Who undermines the ethos of an institution? Is it the eminent secondary school teacher who owns 15 slum dwellings in a small town and rips off the poor? Or is it the person living with someone who is not their spouse? I know which has been sacked and which has not been sacked.

He was, of course, referring to the Eileen Flynn case. I put forward this amendment to change things to bring clarity to how employees are to behave and conduct themselves in the workplace. It would mean that, should they be discriminated against by an institution on account of its religious ethos, there would be at least three or four tests which they would have to pass in court to ensure their actions were legitimate and just.

Senator Averil Power: Guidelines could be helpful. I understand the Minister of State says the Attorney General would prefer to have a more specific three-part test because guidelines without tests are problematic under Article 15 of the Constitution, which states it is for the Oireachtas to set out principles and policies in legislation and the courts to decide within that.

There needs to be more clarity. I accept that the existing wording in the Bill is too vague and that there is a need for a test for rationality, proportionality, conduct and other such things. That does not preclude guidelines; it simply means guidelines are not enough.

It would be useful for the legislation to contain a provision that would allow the Minister of State to supplement the test already set out in the legislation by providing guidelines clarifying issues that might arise. If issues arise which the stakeholders are not sure how to interpret such as those around ethos or conduct, as was the case with INTO as regards what was and was not covered by tests, the Minister of State would be able to issue supplementary guidelines at some point in the future. It would be in everyone's interest to have this additional clarity. I understand why a deeper test is required but guidelines also would avoid having to revisit legislation in the future by allowing a future Minister to issue guidelines to assist with interpretation.

Deputy Aodhán Ó Ríordáin: Again, in the absence of Government amendments, the same point is being made and I will repeat my remarks. The Government amendments will oblige relevant employers in religious-run schools and hospitals to show that favourable treatment of an employee, or prospective employee, is limited to the religion ground. The religion ground shall not be regarded as justified unless it is the following circumstances - rationally and strictly related to the institution's religious ethos; a response to the conduct of a person, which was the point made by Senator Averil Power, which undermines or would undermine the religious ethos of the institution, rather than being a response to that person's status under any of the other discrimination grounds such as sexual orientation, marital status or being an unmarried parent or divorcee, as set out in equality legislation; and is proportionate, which is a key word, to the conduct of the employee, or prospective employee, having regard to alternative action the employer could take, etc.

In terms of the amendment, the Government will also table amendments to the Bill. Today, we are discussing the text of my remarks. Rather than get into the substance of the debate I understand where the Senator is coming from. It would be better for the debate, in its totality, to take place on Report Stage when we have the context of the Government amendments, rather than working from the initial Bill and my own remarks.

Senator David Norris: That brings me back to my initial position. I would prefer to see these exemptions got rid of altogether. The United Nation's Human Rights Committee in July 2014 said that Ireland should amend Section 37(1) of the Employment Equality Act "in a way that bars all forms of discrimination in employment in the fields of education and health". That is my position, but I understand that it is not the Government's position.

With regard to the amendment, I have to say that, unlike the previous amendment tabled by Senator Katherine Zappone which I complimented for its clarity, I am not sure that this one is quite so clear. It places an obligation or wish on the Minister to issue guidelines to an institution about its ethos. I am not sure that a Minister or a Department is the appropriate place to issue guidelines to a religious institution about its ethos.

An interesting point was made that there is no definition of ethos, or at least it is very vague. Religions could publish books on what their ethos is and, in fact, there have been books published on the Christian ethos, Islamic ethos, etc. Therefore, as I am not sure how practical a definition would be, like my friend and colleague, Senator Martin Conway, said about an earlier matter, I will suspend judgment.

Deputy Aodhán Ó Ríordáin: I appreciate what has been said. However, most European countries have a section 37(1) or their own version of section 37(1). The difficulty in Ireland is that the vast majority of schools, particularly national schools, are under religious patronage whereas in other European countries that is not the case. In every other European country that I am aware of, a version of section 37(1) is on their statute books. In those countries the State's education system runs in a particular way but parallel to that are religious ethos schools and teachers make their own determinations. The difficulty in this country is that we do not, effectively, have a State-run education system. We have a State-funded education system which is then outsourced to patron bodies and that is how we run the system here. We have a section 37(1) on our Statute Book which has a huge impact on virtually every primary schoolteacher unless he or she is fortunate enough or has the facility to teach in a school that does not impinge on his or her ethos. The difficulty is the population of schools, or the number of schools, which are run under a religious ethos and trying to balance the constitutional right of parents to have education delivered through a particular religious ethos with the right of the worker. In other countries the balance is easier struck but here it is not as easy to do, unfortunately. That is the balance that we are trying to strike.

Senator Ivana Bacik: I support the Minister of State's claim that it is about the context. A number of us, including me, made the same point on earlier Stages of the Bill. While many of us, myself included, would like to see a complete change of the education system in order that we remove the religious basis, that is the reality of the context in which we are working. That does make section 37(1) particularly problematic for teachers in the current situation. That is why it is so important that we replace the current test, in section 37(1)(b) in particular, with the higher bar that the Minister of State has spoken about, one which we hope to see on Report Stage next week.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 9 to 11, inclusive, are related and may be discussed together.

Senator Averil Power: I move amendment No. 9:

In page 4, line 34, to delete "paragraph (b)" and substitute "paragraphs (a) or (b)".

Amendment No. 9 is similar to an earlier amendment that I tabled. It seeks to ensure the presumption arriving in paragraph (d) would apply equally to publicly and privately funded institutions, and not just to publicly funded ones.

Amendment No. 10 is much more comprehensive and it was written against the background of the original text of the Bill. My amendment was designed to make it clear that there were no circumstances in which it would be possible to discriminate against somebody purely on the basis of sexual orientation or civil status. From what we have heard from the Minister of State, it is clear that he will address that aspect in the Report Stage amendments by way of a requirement for conduct. I accept that is something that he has taken on board and I do not need to press the issue.

Amendment No. 10 goes further as it provides clarity in other areas. For example, paragraph (g) would prevent a person from being treated less favourably on the basis that he or she exercised his or her lawful right to free expression or free assembly. My amendment was designed to prevent an employee, or prospective employee, being penalised for participating in

a marriage equality march, pride parade or other form of assembly which an institution could argue was contrary to its ethos.

Deputy Aodhán Ó Ríordáin: I would-----

(Interruptions).

Senator Averil Power: Exactly. Paragraph (h) is designed to safeguard the right to privacy. It emphasises that the private life of an employee, or a prospective employee, is not the business of a person's employer. I have not been fully reassured that these two issues are dealt with in Report Stage amendments, that the Minister of State has indicated. I accept that there is now a restriction in terms of the circumstances in which an employer can take action to those where there has been some conduct, on the part of the employee, but it does not state the conduct must have occurred in the workplace. Also, the legislation does not specify what type of conduct could and could not reasonably be perceived to be a threat to the ethos. I appreciate that the provision imposes some requirements of rationality but it does not provide enough clarity. That is why I tabled amendments on these issues.

My amendment also covers the issue around marriage. I refer to ensuring that the simple act of getting married, or speaking about one's marriage, in the workplace could never constitute conduct. I ask the Minister of State for his response to my queries. Perhaps he might consider or reconsider these issues between now and Report Stage to ensure the Bill provides the clarity required in respect of these areas.

Senator David Norris: I support the amendments. Obviously I am against the discrimination of employees on the basis of sexual orientation. I am little surprised and curious to know that if there is a reason the word spouse was introduced rather than marriage or whatever. Perhaps the amendments were contemplated and put together before the passage of the referendum.

Senator Averil Power: I was very optimistic before the referendum.

Senator David Norris: I am concerned about the term "spouse." I favour the term and prefer it to using the phrase of husband and wife in a same-sex relationship.

The amendment is about marriage. It is very much in line with the thinking of the Irish people, as expressed in the marriage equality referendum and, therefore, it is appropriate that the amendment be put forward. It would be extraordinary, in these circumstances, that anybody would be discriminated against simply for getting married. I wish to quote the American gentleman who took a case to the Supreme Court. He made an interesting point that had not struck me at all. He said that after this decision we are talking about marriage. He claimed we would not be talking about gay marriage but talking about marriage full stop and I think that is the situation in this country.

There is the question of attending pride marches or whatever else. This may seem a little remote but 20 or 30 years ago there was a case in Scotland which I have instanced on the record of the House before. A man was employed as a gardener at a school in Scotland but he was fired for attending a political demonstration on gay rights. He took an action against the school's board but the court upheld the board's right to dismiss him simply for attending a march. That shows there is case precedent within these islands for this kind of thing. I completely agree that it seems to be very reasonable that actions should not be permitted to an institution which would be illegal if carried out by the State. This operates a kind of equality of treatment for

people which is perfectly reasonable. I support these amendments although I do understand the Minister of State's position that all this should be suspended in anticipation of the amendments on Report Stage. There is probably some very rational explanation as to why these amendments have not been tabled by the Government on Committee Stage rather than on Report Stage. Perhaps that was explained by the Minister of State before I came into the House; therefore, he need not explain it again if he has already done so because I will read the Official Report.

Senator Katherine Zappone: I support the amendments in the spirit in which they were written. They really push so clearly that issue of unequivocal guarantee about which Senator Averil Power has spoken at length. If we are not deleting the section, we need to provide as tight a guarantee as we can for employees to be protected. This effort by employers that may have some justification, in terms of discriminatory treatment on the basis of religion, must in no way and in no instance be extended into the private lives of the employees. I support the spirit of the amendments and the thought that was given to preparing them.

Deputy Aodhán Ó Ríordáin: The essence of the amendments is to provide a clear definition of what "conduct" means. My nervousness is that because it took so long to get it to this stage, if we start giving specific examples of the meaning of "conduct", it could take a lot longer before the Bill is enacted. I take on board what the Senator said that perhaps we need to do some work on language and perhaps we can do something when the Bill goes to the other House. In the absence of any case law, it is very difficult to know what would or would not happen in that eventuality. Speaking personally, the only issue that was raised about my prospective employment was membership of a particular political party and I had to deal with that.

I have sympathy for the Senator's position. However, other legislation protects the freedom of assembly and freedom of speech. We hope to get a clearer definition of the meaning of "conduct". Assuming a particular course of action would not lead to any kind of ramifications in a person's employment is not good enough and tighter language or explanation is required. We can work on that issue, but I am slightly nervous that if there are too many scenarios, this Bill would end up back in the Attorney General's office and we might not see it again in the lifetime of the Government. While I appreciate what the Senator is trying to do and we can work on that issue, there is the question of how successful it would be.

If a private citizen goes on a march in support of something he or she feels strongly about, and this is technically not in line with a particular religious view of the world, it is a question whether this will impact on his or her employment prospects. For example, if a promotion opportunity arises in a school or a hospital, will the person be overlooked because he or she is demonstrably in favour of a political viewpoint? Let us work on it. I am conscious that we have spent a long time on this Bill and I am anxious to get it through. We have made substantial amendments to the original text. That will have been obvious in the discussions yesterday and the amendments have been roundly welcomed. We can have a more comprehensive debate on Report Stage. We are trying to nail down the definition of the word "conduct" and this will be the key element. It is all about raising the bar to make it so high that it would really have to be a very unusual or a deliberate event to contradict the ethos of the institution concerned.

Amendment, by leave, withdrawn.

Amendment No. 10 not moved.

Section 2 agreed to.

2 July 2015

Amendment No. 11 not moved.

Section 3 agreed to.

Amendment No. 12 not moved.

Title agreed to.

Bill reported without amendment.

An Cathaoirleach: When is it proposed to take Report Stage?

Senator Ivana Bacik: Next Tuesday.

Report Stage ordered for Tuesday, 7 July 2015.

Business of Seanad

An Cathaoirleach: I welcome Mr. Joe Kennedy to the Distinguished Visitors Gallery. He has been very good to Irish immigrants in the United Kingdom for many years and is the chairman of Knock International Airport. He is very welcome to Seanad Éireann.

The Seanad adjourned at 4.20 p.m. until 2.30 p.m on Tuesday, 7 July 2015.

