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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

SEANAD ÉIREANN

Dé Céadaoin, 13 Meitheamh 2018

Wednesday, 13 June 2018

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have 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 Employment Affairs and Social Protection to review the regulations which apply to part-time workers in view of the current shortage of homecare providers.

I have also received notice from Senator Victor Boyhan of the following matter:

The need for the Minister for Education and Skills to make a statement on the outcome of the review of eligibility for applicants to the Caranua scheme, also known as the residential institutions statutory fund, and to outline the rationale for the new criteria for applicants for funding.

I have also received notice from Senator Lorraine Clifford-Lee of the following matter:

The need for the Minister for Justice and Equality to allocate extra resources to the Garda drugs unit in Balbriggan, County Dublin.

The matters raised by the Senators are suitable for discussion and they will be taken now.

Commencement Matters

Home Care Packages

Senator Colm Burke: I welcome the Minister of State to the House and thank her for dealing with this matter. The question I raise is in regard to homecare providers. A presentation was given recently to a meeting of the Joint Committee on Health that I chaired on 29 May last at which homecare providers advised that they are finding it difficult to recruit people because of full employment and the fact that people now have jobs and are working full time. There is a cohort of people who are prepared to provide homecare for three hours per day but the prob-

lem is that if they do so five days a week, they are precluded from claiming a social welfare allowance of any description. One proposal is that the calculation be based on the number of hours worked rather than the number of days. For example, a person working three hours a day, five days a week would amass a total of 15 hours. That is the proposal and amendment which people are now seeking.

We will need between 10,000 and 15,000 additional homecare providers in this country over the next few years. As the Minister of State is aware, the number of people aged over 65 will increase from its current level of 637,000 to more than 1 million over the next ten years. We want to keep more people out of hospitals and nursing homes and the only way to do that is through the provision of adequate homecare services. Such homecare services can be provided by people who are prepared to work part time. It is in that context that I set out my proposal that a person be permitted to work for three hours a day, five days a week without losing all of his or her social welfare allowance as he or she would under the current system whereas a person who works for two days a week is still able to get his or her social welfare allowance for three days a week. The Department should take that proposal on board in planning the social welfare requirements in the coming budget and it should be given very serious consideration at this stage.

Minister of State at the Department of Education and Skills (Deputy Mary Mitchell O'Connor): I thank Senator Burke. The first part of my answer on behalf of the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, will deal with the Senator's question as tabled. I will also address the second part of his question, regarding the day-based system versus the hour-based system.

The main social welfare schemes for jobseekers are the jobseeker's allowance and the jobseeker's benefit schemes. Both schemes provide significant support such that individuals who are casually employed or working part-time can work up to three days a week and retain access to a reduced jobseeker's payment. For instance, an individual can earn a little over €20,190 per year and retain a small jobseeker's allowance payment, while the equivalent threshold for an individual with a qualified adult is almost €4,700 if they are both working.

In addition to the two jobseeker's schemes, the Department's main in-work support is the working family payment, formerly known as the family income supplement, which supports families who have children and where the parents are on low incomes and work at least 19 hours per week. The back to work family dividend scheme allows recipients of jobseeker's allowance or jobseeker's benefit who have been jobseekers for 12 months or recipients of the one-parent family payment to retain their full increase for qualified children for the first year in employment, tapering to 50% in the second year.

A long-term unemployed jobseeker who is offered employment of more than three days but less than 24 hours a week may be eligible for the part-time job incentive scheme. Under this scheme a jobseeker can receive a weekly payment of €124.40 per week if he or she is single or €204.50 if he or she has an adult dependant. The combination of schemes available provides considerable income support for individuals in part-time employment by allowing them to retain access to a social welfare payment.

Reflecting the impact of Government policy and the overall improvement in the labour market, long-term unemployment continues to fall. The most recent data show that unemployment has fallen from a peak of 15% to 5.8% in May 2018.

As regards the second part of the Senator's question, it is recognised that a changing labour market has resulted in a move away from traditional work patterns. Any changes to the current criteria, however, such as moving to an hours-based system, could result in a significant additional number of individuals becoming eligible for a jobseeker's payment, with substantial corresponding cost implications for the Exchequer. In addition, if there were a change from the day-based system to an hours-based system, existing part-time workers would lose out if their current hours of work over three days exceeded the new hours threshold, thereby creating a disincentive to working more.

Other schemes to support families on low incomes include the working family payment and the back to work family dividend. The part-time job incentive scheme can provide assistance to long-term unemployed persons who can only part-time employment for fewer than 24 hours per week.

Senator Colm Burke: I thank the Minister of State. There are two sides to this issue. One is about providing home care, which is a major challenge we now face. Home care providers have told me they cannot get people to work because if they employ them for three hours a day for five days a week, they will get no allowance of any description. They have said that if it was an hours-based system, they could get a lot more people into their labour market. There is an actual net saving for the Department as well because instead of making social welfare payments for five days a week, it would only be paying for three days. It is a particular scheme the Department should look at based on people providing home care. It is to encourage people into that area where we have a shortage of workers and a growing demand for care.

An Cathaoirleach: I am sure the Minister of State will pass on the concerns of the Senator, who made a strong case, to the line Minister.

Deputy Mary Mitchell O'Connor: I will.

An Cathaoirleach: I thank the Minister of State.

Magdalen Laundries

Senator Victor Boyhan: I welcome the Minister for Education and Skills to the House and thank him for coming in to deal with this matter. This matter relates to Caranua. We need to rehearse how Caranua come about. It came about as a follow-on from the indemnity agreement formally agreed between the then Government, not a Fine Gael Government, and the Conference of Religious of Ireland, CORI. That indemnity scheme was entered into by the State with the Catholic Church against all legal claims for compensation arising from past child abuse in church-run residential institutions. I took the time this morning to read the debates in the Dáil and the Seanad at the time. Deputy Róisín Shortall described it as a cheap insurance policy for religious institutions that had no effective State oversight. There is no point in rehearsing all that but that is the reality. It was a bad deal for everyone and we know it cannot be renegotiated. We also know that many of the people who were part of that deal did not deliver and simply did not honour what they were meant to do in terms of giving over lands or funding. Again, that is history and we must move on.

What came out of it was this Caranua scheme which was to assist victims, or survivors, of abuse, because that is what they were, who had either come through the redress scheme or

through some sort of court or settlement agreement by either arbitration or litigation. A large advertisement appeared in a number of Sunday newspapers - I do not know why it needed to be that size - telling people that they have until 1 August to put in a claim. This advertisement refers to funds, with the implication that it is running out of funds. I put it to the Minister that Caranua should not be scaled down. It needs to be reformed and there are issues about its governance about which the Minister knows. There needs to be a review of it but it would be wholly wrong to wind down an organisation that was set up to support and assist victims of abuse - abuse in its widest form, including sexual abuse, emotional abuse and physical abuse. Even in the past few days, we have heard so much about the Magdalen laundries. We have heard so much from men who have come out of the Army with serious mental health issues as a result of them being victims and survivors. We have heard so much about many organisations.

Let us not this week confirm that we are winding down an organisation that was meant to be funded, or co-funded, by Government and by the redress scheme to help victims of abuse. I will be interested to hear the Minister's response.

Minister for Education and Skills (Deputy Richard Bruton): I thank Senator Boyhan for raising this matter. I will put this into context before I come to the script I have provided. There was an indemnity deal, which the Senator referred to. That meant the Residential Institutions Redress Board awarded €1.5 billion to the victims of abuse in residential institutions, although this figure would need to be checked with the Comptroller and Auditor General. The State funded that, bar €125 million which was the contribution by the religious orders under the indemnity deal.

After the Ryan report, however, a further undertaking was made by the religious orders to contribute additional money. Of that additional money, part was to recompense the redress payments that were ongoing but €110 million was set aside which was money from the religious orders to fund the institution, Caranua, which would provide additional support over and above the residential institutions payments. This was confined to people who had received payments under the redress scheme.

Caranua was established by an Act of the Oireachtas and solely distributes money provided to it by the religious orders. There is no co-funding arrangement for Caranua and it is funded entirely from those contributions made after the Ryan report.

When that legislation was going through the Houses, the then Minister, Deputy Ruairí Quinn, undertook that a review would take place to see whether the coverage of the scheme could be extended. This was one of the issues and that was the backdrop to the review, which was to see if the €110 million which was there would leave scope for some additional inclusions over and above the people already provided for. To date, €72.5 million has been paid, predominantly for housing - 71% - but also for health and education and a small amount for exceptional needs. The review that was undertaken did a number of things. It highlighted that while €30 million remained to be spent at the end of last year, if one looked ahead at the expected drawdown from existing clients - clients who might come from repeat applications - the anticipation was that that money would be fully used and the idea of extending it to relatives or others was not something that should be contemplated.

As adverted to by the Senator, given that it is a fixed amount of money, and there is still a small flow of new applicants coming through, the board, which is independent, decided that it would be prudent to announce a date beyond which new applications would not be received.

This is a decision clearly by the board, acting within its own statutory remit, but it is being prudent in the context of commitments it has made and so on that it would be only fair to indicate that there would be such a closing point.

It has distributed posters to organisations that work with people and used other local offices, including social welfare offices, GPs, post offices and libraries, to spread this information. I have also specifically asked Caranua that where exceptional circumstances are brought to its notice beyond the date, it would allow for additional applications. As one will see, the amount of money currently paid for exceptional needs is small - it less than 1% of its fund. We should use the exceptional need provision to have reserve funds to ensure that even if there is a cut off date there is the capacity to deal with cases that come to attention after that on a hardship basis.

The relevant legislation I have referred to describes a number of services they can cover and over the years they have also sought to extend those services as new needs came to their attention. One of the things Caranua has come under pressure for is that when it first opened it took time to build up its staffing and resources. A backlog grew and there were complaints from some users. Caranua has worked hard to improve service delivery, to clear backlogs, speed up appeals, expand face-to-face meetings and to adapt its supports to better meet those needs and it has extended it to areas like cookers, fridges, floors and home decoration to recognise the needs that were coming to its attention. In order to ensure that the money available was spread fairly, it also introduced a cap of €15,000. That met with some complaints but it felt that was only fair in trying to make sure that money available was equitably distributed.

While this review has been published and Caranua has decided to set a final date for receiving new applications, there are a number of issues and we have worked with survivors who sought the holding of a series of meetings which would serve as a forum for former residents and others with close personal involvement to reflect on their experience, the State's response to the issue of institutional abuse and to make recommendations. I support this proposal and intend to facilitate consultation with survivors, built around their experiences of the measures the State put in place following the realisation of the systematic abuse that occurred in residential institutions. This consultation will be managed by an external facilitator and my Department has sought the views of survivors on how that consultation process should proceed. An online survey form may be accessed via the Department's website. A freefone service operated by Barnardos is also available and allows people to give their views on consultations over the phone.

I also plan to convene an interdepartmental committee to examine how existing mainstream State services can best meet the needs of survivors into the future. This committee will include representatives from the Department of Education and Skills, the Department of Employment Affairs and Social Protection, the Department of Justice and Equality and the Department of Health. It will hold its first meeting in the near future because we need to ensure that there is a strong level of support from the State services for people who have been the victims of such appalling abuse. That is the backdrop to the review and I hope that answers some of the Senator's questions.

Senator Victor Boyhan: I thank the Minister. It is very comprehensive so I will take it away and have a look at it. All I can say is that the Minister has identified that there is only €30 million left. We cannot put a cost on it. Caranua has been a success. I have spoken to people who come to meet me in Seanad Éireann who have brought their children in here. They might well have been victims or survivors but they are now coming with their children. The Minister

now has to break this cycle. It is generational and it takes generations of support.

I note the Minister's final remarks that he will set up an interdepartmental group to talk about it. A lot of people who are survivors of abuse are not represented by any group. It is a very personal and sensitive issue and story for them and their families. Therefore, it is not the same and there is not a uniform group that represents them and I know the Minister knows that but I will say that maybe he should seriously extend it for another two or three months. They are the summer months and furthermore we need to further advertise this in England, Scotland and Wales where we know from our records, engagement and representative bodies that many of them fled this country and are living in these places. It is important to use our organisations that serve Irish communities in the UK. I thank the Minister.

Deputy Richard Bruton: I will bring Senator Boyhan's concern to the attention of the Caranua board that the closing date should not be inflexibly applied. Its intention is to support victims of abuse in residential institutions. Caranua has published this because it recognises that the money is finite so it will have to ensure that it knows as soon as possible the potential new applications that can come on board so it can plan for them with the money that remains. I am sure it will look at that closing date in a flexible way. It is making significant efforts to ensure that overseas networks are used as well as domestic networks to get this information out to people who have been holding out for whatever reason. At this point I should say that 5,000 people have come forward and have been assisted in the fund and there are another couple of thousand applications on hand.

An Cathaoirleach: Sometimes, no matter what effort is made to reach out some people never get the information but that is the way the system works. I thank Senator Boyhan.

Garda Resources

Senator Lorraine Clifford-Lee: I thank the Minister. I know the Minister for Justice and Equality, Deputy Flanagan, is engaged in the Oireachtas justice committee at the moment so I appreciate the Minister staying on to answer this question. I want to talk about the drugs unit in Balbriggan. The Garda district which is known as district Y covers most of north Fingal and includes the towns of Balbriggan, Skerries, Rush, Lusk and the rural areas of Naul and Garristown as well as a number of other areas.

Fingal is the fastest growing and youngest county in Ireland. North Fingal has seen significant increases in population in recent years and this is set to continue. Garda resources in Fingal were decimated over the period from 2010 to 2016 and were down 20% on what they should have been at that time. While I acknowledge that some extra gardaí have been allocated to the area in recent months, this does not go anywhere near the levels that would be considered adequate for the population size.

I also fear that Dublin city is being prioritised in terms of Garda resources ahead of Fingal when allocations are being considered. I am aware from my attendance at the justice committee before coming to the Chamber that an extra 200 gardaí are coming on stream this Friday. I would like to know if any of these are being allocated to district Y. In their recent report on crime figures to the Fingal joint policing committee, gardaí in Balbriggan have stated that the district's drug unit needs more resources and I am asking the Minister to ask the acting Garda Commissioner to give the Garda in Balbriggan the extra resources that are needed urgently.

Instances of drug possession for sale or supply have risen by 20% in the first four months of this year compared with the same period last year. This is significant but detection rates have dropped. By detection rates I mean crimes that are either solved or went to court. They have fallen from 100% to 90% and this is a cause of serious concern. The Garda report to the joint policing committee blamed this fall in detection rates on the lack of adequate resources in the district which requires members of the drugs unit to go and assist other units to cover the policing service. It is clear that policing resources are stretched in the area.

There are a number of drugs gangs operating in north Fingal and communities need to be assured that the Garda can adequately tackle this type of crime. Rush Garda station was closed by the last Government and while this is earmarked for reopening there is no clear timeline for that and no clear commitment that extra gardaí will be allocated to the station if and when it eventually reopens. Some towns in north Fingal have no community garda who would prevent a lot of young people getting involved in drug crime in the first place. I call on the Minister to make it Government policy that Garda resources are allocated in terms of the population spread of the country and rapidly expanding populations like we have in north County Dublin would get priority when the extra resources are being allocated.

Deputy Richard Bruton: I thank Senator Clifford-Lee for raising this issue.

The Minister for Justice and Equality, Deputy Charles Flanagan, apologises for not being able to attend. He has provided data that show that the strength of the Dublin metropolitan region, north division, is 678, of whom 80 are assigned to Balbriggan Garda station. There are also 42 Garda reserves and 40 civilians attached to the division. The Minister has also provided information that shows that the divisional drugs unit has a strength of 224, of whom 19 are allocated to the Dublin metropolitan region, north division.

All gardaí have a responsibility in the prevention and detection of criminal activity, whether it be in the area of drug offences, crime or otherwise. The Minister wishes to assure the Senator that An Garda Síochána continues to proactively and resolutely tackle all forms of drug crime in the jurisdiction. In 2015 the Garda Commissioner established the Garda National Drugs and Organised Crime Bureau which brought together the organised crime unit and the Garda national drugs unit. The bureau leads the policing strategy for tackling drugs by way of demand and supply reduction strategies. In that regard, the bureau continues its policy of working with Garda divisional drugs units nationwide in tackling supply reduction at local level. This work is further supported by other national units, including the Criminal Assets Bureau, in targeting persons involved in the illicit sale and supply of drugs. The Minister has been informed that this approach allows for the co-ordinated use of Garda resources in tackling all forms of organised crime, including illicit drug activity nationwide.

11 o'clock

We have seen unprecedented international co-operation between An Garda Síochána and policing services in other jurisdictions and this has led to important arrests and drug seizures. Underpinning all of these measures is the Government's commitment to ensure a strong and visible police presence throughout the country. There have been 1,800 new recruits since the Garda College reopened, 140 of whom have been assigned to the Dublin metropolitan region, north division. Therefore, a significant allocation has come from the new recruits. The expansion is continuing and the target is to bring the overall Garda workforce up to 21,000, a net increase of 2,000. Apart from this, there is additional planning on the capital side to invest in technologies, the fleet and other modern, effective policing facilities.

The allocation to an individual station or division is the responsibility of the Garda Commissioner, not the Minister. The Garda Commissioner will have to decide the respective strength requirements in different parts of the Dublin metropolitan area. While I will bring the Senator's comments to the Minister's attention, I understand the Garda has to look in a broad sense at the needs of different Garda districts to ensure effective policing. Nonetheless, it is not a decision made by the Minister; ultimately, it is one made by the Garda Commissioners for operational reasons.

Senator Lorraine Clifford-Lee: I thank the Minister for the response. I note the figure of 1,800 recruits, 140 of whom have been assigned to the Dublin metropolitan area, north division. However, that represents only 7.7% of the new recruits, which is wholly inadequate in an area which is expanding as rapidly as north County Dublin. I hope more than 7.7% of the 200 recruits who are due to pass out on Friday will be allocated to the north division. I will continue to raise the issue in the House because communities in north County Dublin are worried that they are being left behind, while other areas are prioritised ahead of them.

Deputy Richard Bruton: Clearly, people will always cite statistics to suit their own case, but we have to bear in mind that the policing of north Dublin, as indicated in the reply, is influenced very much by the operation of the Garda National Drugs and Organised Crime Bureau. As indicated by the Minister, 140 extra gardaí have been involved in some of the special crime operations since 2017. Therefore, in allocating extra resources, the Garda Commissioner has to be aware of the balance to be struck between specialised units which have a broad remit and allocations within individual local areas. Ultimately, the Garda Commissioner makes these calls. While I can understand the Senator's comments and I am sure the Garda Commissioner will heed them, it is not a decision made by the Minister; it is made by the Garda Commissioner for operational reasons.

An Cathaoirleach: I do not think there is a Garda division that would not like more gardaí. However, the Senator has made her case. I thank the Minister.

Sitting suspended at 11.05 a.m. and resumed at 11.30 a.m.

Death of Former Member

An Cathaoirleach: We are sad to hear of the passing of a former Cathaoirleach and colleague, of mine and of many Members. The late, great Rory Kiely passed away this morning. He was a very energetic man who had travelled to Mayo to Seán Calleary's funeral only last week. Rory was 84 years of age and a proud Limerick GAA man. There were very few matches he did not travel to when the green of Limerick was playing. They are going well this year so it will be a big loss. Rory was the Cathaoirleach of the Seanad from 2002 to 2007. He was a close friend and father figure to me for many years. There will be a formal tribute to Rory later, but today, given that he was a former Member of the Seanad with long service and a former Cathaoirleach, the Seanad acknowledges his passing and we send our sympathies to his family in these very sad circumstances.

Senator Jerry Buttimer: I will pay tribute to the former Senator, Rory Kiely, at the conclusion of the Order of Business. It is appropriate to remember Rory Kiely today and I thank the Cathaoirleach for the expression of sympathy.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, Planning and Development (Amendment) Bill 2016 - Report Stage, resumed, and Final Stage, to be taken at 12.45 p.m. and to adjourn not later than 5 p.m., if not previously concluded, and to resume at 8 p.m. and adjourn not later than 10 p.m., if not previously concluded; No. 2, Education (Admission to Schools) Bill 2016 – Second Stage, to be taken at 5 p.m. and to adjourn not later than 7 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes; and No. 3, motion for the appointment of a member of the Garda Síochána Ombudsman Commission, to be taken at 7 p.m. and to conclude not later than 8 p.m., if not previously concluded, with contributions of all Senators not to exceed eight minutes, on which time can be shared, and the Minister to be given an extra four minutes to reply to the debate.

Senator Catherine Ardagh: I join in the expressions of sympathy to the family of the late Rory Kiely. He was a former Cathaoirleach of the Seanad and a long-standing Fianna Fáil Senator. Rory had a great association with and friends within the Fianna Fáil group. It is a very sad day for the Fianna Fáil Party and we would like to join the Cathaoirleach in passing on our condolences to his family.

I wish to raise the issue of the CervicalCheck scoping inquiry. I raised this issue yesterday and it is with regret that I raise it again today. It was a shock this morning to listen to Dr. Gabriel Scally on the radio. He complained that he had not received documents in the manner and format he would have liked. It means that Dr. Scally cannot search through the documents he has been furnished with. The Minister for Health, Deputy Harris, was also on the radio and he described as pathetic the format of the documents as presented to Dr. Scally. The Minister indicated that he would write to the HSE about it. Clearly, at this stage the scoping inquiry is being treated very much like a legally charged inquiry. Documents are being printed, scanned, reprinted and only then handed to Dr. Scally in a format one would generally see in very contentious litigation after a discovery order has been made. It is imperative that Dr. Scally has the documents he needs in a format that is searchable, electronic and that we know will work. The Department of Health is obfuscating the material to make it more difficult for Dr. Scally to decipher and use it. The Minister outlined today that he is going to write to the Department. Surely he is in charge of the Department of Health and was responsible for the serious incident team going into CervicalCheck and the Department. He should be able to get the information to Dr. Scally in a more practical and expedient fashion. At this stage it seems the Minister has a complete lack of control over the Department. There is pure chaos in terms of the documents supplied to Dr. Scally. I believe a commission of inquiry must be set up as soon as possible so that we can get to the truth of the matter and that all the information is laid out properly and not held back.

The third issue I wish to raise today relates to the cancellation of sailings by Irish Ferries. Due to delays in the building of the new *WB Yeats* vessel Irish Ferries has had to cancel many sailings. That has left consumers, including families with young children, in serious limbo in terms of their holiday arrangements. Yesterday, phone lines were not answered and there is a serious lack of clarity on the compensation that will be offered to the families affected. The situation has caused considerable inconvenience with many families having to make new arrangements at significant expense. I call on the Minister for Transport, Tourism and Sport to look into this matter without delay.

Senator Victor Boyhan: I understand that 200 new Garda recruits will be passing out on Friday. That is good news and it is to be welcomed. It is the beginning of an increase in the membership of An Garda Síochána, which must also be welcomed. When the Minister makes his announcement at the passing out ceremony on Friday it is important for him to provide greater clarity in terms of what stations are to reopen. The Leader might check that out. There is a big debate about certain Garda stations around the country that were due to reopen but have not reopened. I know it is an operational matter for An Garda Síochána but given that the issue keeps entering the political arena and that certain politicians in Cabinet and in the Lower House keep advocating for it and promoting it, we need clarity on exactly what stations will be reopened and what stations will not be reopened. The people deserve nothing better. That is an important aspect of the matter and I ask the Leader to consider it.

I wish to turn to the local electoral area boundaries report, which was due to be published today. Clearly the report is a matter for the independent commission but suggestions are rife both yesterday and today that various boundaries have been changed and that various people have been briefed and are aware of the new arrangements. I do not know if that is correct and I await the completion of the report. We understand the report is in the Custom House at the moment. I wish to learn how it is to be put into the public domain so that the public knows what is involved. The Leader might be able to clarify the position. Am I not making myself clear?

Senator Jerry Buttimer: I cannot hear.

Senator Victor Boyhan: The Leader cannot hear. I was told I had a big mouth and a loud mouth many times. I was never told I could not be heard. If necessary, I can go up an octave.

An Cathaoirleach: Is the Senator asking the Leader to give him an insight into the boundary commission report?

Senator Victor Boyhan: No, I am not. I am asking him to indicate when the report will formally be announced and what the mechanism for that announcement will be.

Senator Jerry Buttimer: I did not understand that.

Senator Gerald Nash: We will all be very excited to find out exactly what is happening with the boundary report. I agree with what Senator Boyhan said, as it seems to me that a number of people appear to have been briefed on the reality of what we will be facing, or at least those individuals who have a franchise in electing us. I received calls from a number of councillors across the country today requesting information from me, which I do not have. It is not information I should have either because this is an independent report and we need to be told when it will be published and available. The convention always is that both Houses of the Oireachtas accept such reports. That is the case with all boundary reports, as it should be. I look forward to reading the report. Those individuals who elect most Members of this House are particularly anxious to see copies of the report very soon.

Could the Leader request an update on the commencement of sections 2, 3 and 9 of the Children and Family Relationships Act? I know that is an issue of concern to the Leader as well, as we have discussed it. As he and Members of the House are aware, certain measures contained in the Act which was passed in 2015 have yet to be commenced. Those measures relate in essence to equal parenting rights for married, same-sex couples. The failure to date to commence those provisions is causing great anxiety in the LGBT community. When we talk about equal marriage rights we should talk too about equal parenting rights.

This year the theme of the Pride festival is "We Are Family". I ask the Leader to clarify when those particular provisions, which are so important for same-sex couples and their children, will be commenced to provide for the kind of equal parenting rights for married same-sex couples in this country should be and are entitled to. We are merely waiting for those sections to be commenced.

One of the reasons I heard given by the Department of Employment Affairs and Social Protection recently on the delay in registration of two female parents in a same-sex marriage is the fact that training had not been made available to registrars. That seems to be a particularly bogus reason as to why those sections cannot commence. I read that recently in the *Irish Examiner*, a newspaper I know the Leader reads from cover to cover every morning for obvious reasons. Could the Leader clarify when those particularly important provisions of the Children and Family Relationships Act will be commenced? It would be a very happy coincidence if a particular effort could be made to ensure that they are commenced in time for that great celebration in Dublin and across the country at the end of June, namely, the festival known as Pride.

Senator Pádraig Mac Lochlainn: I also extend my condolences to the family of the former Cathaoirleach of the Seanad, Rory Kiely. I know we will have an opportunity in the near future to speak in more detail about his life and his contribution to the country.

I must raise the extraordinary revelations by Dr. Gabriel Scally this morning on the level of co-operation he has been receiving from the Department of Health. It is absolutely shocking. When are those people going to wake up and smell the coffee? The Secretary General of the Department resigned. He was pushed out due to a popular revolt because people are sick and tired of people in leadership in this country who fail in their responsibilities and who are never held to account. One would have thought that the remaining leadership of that Department and the HSE would have said they would not fail to co-operate with Dr. Scally in the important work he is doing in the scoping inquiry. It is stunning to learn that this morning.

I trust that the Minister will get a grip on the situation. He has called on the Department of Health and the HSE to fully co-operate but we need to see a complete change in culture. We talked about the Department of Justice and Equality and all the scandals that engulfed it. A full review was carried out on the organisation. The failures we witnessed in that regard were stunning. We see what is happening now in the Department of Health. There must be a change at the higher level of Departments, which are failing and letting down the vast majority of public and civil servants who are honourable, decent, hardworking people.

The Leader will be aware that the State will be allocated two additional seats in the next European elections. Will the Government seriously consider allocating those two seats to the North of Ireland, the Six Counties? The majority of people in the North of Ireland rejected the proposition of Brexit. Increasing numbers in the North are seeing the absolute folly of that proposition, the impact it will have on the island, and how it undermines the Good Friday Agreement. The people of the North voted against Brexit. They voted to remain in the European Union. They voted to continue to have a voice in the European Parliament and they are being denied that. They are being denied their democratic choice.

I acknowledge the position taken by the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Simon Coveney, and the Taoiseach in terms of the North and the Brexit negotiations at this point has been the right one by all of the people on this island of Ireland, but it would be wrong to not at least examine every possibility of allocating those two seats to the North

of Ireland. It would be the clearest signal yet that we defend the interests of the people of the North of Ireland and that we reject the folly, arguably the lunacy, of Brexit, certainly in terms of the implications for this island and that we defend and stand by the democratic decision of the people of the North. I ask that the Leader seriously consider and pursue that option. It would be the clearest sign yet of our position in terms of the people of the North.

Senator Paul Coghlan: I would like to be associated with the Cathaoirleach's kind words about our late colleague, Rory Kiely.

On a different subject, one of our colleagues mentioned that Prince Charles and his wife, Camilla, will be following in his mother's footsteps in visiting Cork on Thursday. As important if not more so is the fact that he will be following in the footsteps of his great, great, great-grandmother on Friday in visiting beauty's home, Killarney, to spend some time in Muckross House and Killarney House, in both of which Queen Victoria stayed in 1861. They can be sure of a right royal welcome. Indeed, we look forward to welcoming all of the British visitors, more of whom we need and want to see and who no doubt will follow him in the course of time. I should also mention that they are visiting Derrynane, the home of the Liberator, and Siamsa Tíre in Tralee. We wish them well in that.

An Cathaoirleach: Senator Coghlan was quite young in 1861.

Senator Gerald Nash: First Communion.

Senator Gerry Horkan: Senator Coghlan is even younger now than he was in 1861. First, I will briefly mention the sad passing of Rory Kiely whom I knew quite well. A great Limerick man, a great Senator and a great Fianna Fáil person, he was a Member of the House for almost 30 years, bar a few months in 1982. He was also a former Cathaoirleach of the Seanad. I met him in the car park only two or three weeks ago. He was with former Deputy John Cregan and we had a bit of a chat. I assumed I would see him again quite soon. It is a sad occasion. I extend my sympathies to all his family and friends and his supporters in Limerick and throughout the country.

There are a number of matters I would like to mention today but I can only raise one topic. I acknowledge that this week is both bike week and men's health week and we should be cognisant of that. I am lucky to live close enough to cycle in this morning. All of us who cycle or who drive and take account of cyclists should try to embrace it as much as we can.

I raise the issue mentioned in *The Irish Times* today that Ireland is the world's greatest tax haven. I refute that. The report from a certain group of academics needs to be challenged. I have not yet read the report. I do not know if it has been published but *The Irish Times* has been reporting on it. The definition of tax haven they were using dates from 1993 and the world has changed a lot since then. The report focuses particularly on 2015, which is the year when much intellectual property, IP, was transferred to Ireland. That was done for many sensible reasons, however, including the fact that most of the intellectual property was transferred here because most intellectual property is being generated here and is being used here. Microsoft has more than 2,000 staff here. Apple has in excess of 7,000 staff in the Leader's area in Cork. Large companies such as eBay, Facebook, PayPal and Uber are all in Ireland.

I will put on the record some of what Ireland has done in recent years. We have done a breathtaking amount of work on corporation tax reform. We have had a general anti-avoidance rule since 1989. This is one of the first countries in the world to have one. It has only been

introduced in most EU countries as part of anti-tax avoidance directive. We introduced mandatory disclosure domestically in 2011, and the UK and Portugal were the only countries in the EU which had done so before us. We will be exchanging mandatory reporting disclosures with other countries across the EU from 2020. We participate in EU code of conduct groups and the OECD forum on harmful tax practice. I, as a member of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, have been at OECD meetings representing Ireland and putting Ireland's case forward at the OECD. It is a bit rich to be calling the OECD a "club for rich countries" when, in fact, more than 100 countries are involved in the base erosion and profit shifting, BEPS, process that is being administered by the OECD. We were the first EU country to adopt country-by-country reporting in 2016 - well ahead of everybody else. We were an early adopter of the FatCow, which is an exchange of information with the US tax authorities, and the fourth country to adopt it in 2011. We have adopted all the amendments to the EU directive on administrative co-operation. We have adopted the OECD common reporting standards. We have engaged in automatic exchange of information country-by-country reporting. We were awarded the highest rating for transparency by the OECD peer review last year. We signed the EU anti-tax avoidance directive. As part of that, we will be introducing controlled foreign company, CFC, rules from January 2019.

An Cathaoirleach: Is Senator Horkan calling for a debate on it?

Senator Gerry Horkan: I will call for a debate on it. It is important that we do not allow the narrative to get out there and gain traction. It is not true. There are thousands of people working. In recent months, I was at the opening of the new €119 million Microsoft building in Ireland. The company has more than 2,000 staff of many nationalities. It has 71 nationalities working there. Apple has huge numbers of people working here. So have Google, Facebook and many other companies. Nine of the top ten ICT companies in the world are in Ireland. The reason we have corporation tax from those companies is because they are generating value in Ireland. We benefit from that but so does the world. They pay their tax in accordance with the legislation. I would like the Leader to bring in the Minister to talk about it. It is important that we address the issue and not let the world narrative get out there.

Senator Aodhán Ó Ríordáin: I will raise two issues, if I may, and call for two debates. First, I had a meeting on Monday in the Department of Health with grieving parents of a young Irish boy, Gavin Coyne, who passed away in Newcastle last year with a heart complaint. The care that we provide for children with heart issues needs to be examined and the way that we care for parents who have to deal with this situation and who have to seek treatment abroad needs to be further investigated because the treatment that this family and their son got left much to be desired. We made progress at the meeting with high-ranking officials but a political discussion needs to take place in this Chamber as to how we invest in that area, how we can support children with heart complaints and how we can support families because there is still a discussion to be had in that way. A young Irish child died, not in Ireland but abroad, and we need to have a conversation about that. I hope the Leader can facilitate a conversation with the Minister for Health on how we send children abroad for certain operational procedures.

The second issue I want to raise is the issue of mental health. I note the comments of the Ombudsman for Children who is quite critical of the State's response to children's mental health issues. We had some quite disgusting comments over the course of the most recent referendum where Members of this House stated that mental health was not real health. In my constituency, in the past month we have had two instances at two DART stations where young people have lost their lives. I witnessed a vigil in Harmonstown DART station attended by young people

who were traumatised by their friend, the person whom they loved and knew, taking his own life at Harmonstown DART station. Flowers and candles were left. This is an epidemic that we in this House all know far too well. As public representatives, we must have a response to this. I ask the Leader to facilitate a conversation with the Minister of State at the Department of Health with responsibility for mental health because where I live, the area that I care passionately about, at local DART stations people are literally ending their lives. This cannot be a situation that is normalised. What is most worrying about it is that it has not seemed to have got any traction or much comment. I call for that debate in this House as a matter of urgency.

Senator Paul Daly: I would like to be associated with the expressions of sympathy to the Kiely family on the death of Rory. Rory was someone whom I got to know in recent years, through horse racing more than our political involvement. He was a proud member of the Oireachtas syndicate, the horse of which won the midlands grand national at my track of Kilbeggan last year. It was on that evening that we struck up a relationship. I was only speaking to him on Thursday last in Mayo when he said he was coming up here this week, and I was shocked this morning to hear of his death. I offer my deepest sympathy to his extended family.

I want to raise the issue of the changes to the farm-to-farm cattle movement certificates. The Leader can put it on his list for the next time we have statements on agriculture. Currently, when a farmer registers calves he knows will be sold within a fortnight, he can apply for a certificate of compliance to move and can then sell to the open market.

He could maybe have two or three different suppliers and then not know which calf will end up with what customer. Now the Department has changed the regulations so that when he applies for that certificate of compliance he has to put the herd number of the herd of destination on the application for the certificate of compliance. It is impossible for him to know in certain situations in whose herd the animal will end up. We hear all the time about CAP reform and simplification. Every change we make and propose is supposed to be simplifying the burden of paperwork, red tape and bureaucracy for farmers, yet at the same time every change we make seems to make it more complicated, involves more paperwork, makes it more strenuous on farmers and complicates their day to day living and activities. I would like the Leader to put that on the list for discussion the next time the Minister is in for statements, to ask why there is the necessity for that change. I know we need compliance and traceability for animal health and welfare issues but this makes no sense. It seems like a change because somebody somewhere has seen some small issue and changed the whole system, which will affect everybody across the board and will complicate the issue, slow it down and tie farmers' hands that little bit tighter behind their backs.

12 o'clock

An Cathaoirleach: It might be an appropriate issue for Senator Paul Daly to table a Commencement matter on, rather than wait for a debate on agriculture.

Senator Paul Daly: The Cathaoirleach has pre-empted the Leader.

Senator Jerry Buttimer: That is a great reply.

An Cathaoirleach: Maybe. I am trying to be helpful. I call Senator Devine and Senator Murnane O'Connor in that order.

Senator Máire Devine: I concur with the statements made earlier by various Senators about listening yesterday to the incredulous, polite interview with Dr. Scally. His frustration was palpable on the "Six One" news on RTÉ. The HSE does not get that everything is utterly

changed. It is still in the mindset of circling the wagons and protecting its own interests. It seems oblivious to the need for change agents.

I also want to bring up the public service pay and stability agreement. Commitments were given that findings would issue in June but seem now to be put off until July if not later. I am talking about health service staff. The HSE is failing to meet the targeted staffing needs for the funding of an agreed workforce plan for the year 2017. It has not got a plan yet for this year. We know about the chaos in our health system because of a lack of caring staff. The Irish Nurses and Midwives Organisation, INMO, is warning of a winter of discontent because we need clarity from the pay and stability agreement. We need clarity that there will be action on the pay, conditions and recruitment of staff which is vital to our health service and which is getting seriously worse each and every day. The burnout is large scale. The HSE is double counting student nurses and adding them to the numbers to cover up the shortage. There has been industrial action in Waterford. Some 98% of nurses in Tipperary voted for industrial action yesterday. This is not about pay, it is about the risk to patients and staff within the hospital. Nurses are still working one day per month for free. This was brought in under emergency terms in the period of the crash but that is still going on and highly resented by nursing staff. I do not believe winter initiatives have worked in the past. They have been too little too late and it will be a winter of discontent unless we hear back from the Minister on this public service agreement soon.

Senator Jennifer Murnane O'Connor: I too heard the Minister for Health, Deputy Coveney, on RTÉ Radio One about the CervicalCheck scoping inquiry and I have to say I was so disappointed with him when he said that he would write to the Department of Health for information.

Senator Jerry Buttimer: He did not say that.

Senator Jennifer Murnane O'Connor: He is the Minister for Health. He should demand that the documents be sent to Dr. Scally as soon as possible. I ask the Leader to make sure that we do that. What the Minister said on RTÉ Radio One this morning was unacceptable.

This week is national carers week and there are events going on around the country to highlight the incredible work that families do and as we know family carers do not get the proper support and acknowledgement they deserve. I know from personal experience that we should be honouring these selfless family members who give of themselves to look after our loved ones in their homes. I also want to mention that on Thursday, 21 June, Family Carers Ireland will be selling heart shaped pins for €2 to raise awareness and much needed funds for family carers in Ireland. It is appropriate that on the longest day of the year we would shine a light on the contribution of our carers. While I encourage everyone to get out and support this worthy cause, we need to look at how the State recognises the hard work they do, the savings they provide to the State and the hours of work they put in without correct reward. Currently, carer's allowance is a payment made by the Department of Employment Affairs and Social Protection for carers who are looking after someone who is in need of support because of age, physical or learning disability or illness including mental illness. It is a means-tested payment and mainly paid to carers on low incomes who look after a person full-time. The person needing care must require continuous supervision and have a requirement for help throughout the day with their personal needs such as walking, dressing, washing, eating and drinking or continuous supervision to avoid danger to themselves and full-time care attention for at least 12 months must be needed. This amounts to €214 per week but people often face months of scrutiny to qualify for the pay-

ment. They cannot take a second job over 15 hours per week yet they are on call 24-7. This is unacceptable. We need to take a look at introducing a proper salary for these carers that comes from the health budget, not the social welfare budget. The timescale could be up to 12 months for payment whether it is through appeals or further information being sought. We need to start recognising what these people are doing - they are working for the State, not themselves. They are looking after our family members

An Cathaoirleach: Is the Senator calling for a debate on it?

Senator Jennifer Murnane O'Connor: I have called and am calling for a debate and I will request that the Minister come to the House.

Senator Jerry Buttimer: A debate on what?

Senator Keith Swanick: Today I had the privilege of launching "a connected island, an Ireland free from loneliness". I thank all those Oireachtas Members who contributed to this report. In total we received 310 submissions from North and South of the Border, from the elderly and the young, the rich and the poor and from all ethnicities. It truly shows how important this problem is and how it traverses all demographics. I also want to particularly thank Minister of State, Deputy Kyne, for attending the launch of the report today. I founded the task force on loneliness in March to help combat the silent epidemic of loneliness which is prevalent in our society. Loneliness is corrosive and has major health, social and economic impacts. It is corrosive to personal health and to society as a whole. I believe we need to turbo charge the debate on loneliness and create awareness of the issue. This change needs to occur from Government down. In the report there are many recommendations and it can be found on *lonelinesstaskforce.com* and will be distributed to all Oireachtas Members. Some of the recommendations highlighted in the report include an awareness campaign, the adequate funding of NGOs and Ireland-based research. Much of the research surrounding loneliness is based in the UK so we are using UK figures. We need our own Ireland-specific research and we need accountability. I am not calling for a dedicated Minister for loneliness as exists in the UK; Members will be familiar with the fact that Ms Tracey Crouch was nominated as Minister for Loneliness in the UK by Theresa May. However, I think the portfolio for loneliness should be assigned to a Minister. It is falling between the stools of social protection and health and the fight against the epidemic of loneliness has been lost. I would like to see a Minister of State at the Department of Health taking on the loneliness portfolio. Will the Leader arrange a debate on the issue of loneliness which can have major health and economic impacts? I look forward to having such a debate in the coming months.

Senator Paddy Burke: I would like to be associated with the expressions of sympathy to the family of the late Rory Kiely who was a long-time Member of this House. He was really genuine, both as a Senator and a person. He was a great Cathaoirleach of this Chamber. He was also a great GAA man. I am sure he would love to see how the Limerick hurling team is performing. He would have loved to have seen Limerick win another all-Ireland final. I am sure he will be looking down on the members of the team who seem to have a good year ahead of them. I would like to be associated with the expressions of sympathy on his death and do not doubt that the Leader of the House will provide time for expressions of sympathy at a later date.

I call on the Leader to invite the Minister for Transport, Tourism and Sport to come to the Chamber. The issue of bus corridors has been the subject of some controversy recently. I would like the Leader to ask the Minister about driverless cars, an issue I have raised previ-

ously. There is no doubt that driverless cars are coming downstream quickly and I would like to know about the provisions for this eventuality that are being made by the Department of Transport, Tourism and Sport and the local authorities. Many new measures, including new traffic lights, will be needed. The use of driverless cars will also have consequences for the insurance industry. Will the Leader invite the Minister for Transport, Tourism and Sport to come to the House for a debate on the issue?

Senator Robbie Gallagher: It is extremely shocking and totally unacceptable that State bodies have been accused of obstructing the CervicalCheck inquiry. The chairman of the scoping inquiry, Dr. Scally, has voiced concern and frustration about the delays in receiving the relevant information and about the manner in which he is receiving it. Legal representatives of the families have voiced their frustration about the difficulty in obtaining information. I am sure the Leader of the House will agree that this is simply not good enough and that the Government needs to get a grip on it. The women who have been affected by the issue and their families are continuing to be treated in a shocking, shameful and totally unacceptable manner. First, the information was withheld from them and their families. Now they cannot even obtain the relevant information. As one of the affected women put it, "This is my body and these are my records." I ask the Leader to impress the urgency of the situation on the Government, in particular, the Taoiseach and the Minister for Health. It is too late for some of the women and families who have been affected. For others, time is a luxury they do not have too much of.

I would like to conclude on a more joyful note. Local authorities and municipal district committees all over the country traditionally elect new cathaoirligh at this time of year. I ask the Cathaoirleach to indulge me for one moment as I offer my congratulations to the Independent councillor Ian McGarvey from Ramelton, County Donegal, who was elected as cathaoirleach of Letterkenny municipal district committee yesterday. I am singling him out because he will reach the grand young age of 88 years next month. At a time when we are encouraging young and old people to enter politics, he is a great example of someone who is very active. He is a shining light to us all. He shows us that age should never be a barrier to being active and involved in the community.

An Cathaoirleach: I join Senator Robbie Gallagher in congratulating Councillor McGarvey. It is a remarkable achievement to become cathaoirleach of any local authority, especially at the age of almost 88 years. It proves that there is life in all of us yet.

Senator Colm Burke: I agree with what my colleague has said about the delays in the production of CervicalCheck files. One of the problems in the health service is that there has been very little computerisation of the system in recent years. Other countries, including Denmark, started to computerise records as long ago as 1996. By contrast, there has been little or no investment in the computerisation system here, even in the period up to 2008 when plenty of money was available.

Senator Jerry Buttimer: Hear, hear.

Senator Colm Burke: We are now paying the price in the health service. Every effort must be made to make sure there will be adequate computerisation of all medical records in order that delays like those which have occurred in this case do not recur. Every effort must be made to provide the files in a timely manner and on the earliest possible date.

I have written to the Minister about a commitment given in 2017 in respect of gynaecologi-

cal services in Cork. We need to fast-track the opening of a second gynaecological theatre in Cork. Given that 40% of all the people on the waiting list for gynaecological services in the entire country are on the waiting list in Cork, it is important that this issue be dealt with immediately. Will the Leader find out whether the Minister can come into the House to deal with this issue? In fairness to the Minister, at the time he wrote to the HSE and the Department about the provision of additional funding. For some reason, it has fallen between a number of stools again. As a result, the second gynaecological theatre has not opened. Some additional staff have been allocated but not in sufficient numbers. This urgent issue needs to be dealt with immediately. It is not something that can wait to be dealt with until the next budget. Will the Leader invite the Leader to come to the House to deal with it?

An Cathaoirleach: Before I call the next speaker, I am sure Members of the House will wish to join me in welcoming the members of a visiting group from China. Together with officials from Tourism Ireland, they are celebrating the first direct flight from Beijing to Dublin. This is welcome news and a major achievement. I extend a warm welcome to the members of the delegation and extend to them my good wishes for a very successful visit to Ireland.

Senator Jerry Buttimer: Hear, hear.

An Cathaoirleach: I also acknowledge the presence in the Visitors Gallery of a friend of mine, Councillor James Breen, who is a former Deputy for the constituency of Clare. He is accompanied by his lovely wife, Eileen, and, if I am correct, his daughter and grandchildren who are very welcome. As a former Member of the Oireachtas, Councillor Breen is always welcome in this House.

The final two speakers on the Order of Business are Senators Ned O'Sullivan and Michelle Mulherin.

Senator Ned O'Sullivan: I had not planned to speak until, like other Members of the House, I learned of the sad passing of my great friend, the former Senator, Rory Kiely. He was a great friend of the Cathaoirleach and all of us. He was a legend and a man of many parts. He served in the Seanad for 30 years. He served a full term as Cathaoirleach. He was very well known in GAA circles as a trustee of the GAA and a former president of the Munster Council. He was a great racing man. A horse with which he and I had an involvement is racing in Punchestown this evening. I hope it will run well in memory of Rory who was a great character and who would have been there. As I know that there will be an opportunity to pay tribute to him at a later stage, I will leave it at that.

I am pleased to join the Cathaoirleach in welcoming the Chinese delegation and our great friend Councillor James Breen.

An Cathaoirleach: Before the curtain falls, we will hear from Senator Michelle Mulherin.

Senator Michelle Mulherin: In his annual report for 2017 the Ombudsman for Children identified as a key issue the lack of access to emergency mental health services for suicidal young people and indicated that the inability of the HSE and Tusla to act to ensure this deficit was addressed was "a stark failure". When young people are self-harming and in danger of suicide, we should be very grateful that they can be identified as such. At that juncture, they need professional help. It is overwhelming for young people and their families if they cannot access appropriate mental health services. In respect of community health organisation area 4, which covers Mayo, Roscommon and Galway, I have already identified that the child and

adolescent mental health services have only 53% of the staff they need. We have inadequate services for young people experiencing eating disorders who are in a critical situation. Cases have been brought to my attention and I have highlighted them. I have asked that the Minister responsible come to the House for a debate. We must find a path to addressing the shortcomings and inadequate staffing levels in the child and adolescent mental health services. This is really important for our young people. It is very unfortunate that we are seeing the incidence of eating disorders rising. Families need somewhere to turn. If our health services cannot provide that, it is devastating. People are living from day to day and sometimes from hour to hour, wondering how they are going to be helped. I think we can do things better notwithstanding difficulties in recruitment. We need a plan of action and the matter needs to be given urgent attention. I ask the Leader that the Minister be brought to the House. The matter has been highlighted by the Ombudsman for Children today.

Senator Jerry Buttimer: I thank the 16 Members for their contributions on the Order of Business. I join them in welcoming iar Teachta James Breen and his family to the Gallery. I also welcome our delegation of Chinese visitors. Cork is twinned with Shanghai. I hope the connectivity between Ireland and China will continue to grow and develop.

Today is a very sad day for us as we have lost a friend and former colleague in Rory Kiely. I did not have the pleasure of serving with him in the House but I served with him on the Munster council where he was chairman. He was a trustee of Cumann Lúthchleas Gael and, as many have said, he was a man of many parts. He was a rogue and a character. He was a friend and he was full of life. We had a many a great night with him and many a great day following the GAA. As Senator Ned O'Sullivan rightly said, he was a good man to dispense a bit of information about horse racing and horses as well. One of the greatest days of his life was being elected to this House. He was elected by a very short number of votes. When he became Cathaoirleach it was a day of great joy for him and his family. I had the pleasure of knowing his son, Vincent, who also ran for the Seanad at one time.

An Cathaoirleach: On the day he became Cathaoirleach it was a tight race as well.

Senator Jerry Buttimer: It was, indeed. I was afraid to say that. He was an extraordinary man and I was very fond of him. We may have been of different political persuasions but it never stopped our friendship developing. I extend our deepest sympathies to his family. Our country is a poorer place today for his passing. He epitomised the importance of community and of public service. We will have an opportunity to pay tribute to him in the House in time. Ar dheis Dé go raibh a anam dílis.

Senators Ardagh, Mac Lochlainn, Devine, Murnane O'Connor, Gallagher and Colm Burke raised the issue of the Scally inquiry. I have made it quite clear since this scandal unfolded that Government, the Minister for Health and the Taoiseach have only one objective - to get all the information out to the public, the women and their families. It is imperative that there is co-operation with the inquiry. The Minister for Health, despite what Senator Murnane O'Connor said, has said he will instruct and write to the HSE. The phrase he used this morning was "unacceptable and pathetic". We all agree with the Minister for Health. The manner in which the transmission of 4,000 pieces of information is being undertaken is unacceptable.

Senator Colm Burke is right though. Those of us who have worked with medical records and know what it is like understand that we need to have IT systems based on one unique patient identifier, transferable from one health entity to another so that notes can be transferred. It is

critical that the information is transferred in a manner that is swift, readable and searchable to Dr. Scally. The Minister has also said that anything he requires will be given to him.

The language we use as Members of the Oireachtas is critical as well. The inquiry is under way and an interim report has been delivered on time. As I said yesterday, all six recommendations have been accepted by the Minister. There is no obstruction or obfuscation by the Government - anything but. I agree with Senator Mac Lochlainn completely that it is about time people who are involved in the transmission of this information recognise that it is about the lives of people who deserve and want justice and to have the information given to them.

Senator Ardagh also raised the issue of Irish Ferries. It is distressing and disappointing that Irish Ferries has cancelled the holiday plans of 19,000 people. It is important that they receive information and that the director of consumer protection be involved. I would be happy to have the Minister come to the House regarding that issue.

Senator Boyhan raised Garda recruitment. I congratulate the 200 new gardaí who are passing out from Templemore on Friday. It was this Government and the last one that reopened Templemore and commenced recruitment of gardaí when the college had been closed by a Fianna Fáil-led Government. It is an operational matter over which I have no jurisdiction, as Members will know. I would love to be able to tell the House there were 200 extra gardaí going to Cork but I cannot do that. It is a matter for An Garda Síochána to decide where they go.

Senators Nash and Boyhan raised the boundary commission. I do not have the information as to what the boundaries are, when the report will be released or how it will be released. All I know is that there is an independent boundary review commission established. The Minister of State, Deputy Phelan, asked that the report come back to him after no more than six months.

Senator Pádraig Mac Lochlainn: It is tomorrow.

Senator Jerry Buttimer: I am told by Senator Mac Lochlainn that it is going to be tomorrow. As Senator Nash said, our electorate is waiting with bated breath, as are we, for the publication. There will be some disappointment and unhappiness, as was the case with the Dáil boundary review. We have an independent panel established. Whatever happens----

An Cathaoirleach: I am sure it will be appropriately promulgated.

Senator Jerry Buttimer: Whatever happens, I am sure it will be dispatched by the Department in a proper and timely manner whether online or in written format.

Senator Nash raised the Child and Family Relationships Act 2015. Senator Warfield has also raised the matter previously as I have myself. The delay is unacceptable and I thank Senator Nash for raising the matter in the context of the forthcoming Dublin Pride celebration, which is about ensuring that equal parenting rights are given to all families in our country. "We Are Family" is the theme this year and we are all now of different diverse families.

I am told that there are a number of technical drafting issues regarding Parts 2 and 3 of the Act. The implications of these issues are being discussed and explored by officials in the Department and in the Office of the Attorney General. The discussions are ongoing and detailed and the Department is not in a position to pre-empt the outcome by citing specific details. To be fair to Senators Nash and Warfield, I did ask for a meeting on behalf of Senator Warfield but the Department declined on the basis that the negotiations were ongoing. I will make it aware again

because it is important that we end the uncertainty. There is a lacuna that needs to be addressed immediately rather than being prolonged. I fully concur with Senator Nash's remarks and will endeavour to work with all Members of the House to ensure that we get that piece of the legislation enacted as soon as possible. However, I do not think it will be in time for Dublin Pride.

Senator Mac Lochlainn also raised the issue of the extra seats for the North. The decision on the extra seats rests with the European Commission or the Council, I am not sure which. The rule is clear; it is "ordinarily resident" in the State. Unfortunately, the North will be leaving the European Union because of the vote in the UK, which means the Republic will increase its number of seats from 11 to 13. As such, it is not possible to do what the Senator suggests. However, it is an independent commission. It is worth stating that if members want to come down and run in the South, they can come down and do so. For example, Mr. John Cushnahan did it very successfully for Fine Gael in the Munster constituency. Senator Marshall ran for election to the Seanad. As the Senator said, however, we need to hear the voice of the island as a whole articulated and heard in Europe. It is an idea to which I subscribe fully.

Senator Coghlan referred to the visit of Prince Charles and Camilla, Duchess of Cornwall, to Killarney and Cork tomorrow. I welcome Prince Charles to Cork. I do not agree with Senator Coghlan that it is about the equal importance of Killarney; it is about the south being feted as the gateway to Ireland. Cork and Kerry are coming together tomorrow to give a royal welcome to the royal visitors and I hope the day goes well. It is important to showcase our country and, for the people of Ireland, that Cork and Kerry are seen in the best possible light. In the debate on tourism in the House last night, the Minister of State, Deputy Brendan Griffin, made the point that the number of visitors from the UK declined in 2016 but we saw an increase last year. In a post-Brexit era, it is important to welcome UK visitors to our country and to promote, sell and market Ireland as a tourist destination.

Senator Paul Coghlan: Hear, hear.

Senator Jerry Buttimer: I welcome warmly the visit tomorrow and am sure Senator Coghlan will be in Killarney to welcome Prince Charles to his beloved Muckross.

Senator Paul Coghlan: Please God. And to Killarney House.

Senator Jerry Buttimer: Senators Ó Ríordáin and Mulherin referred to today's report on mental health from the Ombudsman for Children. We have had debates in the House in the context of the Seanad Public Consultation Committee report. The matter raised is about ensuring that there is investment in mental health and that young people receive out-of-hours treatment, as Senator Mulherin said, for eating disorders. The Government is committed to developing mental health services, which is why we have seen an increase in funding in 2018 to €910 million, including €35 million in the budget for 2018, representing an increase since 2012 of €200 million. We have also seen an improvement in counselling services through Jigsaw in Dublin, Cork and Limerick. It is important to recognise that we have seen the recruitment to different psychologist and assistant psychologist posts. The point made by the Minister of State with responsibility for mental health services, Deputy Jim Daly, is one on which we must continue to maintain our focus in CAMHS. It is about intervention. We must fix the system. As the Minister of State has said repeatedly, it is often the case that a lower level of intervention is needed, which can be provided, rather than an intervention from a clinical psychologist. The Minister of State is committed to fixing the system and there has been an increase in investment. It is a matter on which we need to continue to work.

I congratulate Senator Horkan on his intervention on the Order of Business this morning on the publication of certain allegations that Ireland is a tax haven. There are some academics, political commentators and politicians who would love to see us closed down for business completely. They do not want to see any foreign direct investment or any jobs created. The Senator is right and I commend every word he said. It is important to have a realistic debate on this subject which reflects the importance of foreign direct investment here. The IDA published a report yesterday and should be commended for the work it undertakes on our behalf. I welcome also the Senator's comment on national bike week and his comment on men's health week, which is very important. As an eminent GP, Senator Swanick will concur with Senator Horkan's view that men's health week is important. Men need to talk about their health, need to be checked out and need to get themselves looked after. I concur with the Senator on that.

Senator Ó Ríordáin also referred to the late Gavin Coyne and treatment abroad. It is important to continue to review the issue of treatment abroad which is a very important part of our health system. I agree completely with the Senator that mental health is a real health issue.

Senator Paul Daly raised the very important matter of farm-to-farm movement certificates. I would be happy to have the Minister come to the House to discuss that issue. The advice of the Cathaoirleach that it might be more appropriate to raise the issue as a Commencement matter was very helpful.

Senator Devine referred to the public service pay stability agreement, which is an important matter for the Government. The Minister is committed to ensuring with the unions that there is a growth in wages. We have seen public service recruitment in a variety of areas, including education, health and An Garda Síochána. I will get the information for the Senator, albeit she sometimes does not want to hear good news.

Senator Máire Devine: I referred to health.

Senator Jerry Buttimer: There has been recruitment in the health sector with 11,000 new posts.

An Cathaoirleach: Senator Devine loves good news.

Senator Jerry Buttimer: She does not, but I want to give it to her because it is important to hear it.

Senator Máire Devine: The Leader should not be condescending. I know my figures, thank you very much.

Senator Jerry Buttimer: As do I. I am not being condescending.

An Cathaoirleach: The Leader will provide the Senator with the information.

Senator Jerry Buttimer: To paraphrase others, facts are facts. I do not deal in fake news, I deal in facts.

Senator Máire Devine: The Leader is so smart.

Senator Jerry Buttimer: I join Senator Murnane O'Connor in commending all involved in carer's week and thank carers for their important work. I commend Senator Swanick on his loneliness task force. I think responsibility in this area is under the remit of the Minister

of State, Deputy Jim Daly, at the Department of Health but I am happy to be corrected if I am incorrect. It is important that we work collectively to ensure isolation, vulnerability and loneliness are reduced, no matter who they affect or where they exist. I welcome the report of the Senator's working group. We may have an opportunity to have that debate again during Private Members' time.

Senator Paddy Burke raised the issue of transport and asked for the Minister, Deputy Ross, to come to the House to discuss bus corridors and driverless cars. I would be happy to arrange that. I join Senator Gallagher in commending and congratulating independent councillor Ian McGarvey from Ramelton on his appointment as cathaoirleach at the age of 88. It certainly shows that age should not be a barrier to continuing to serve the people. I wish him well in the year ahead.

Senator Colm Burke referred to the very important issue of gynaecological services at Cork University Maternity Hospital. Commitments around the second theatre must be honoured and the theatre must be opened. The Minister met a delegation and gave a commitment. As Senator Burke said, the number on the waiting list in Cork is extraordinarily high. I would be happy to have the matter discussed in the House. Perhaps, Senator Burke and I could share a Commencement matter in that regard given that it is something in which we have both been involved. It is an important matter which needs to be addressed.

As a mark of respect, I note that Myrtle Allen has passed away. I pay tribute to her and sympathise with her family on their sad loss. She was the founder of the Ballymaloe cookery school in Cork.

Order of Business agreed to.

Sitting suspended at 12.40 p.m. and resumed at 12.52 p.m.

Planning and Development (Amendment) Bill 2016: Report Stage (Resumed)

An Leas-Chathaoirleach: Amendment No. 21 arises out of committee proceedings.

Senator Grace O'Sullivan: I move amendment No. 21:

In page 44, between lines 9 and 10, to insert the following:

"Amendment of section 2 of Principal Act

7. The Principal Act is amended by the insertion of the following section after section 2:

"2A. Planning authorities, the Office of the Planning Regulator, the Government, and other public authorities in the exercise of their functions under this Act, shall ensure consistency with the National Transition Objective established in the Climate Action and Low Carbon Development Act 2015.".".

Amendment No. 21 requires that planning decisions and plans such as development plans, as well as any other decisions taken under the Act, are consistent with the national transition objective. The Climate Action and Low Carbon Development Act 2015 establishes the national objective of transition to a low-carbon, climate-resilient, environmentally sustainable economy by 2050. The Act requires that public authorities have regard to this objective. Unfortunately, "have regard to" has been found in practice to mean very little. It is a test which is met by sim-

ply discussing climate issues in a vague manner. Therefore, I am proposing that the test be one which actually has an impact on the decisions made in the planning system.

The concept of requiring consistency with other plans runs throughout the planning system. For example, city and county development plans are required to be consistent with the regional, spatial and economic strategies. Given that climate change is the greatest challenge we face as a species, I propose that we require our planning decisions to be consistent with our national objective of transition to a low-carbon, climate-resilient, environmentally sustainable economy by 2050.

Senator Fintan Warfield: I second the amendment.

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): I cannot accept the amendment proposed by Senator O'Sullivan. The Bill as drafted ensures that the office of the planning regulator shall have regard to the policies and objectives of the Government, planning authorities and any other public authorities whose functions have a bearing on proper planning and development. Furthermore, section 10 of the Planning and Development Act 2000, as amended, already provides that local authorities must take account of many of the directives and plans identified in these amendments in preparing development plans. Section 23 of the 2000 Act has similar provisions with regard to the preparation of regional, spatial and economic strategies. By extension, the planning regulator will be required to have regard to all of these matters when evaluating and assessing development plans and regional strategies.

The Bill as drafted further provides that when the planning regulator is assessing and evaluating development plans, she or he shall address the relevant legislative and policy matters relating to the development plans but also take account of the national planning framework and all relevant ministerial planning guidelines and policy directives. Consequently, I believe these provisions, as outlined in the Bill, are sufficiently broad and comprehensive to ensure that the planning regulator will have regard to all relevant policies, objectives and EU directives, including the ones mentioned in the Senator's amendment in assessing development plans and regional strategies. Accordingly, I do not believe it is necessary to specify particular Government objectives as put forward in the amendment.

I understand the motive behind the amendment but I think it is not necessary and I hope the Senator understands why we cannot accept it.

Amendment put:

The Seanad divided: Tá, 13; Níl, 18.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Black, Frances.	Burke, Paddy.
Boyhan, Victor.	Buttimer, Jerry.
Conway-Walsh, Rose.	Byrne, Maria.
Devine, Máire.	Coffey, Paudie.
Humphreys, Kevin.	Coghlan, Paul.
Kelleher, Colette.	Conway, Martin.
Mac Lochlainn, Pádraig.	Hopkins, Maura.

O'Sullivan, Grace.	Lawlor, Anthony.
Ó Domhnaill, Brian.	McFadden, Gabrielle.
Ó Donnghaile, Niall.	Mulherin, Michelle.
Ó Ríordáin, Aodhán.	Mullen, Rónán.
Warfield, Fintan.	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Grace O'Sullivan and Fintan Warfield; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

Government amendment No. 22:

In page 44, between lines 9 and 10, to insert the following:

"Amendment of section 4 of Principal Act

8. Section 4 of the Principal Act is amended, in subsection (1): by substituting the following paragraph for paragraph (ia):

"(ia) development (other than development consisting of the provision of access to a national road within the meaning of the Roads Act 1993) that consists of—

(I) the construction, maintenance or improvement of a road (other than a public road) that serves a forest or woodland, or

(II) works ancillary to such construction, maintenance or improvement;".".

Amendment agreed to.

Government amendment No. 23:

In page 44, between lines 18 and 19, to insert the following:

"Amendment of section 10 of Principal Act

8. Section 10 of the Principal Act is amended—

(a) in subsection (1A), by inserting "and with specific planning policy require-

ments specified in guidelines under subsection (1) of section 28" after "regional spatial and economic strategy", and

(b) in paragraph (a) of subsection (2A), by inserting "and with the specific planning policy requirements specified in guidelines under subsection (1) of section 28" after "regional spatial and economic strategy".".

Amendment agreed to.

Government amendment No. 24:

In page 44, between lines 18 and 19, to insert the following:

"Amendment of section 12 of Principal Act

9. Section 12 of the Principal Act is amended—

(a) by inserting the following subsection:

(2A) The Minister or the Office of the Planning Regulator may, in relation to a draft development plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.",

(b) in subsection (4), by—

(i) substituting the following subparagraph for subparagraph (ii) of paragraph (b):

(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,",

and

(ii) inserting the following paragraph:

"(ba) A report prepared and submitted in accordance with paragraph (a) shall contain a summary of the observations, submissions and recommendations made by the Office of the Planning Regulator under section 31AM to the planning authority concerned.",

and

(c) in paragraph (aa) of subsection (5), by—

(i) inserting "or from the Office of the Planning Regulator made to that planning authority under section 31AM" after "under this section", and

(ii) inserting "the Office of the Planning Regulator and" after "shall so inform",

(d) in subsection (8), by substituting the following subparagraph for subparagraph (ii) of paragraph (b):

"(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,",

and

(e) by inserting the following subsection:

"(18) In this section 'statutory obligations' includes, in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(a) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(b) specific planning policy requirements specified in guidelines under subsection (1) of section 28.".".

Amendment agreed to.

Government amendment No. 25:

In page 44, between lines 18 and 19, to insert the following:

"Amendment of section 13 of Principal Act

10. Section 13 of the Principal Act is amended—

(a) by inserting the following subsection:

"(3A) The Minister or the Office of the Planning Regulator may, in relation to a proposed variation of a development plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.",

(b) in subsection (4), by—

(i) substituting the following subparagraph for subparagraph (ii) of paragraph (b):

"(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons,

in relation to the draft development plan in accordance with this section,",

and

(c) by inserting the following subsection:

"(14) In this section 'statutory obligations' includes, in relation to a local authority, the obligation to ensure that the development plan is consistent with—

(a) the national and regional development objectives specified in—

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(b) specific planning policy requirements specified in guidelines under subsection (1) of section 28.".".

Amendment agreed to.

An Leas-Chathaoirleach: Amendments Nos. 26 and 27 are related and may be discussed together by agreement.

Senator Grace O'Sullivan: I move amendment No. 26:

In page 44, between lines 18 and 19, to insert the following:

"8. Section 13 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

"(1A) Notwithstanding paragraph (e) of subsection (10) of section 140 of the Local Government Act 2001 as amended by the Local Government Reform Act 2014, a

resolution under that section may apply or extend to the executive function of initiating a variation under this section.”.”.

The adoption of a development plan is a reserved function to elected councillors, as is the making of a variation to the development plan. The Act currently provides that the initiation of a variation is an executive function of the council’s chief executive. Therefore, although councillors have the ultimate power to make a variation, they cannot initiate the process to exercise that power. On Committee Stage, Senator Boyhan and I argued for the power to initiate a variation to be made a reserved function of councillors. The Minister of State understood our concerns but he was concerned that the full shift of function might go too far. Taking that into account, I propose that we enable the use of a special, important power in section 140 of the Local Government Act, which allows councillors to direct the chief executive of a local authority to exercise an executive function in a particular instance. That power does not generally apply to functions under the Planning and Development Act. I propose that the function of initiating a variation should be the only planning power where the section 140 procedure could be used.

The Minister of State is aware of some of the circumstances in which such a variation would be initiated by local councillors if my amendment is agreed. For example, in the case of St. Catherine’s Park in County Kildare, the Fingal county development plan contains an objective for a major road leading straight into the park. The development plan objective is in the plan because Fingal councillors did not realise where the road led. As soon as they understood the implications of the plan, they set about trying to vary the plan to delete the road objective. However, they soon found that, as councillors, they cannot initiate a variation. For whatever reason, the chief executive has not initiated the variation and local residents and councillors on both sides of the Fingal-Kildare boundary are left with a development plan which they unanimously want to change. My party colleagues, Councillor Roderic O’Gorman in Fingal County Council and Vincent P. Martin in Kildare have drawn this matter to my attention. That is only one example but it is a very good one. More information will emerge about this case on which councillors want to make a good decision. I hope the Minister of State will agree to this amendment to ensure the democratic effectiveness of our planning system.

Senator Fintan Warfield: I second the amendment.

Senator Victor Boyhan: I wish to speak to my amendment No. 27 if that is in order.

An Leas-Chathaoirleach: That is in order as amendments Nos. 26 and 27 are being discussed together.

Senator Victor Boyhan: I welcome the Minister of State and his officials who have done a great deal of background work. I thank them for their co-operation and the ongoing discussions on these matters. The making of variations to development plans is an important function and one which is a reserved function of the council executive. Many aspects of the Bill address the outcome of the Mahon tribunal. Accountability and transparency are key words that echo throughout this Bill. They are also Government policy. We are proposing that councillors should at least be able to initiate a variation to a development plan. Much of this about language and process. Local government will not work unless there is a healthy, respectful relationship between the executive and the management. So much of planning now is controlled by the matrix of the hierarchy of planning. We have a national planning framework and national planning structures. We have regional plans, local plans, strategic development zones in certain cases and, of course, the county development plans. Councillors are rightly proud guardians

of their county development plans. The Minister of State, Deputy English, as a former active councillor in Meath, will be aware of the role councillors play in them. County development plans are important public documents. Catherine McGuinness, in a Supreme Court decision, found that the county development plan was a contract with the people and the people had a legitimate expectation to expect the roll-out of the county development plan.

However, there is always a time for a variation of a county development plan. The Department will be contacting all 31 local authorities, if it has not already done so, to ask them to vary the county development plan to give effect to the national planning framework or the national plan. The Department does not really have to do that but I understand this is what it will do. That should be kept in.

There is ongoing policy development. I told the Minister of State previously I took the time to look at a number of local authorities. I did, and I am happy to say that the last few variations to the Meath development plan have all been initiated by policy. They have been to bring into effect policy and they have been supported.

However, there is a case where members should be able to initiate a report. Amendment No. 27 proposes, in page 44, between lines 18 and 19, [and before section 8,] to insert the following:

> "Amendment of section 13 of the Principal Act ...
>
> > "(1A) (a) The members of a planning authority may at any time, for stated reasons, submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters [not two councillors get an idea in their head and making it up] of the members of that authority have approved such a resolution,
> >
> > (b) the manager of a planning authority shall submit a report further to a request under paragraph (a) to the elected members within four weeks of the adoption of the resolution.".".

That is reasonable. If we are to talk about a process, I do not want members having to talk to the chief executive on the back stairs of a county hall about some suggestion that they have. I do not want anyone perceiving anyone looking to manipulate a situation. I do not want any chief executive saying to an elected member of a local authority that it is an absolute reserve function, it is nothing to do with the elected member and he or she will not deal with it. I am saying one should allow a member to seek by resolution, formally, in an open and transparent way, that he or she wants to do this, then it is debated and the manager gives a report. Might I add, there is a real absence of managers' reports regarding many planning issues. Recently, I took the time to look at a local area plan in a particular local authority and I was shocked that there were not even any reports. The manager was having to make decisions on the hoof about proper planning and sustainable development. I want to formalise the process so that there is a written structure, there is a reporting structure, what the members do is fully open and transparent, and what the chief executive does is fully open and transparent. I hope we will have the Minister of State's support.

Senator Paudie Coffey: I want to speak on these amendments, in particular, in favour of amendment No. 27 because I see the rationale for it. I would ask that the Minister of State take

that amendment into account.

Senator Boyhan quite rightly mentioned two words, "accountability" and "transparency". The making of a county development plan or local area plan is the reserve function of councillors but they require the assistance of the executive - the management and the planners - of that local authority.

It is also a reserve function of councillors to vary that plan when it is deemed fit or when there is a necessity, as in the past. It is a reasonable amendment given that it requires three quarters of the councillors to promote the resolution. As Senator Boyhan stated, it is not merely two or three councillors coming together to make a variation. This is a substantial majority of a local authority. It is reasonable to expect a manager or CEO of a local authority to give a comprehensive written report on the passing of such a resolution by three quarters of that local authority.

With regard to reserve functions, we all recognise the significance of the making and adoption of county development plans and their importance for local areas. I highlight an area in that respect. Sometimes we have variations where possibly they could have been avoided in the first instance if we had proper structures around how local area plans are made. For example, where two local authorities are bounding on the same city or town, there may not be coherent planning objectives of each local authority despite it referring to the same town. I speak specifically about Waterford city which is bounded by Kilkenny council. It also applies to Athlone and Drogheda.

The Minister of State, Deputy English, will be aware that in Project Ireland 2040 and the new national planning framework there are ambitious growth targets established for those cities and towns right around the country. If we are to set those targets as a policy objective of Government, we need also to put in place legislation to ensure that the adoption of the county plans or the local area plans in those areas follows that national objective. For example, Waterford - I am only using the city because I know it best - is one of the four regional cities identified in the national planning framework for substantial growth where it is planned to increase the city's population by 50% in the next 20 years and it is important that the reserve powers of the councillors on both sides of the county boundary in that city have the reserve powers to achieve the growth target set. Currently, Kilkenny County Council would adopt its county development plan and Waterford City and County Council would adopt its plan but on the bounds of that city we may not have the coherence that we necessarily need. There is provision in the Planning and Development Act 2000 for local authorities to come together. I would be calling for this, specifically, in these towns that I mention, because we must have coherent sustainable planning frameworks for our cities and towns. Where two local authorities are involved, it is imperative that we bring elected representatives from both local authorities together to map out a local area plan for that municipal district. That is a reasonable request given the ambitious targets that are being set.

In 2016, the Government decided not to extend the Waterford city boundary. I understand the sensitivities around it from a county perspective but that should not stop us legislating from a planning perspective. The Government decided not to extend the boundary and last week it decided to extend the Cork city boundary. Following the same logic, I propose that a joint authority of some sort to make a local area plan for the entire municipal area is required if we are to reach the targets of the national planning framework. It is an important element that needs to be considered in this and future legislation.

Those local area districts, if established, could report to the regional assemblies with regard to the regional spatial strategies and planning given the regional context of the ambition for those towns. It, specifically, as I said, applies to Waterford, Drogheda and Athlone, which have local authorities across either side of their boundary. Such a proposal would alleviate the concerns of individuals regarding county identity but it would also resolve the planning sustainability concerns of me and many others, in essence, that cities and towns cannot grow unless we have a combined planning strategy for the full suburban area.

It is something I would ask the Minister of State to consider with his colleagues in government. I feel strongly about this. It is something that we need to get right. We have not got it right to date but there are opportunities to do so in this legislation and, indeed, in further legislation that I understand will be coming before both Houses of the Oireachtas shortly. I would be interested to hear the Minister of State's response.

I support Senator Boyhan in his amendment on accountability regarding executives. The less variations, the better. One must have a comprehensive process in making a local area plan or county development plan. I am proposing one resolution to that in terms of our cities and towns. One will always have necessity for variations and if one can legislate to ensure that local authority officials are more accountable, it would be a positive step forward.

Senator Kevin Humphreys: I will second amendment No. 27, if it has not already been seconded.

An Leas-Chathaoirleach: The Senator can second the amendment when it is moved, but it can be discussed now.

Senator Kevin Humphreys: I will give an example of why it is a good idea. Recently I sat down with a group of residents and councillors, which was a cross-party group. We were trying to resolve the housing crisis in the immediate area and to identify land that could be used for housing that is not currently zoned for housing. We came up with a number of ideas and the local councillors from all parties wish to rezone those lands. They will have to convince the area manager to include a variation to the local area plan. The councillors can speak with their colleagues within their parties and to those who are not in parties to get agreement for a variation to the development plan to build approximately 25 houses. It is, however, an onerous task because the first step is to convince management to move the variation to the plan.

Amendment No. 27 is a good, common-sense amendment. It gives ownership of the development plan back to councillors. Councillors do a huge amount of work, and some Senators have been councillors. In major urban areas councillors must review substantial amounts of documents over a period of time. They take great ownership and do an enormous amount of work. I have seen amendments to development plans run to 500 amendments, which are discussed at council meetings and so on. Variations to development plans are not made lightly. The amendment suggests that three quarters of the members of the local authority must approve the resolution, which is a good suggestion. I might like to see this reviewed in a few years when we see how it works in practice.

If we are to really empower local government and take the discussion on land rezoning away from the back stairwell this amendment puts that power into the council chamber, which is broadcast on the Internet and has 100% transparency of minutes for formal agreements. I ask the Minister of State, Deputy English, to take on board this common-sense amendment.

I would like to see it go forward but we could make incremental steps around the transfer of power to the elected councillors and away from the management. I support amendment No. 27.

Senator Jennifer Murnane O'Connor: I support amendment No. 27. Like other Members I have been through many county and local development plans. It is important that this proposal to a variation considered is included in the legislation. We all hear about accountability and transparency. We have been working on the national planning framework 2040 but a local or county development plan, and how exactly an area is zoned, has a big impact on people's lives. It affects issues such as one-off housing in rural areas or the setting up of a business by an individual. There is nothing as important as a local councillor going in and making proper representation, with the council chief executive officer. It is part of the accountability. This is a good change because it represents the people; the ordinary person on the street who is looking for planning or looking to open a business. We need to get this country moving forward. I feel this is a really good step and I will support this amendment 100%.

Senator Brian Ó Domhnaill: I add my full support to amendment No. 27, tabled by my colleague, Senator Boyhan. I formally second the amendment. It is a very sensible amendment. Questions have been raised about the balance of power between the executive and the elected councillors. Councillors have reserved functions in areas such as finance, planning, budgeting and capital spending but they are not able to adequately enforce those powers. As many of my colleagues have already said, this amendment is about opening up the decision-making process to transparency, openness and more accountability.

One of the recommendations of the Mahon tribunal, which was addressed in the 2014 Act, was around the powers of councillors to be able to influence planning decisions. Unfortunately, the powers to direct a planning matter under the former section 140 were, admittedly, abused. Effectively, councillors had less democratic power over the council executive in directing the decision-making process. The way that amendment No. 27 is crafted addresses this aspect in a very sensible way. It directs the area manager to consider the variation of a development plan, where 75% of the elected councillors have voted to approve such a resolution. Democratic accountability and openness are tied into that.

The concerns of the Mahon tribunal were around the capturing of councillors by developers. It was absolutely right that those concerns were addressed by the Department. It does not mean, however, that an individual council chief executive can bring forward an amendment to a development plan as one person recommending it. While I do not suggest that it is happening, chief executives and ordinary people can get captured by developers as well as elected councillors. If accepted, the proposals in this amendment would be much safer than the current system because at least the decision is made out in the open, it goes before a full council meeting and 75% of the elected councillors in that area must vote to approve it. The amendment would bring a lot of improvements to the table.

I hope the amendment is acceptable. It has been suggested that it could be reviewed after 12 or 24 months. It is a sensible amendment and if we are serious about strengthening local democratic accountability for people, then I believe this is the best way forward. Development plans can very often have a tenure of five years and we have seen how the economic cycles of the State dictate whether those development plans are valid at any given time. In Dublin there is a need to rezone land for housing and perhaps councillors cannot initiate that process of their own accord. This amendment would allow them to do that. It is a sensible amendment.

Deputy Damien English: I will address the Opposition amendments Nos. 26 and 27 together, as tabled by Senators Grace O'Sullivan and Boyhan, respectively.

Both amendments have the same overall objective of the initiation, at the behest of the elected representative of the council, of a process for the variation of the local development plan or local area plan by way of a resolution adopted at a council meeting. We have had some discussions around this proposal over the past months as the Bill has come through the Houses. There is a lot of merit in the amendments and everyone here has spoken in favour of one or other of them.

Senator Grace O'Sullivan gave a good explanation of an example of why her amendment is needed. Other Senators spoke about increasing transparency and giving more ownership of development plans to local authority elected members. I have also spoken with Senator Humphreys on it.

Local councillors own their local area development plans and a lot of work goes into them; nights, days and weeks of work. Councillors should be able to own the plan right through the process. It is about putting down a process that does not abuse the ownership, or where one person will not take up a lot of time with unnecessary amendments or variations after councillors have gone through all the work. I am conscious that in some cases 30 or 40 councillors can put in a lot of work and if the process allows one or two people to step in with variations one week later it would defeat all the work that had been carried out. This was the concern of the Department. We want to define a process that allows for ownership and the ability to make the changes for necessary variations, but not lose all the work that has already gone into a plan, so the plan is copper-fastened for the following five years or so. A development plan cannot have changes every week.

While I accept the importance of both amendments, and the intention behind them, amendment No. 27 as proposed by Senator Boyhan is probably the amendment preferred by the Department. It is more balanced and developed. It also contains more detail on the process to be followed by the elected members in proposing a possible variation of a development plan, and by the council executive in responding to the variation proposal. We have the copper-fastened approach that suggests 75% of elected members must approve the resolution and that the local authority and county manager have to come back to consider it. Perhaps Senator Grace O'Sullivan will agree that amendment No. 27 is a more teased out amendment. Both Senators want the same provision. This is an amendment we can support and accept. There are perhaps other ways of doing it, but if Members wish to accept such an amendment, it is not something we will oppose.

Amendment No. 27 in the name of Senator Victor Boyhan effectively proposes to amend section 13 of the principal Act to provide that the members of a planning authority may at any time for stated reasons submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal made by them to initiate a process to consider the variation of a development plan, which for the time being is in force and where three quarters of the members of the authority have adopted such a resolution. The reference to three quarters of the members of the authority is important. If we are to have this change, it is something that can be reviewed and monitored to see whether it is working or being abused. I expect that for the most part it will not be abused because most councillors want to do their job correctly. It is good logic to include the reference to three quarters of the members of the authority.

The amendment further proposes that the manager of a planning authority submit a report further to such a variation request to the elected members within four weeks of the adoption of the resolution. While I consider that the matter could potentially be dealt with by way of a department circulars - a point I made clear previously - and that we do not need to include the measure in legislation, because I sense a desire in the House to do it, I do not have any objection to it. The Department has no objection in principle to the proposed legislative amendment as it will strengthen the role of elected members in proposing variations to development plans, thereby giving them more powers than they currently have in that regard, as well as greater ownership of and responsibility for their own development plan. We want to get more people involved.

Furthermore, the proposed amendment is well balanced and has appropriate checks and balances in place, whereby any variation proposed by a councillor must have the support of three quarters of the elected members of the council before the executive will have to examine it. Therefore, an elected member cannot submit a development plan variation on a whim or without having the necessary 75% support. I ask councillors to use this power wisely and not to abuse their own work because a lot of work by people in all parties goes into a development plan and having it finalised. If the amendment is accepted, I hope subsequent reviews will show that it has been well used and not abused.

The chief executive is required to prepare a report on the proposed variation within four weeks of the acceptance of a resolution. If he or she considers the proposal is not justified, he or she is required to outline his or her reasons for not initiating the variation process in the written report to be submitted to the elected members. These arrangements are in line with the principle of increased transparency, something we have discussed here in recent years following on from the recommendations of the Mahon tribunal to increase transparency, as well as responsibility in planning matters. The arrangements are in line with that approach and will provide for greater transparency in the development plan process, something we all support in the context of the planning code.

Moreover, the right to formally initiate the process to vary a development plan will remain an executive function, but at least now with this legislative amendment elected members will have the right to make proposals in the consideration of a proposed variation to a development plan which, as I have outlined, is a power they have not had up until now. Accordingly, Senator Victor Boyhan's amendment is positive in enhancing the powers of elected members in the local government system and, therefore, one I can accept and support in the circumstances, if the House also agrees to it. It is probably the better of the two amendments, but I understand both are coming from the right agenda. Members probably worked on them together in the past. If that is what the House wants to do, we will not oppose the amendment.

In response to the issues raised by Senator Paudie Coffey, what he said makes good sense. He has made the practical suggestion that we find better ways to deal with transboundary issues. He referred to Waterford and Kilkenny. I have seen it myself in County Meath in the case of Drogheda and the border with County Louth. It is also evident in Athlone in the boundaries with counties Roscommon and Westmeath. We are trying to find better ways to make decisions on planning and other issues in border areas, especially where the boundaries of cities and towns cross two jurisdictions. A line on a map should not result in bad planning. We want to find ways to deal with problematic issues. The planning Act allows for co-operation and Senator Paudie Coffey suggested it become mandatory. He is probably thinking along the right lines. I do not disagree with his proposal, but I do not think we need to do it in this Bill as a local

government Bill is due to be brought before the House in the near future. The Department will examine the issue to see whether we can deal with it in that context. The logic of the approach suggested to be taken is correct. I expect everyone here agrees with it also.

We should do whatever we can to provide for better planning in towns and cities. Apart from having legislation to allow for and encourage co-operation, we will consider strengthening it to introduce a mandatory decision-making process. The funding that underpins the ambitious plans outlined in Project Ireland 2040 will encourage co-operation and best practice. That sends the message to local authorities that they must work together on good initiatives in their border areas and urban centres that need development and that they will then be able to draw down funding. It is a carrot and stick approach. Senator Paudie Coffey has suggested we all recognise the carrots with the funds given that there is a lot of money in the pot, but perhaps a bit more stick is also needed. We need a bit of both. The best way to have good planning is by bringing everyone together. I will undertake to examine the matter in the forthcoming Bill and the local government review.

An Leas-Chathaoirleach: Do I understand Senator Grace O'Sullivan is withdrawing her amendment No. 26 in favour of amendment No. 27?

Senator Grace O'Sullivan: Yes, that is correct.

Amendment, by leave, withdrawn.

Senator Victor Boyhan: I move amendment No. 27:

In page 44, between lines 18 and 19, to insert the following:

"Amendment of section 13 of the Principal Act

8. Section 13 of the Principal Act is amended by inserting the following subsection after subsection (1):

"(1A) (a) The members of a planning authority may at any time, for stated reasons, submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters of the members of that authority have approved such a resolution,

(b) the manager of a planning authority shall submit a report further to a request under paragraph (a) to the elected members within four weeks of the adoption of the resolution.".".

I thank the Minister of State. This has been a good process in which we have teased out a lot. I also thank the officials for their ongoing discussion of the issue. I take on board that we cannot allow for abuse of the measure. I agree that there should be a review at some point. The Minister of State referred to a circular. It is important that we still have a circular because we will need clarification. The legislation is good and councillors of all parties and none will be very happy with it because it addresses a major concern.

Senator Brian Ó Domhnaill: I second the amendment.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 28 has already been discussed with amendment No. 6.

Government amendment No. 28:

In page 44, between lines 18 and 19, to insert the following:

"Amendment of section 20 of Principal Act

11. Section 20 of the Principal Act is amended—

(a) by inserting the following subsection:

"(1A) The Minister or the Office of the Planning Regulator may, in relation to a local area plan, make such recommendations as the Minister or that Office, as the case may be, considers appropriate.",

(b) in subsection (3), by—

(i) substituting the following clause for clause (II) of subparagraph (ii) of paragraph (c):

"(II) provide a summary of—

(A) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(B) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(c) the submissions and observations made by any other persons, in relation to the draft local area plan in accordance with this section,",and

(ii) substituting the following subparagraph for subparagraph (ii) of paragraph (l):

"(ii) provide a summary of—

(I) the recommendations, submissions and observations made by the Minister, where the notice under paragraph (a) of subsection (2) was sent before the establishment of the Office of the Planning Regulator,

(II) the recommendations, submissions and observations made by the Office of the Planning Regulator, and

(III) the submissions and observations made by any other persons, in relation to the draft local area plan in accordance with this section,",

and

(c) by inserting the following subsection:

"(5) In this section 'statutory obligations' includes, in relation to a local

authority, the obligation to ensure that the local area plan is consistent with—

(a) the objectives of the development plan,

(b) the national and regional development objectives specified in –

(i) the National Planning Framework, and

(ii) the regional spatial and economic strategy,

and

(c) specific planning policy requirements specified in guidelines under subsection (1) of section 28.”.”.

Amendment agreed to.

An Leas-Chathaoirleach: Amendment No. 29 has been ruled out of order.

Amendment No. 29 not moved.

An Leas-Chathaoirleach: Amendments Nos. 30 and 31 are related and may be discussed together.

Senator Brian Ó Domhnaill: I move amendment No. 30:

In page 46, to delete lines 26 to 29 and substitute the following:

“(8) The Government shall submit the draft of the revised or new National Planning Framework, together with the Environmental Report and Appropriate Assessment Report to a vote of each House of the Oireachtas before it is published and will be bound by that vote.”.

Amendment No. 30 relates to the national planning framework. Initially, my understanding and that of many colleagues to whom I spoke was that the national planning framework in draft and final form would be debated in both Houses of the Oireachtas and voted on prior to any implementation decision. This is, after all, an excellent plan, for which I want to give the Government credit. I made submissions during phases 1 and 2 of the plan because I thought it was important to do so and felt it was the right path to follow. We should have a long-term vision for the country. Having a 20-year vision is the way to go. I give credit to the officials working in the Department of Housing, Planning and Local Government who spent so much time in consulting, drafting and crafting the plan prior to its publication. Ultimately, it was sent for public consultation, but, unfortunately, after the first phase of the public consultation process no feedback was given to those who had made submissions. Following the second call for submissions, again, there was no feedback and no report was published.

Much criticism was levelled at previous national development plans and frameworks. I understand Project Ireland 2040 is the sixth national development plan since the 1980s. Criticism was levelled at previous plans by the Government because they were “too political”. My focus is not on whether the Government was right or wrong in stating that; I am just saying what happened. I agree that many decisions taken in previous plans were too political and that there was an absolute lack of joined-up thinking and project appraisal. Subsequent to this, excellent work was done during the time of the previous Government in the Department of Public Ex-

penditure and Reform in putting particular frameworks together for capital expenditure by the State across various Departments. One of the initiatives was an updated public spending code which provided an appraisal toolkit to appraise capital expenditure. One of my criticisms of the code is that it is confined to projects with a cost in excess of €20 million. The threshold should be brought down, as also identified by the IMF which made 27 specific recommendations on how Ireland should improve transparency and accountability in expenditure on major capital projects. I hope the Government will take those recommendations on board in their entirety before any money is spent on the national planning framework.

Ten years from now, members of the current Government cannot look back and say this Government may have got it wrong and should have obtained better value for money. That is what will happen if we let a runaway train down the track without having proper parameters in place. We see it in the case of national children's hospital project, which is running well over budget. There will be many more such projects.

Amendment No. 30 requires simply that we have a debate in both Houses of the Oireachtas on the national planning framework. While it is an excellent framework, it also has shortcomings, some of which I identified in my submissions. Apart from the statements to which I contributed in the House, I have not had an opportunity to debate the new framework. Statements are simply statements. I am not a member of the Joint Committee on Housing, Planning and Local Government and nor are 95% of Members of the Oireachtas who are members of other committees and must deal with the work that involves.

If the Government wants the buy-in it seeks and believes it has achieved, why will it not have a debate in these Houses? Why not allow every Member of the Seanad and Dáil who wants to participate to speak on the national planning framework given that it sets out a 20-year vision for the country? As national parliamentarians, we should all have an opportunity to provide an input into that process. Our only input so far has been through the public consultation process. It is wrong that we are not having an input in either of these Houses and that there will not be a vote on the framework.

Linked to the national planning framework is the capital expenditure programme of €116 billion set out in the national development plan. Much of this expenditure is tied up in the five urban centres, in particular, the capital city. I am not criticising the programme but calling for a debate. If we are to move away from the days of decisions being taken without proper economic scrutiny, why not publish the cost-benefit analyses carried out on the MetroLink project, for example? Why the secrecy? Why can we not get a copy of those cost-benefit analyses? Major decisions are being taken without transparency.

The Government should avail of the opportunity to have a debate in both Houses. The public would reward it for doing so as it would be the right thing to do. It would also be rewarded politically in forthcoming elections. It would be wrong for the Minister of State to try to proceed with this project with a Fine Gael banner wrapped around it, particularly with the rural-urban divide that has been created in this country. Regardless of whether this divide is real, it has been created in the public mind and members of the public have been talking about it more than politicians have. It is wrong that people living in rural areas feel isolated. I am not suggesting there is a lack of capital investment in rural areas but there is a perception that the national development plan only deals with urban areas. If it proceeds without proper scrutiny in the Houses, that perception could detract from all of the expenditure and good work in the plan.

I am confident the Minister of State will accept the amendment and I see no reason he would not do so. We spoke, on the previous amendment, about transparency and accountability, giving power to councillors and having democratic oversight. This is exactly what the amendment proposes to achieve. It is about giving elected Deputies and Senators democratic oversight of the national planning framework. Approximately €120 billion will be spent in the first ten years of the plan, with up to €500 billion to be spent by the State in the period to 2040. It does not make sense not to debate this plan on its initiation.

Amendment No. 31 deals with an annual review of the national planning framework. The national spatial strategy, for example, was an excellent plan with good objectives but progress in meeting these objectives was not measured and no annual or democratic review took place.

I will give the Minister of State, who I realise must liaise with his officials, a second. I am interested in having his ear as well because he is well aware of this plan.

Deputy Damien English: I have two ears.

Senator Brian Ó Domhnaill: I commend the Minister of State on his work on this plan. I am not being critical but trying to help him. If he goes down the road of not having a debate in the Houses, he will be penalised for it in years to come and there will be political mud thrown from all sides.

Deputy Damien English: The Senator is hoping that will be the case.

Senator Brian Ó Domhnaill: The Minister of State will eventually throw mud at other political parties when they are in government and he finds himself unable to unravel what he has done. A decision to avoid proper democratic scrutiny by the Oireachtas of a major national plan brings us into dangerous territory. This is the sixth plan and also the largest date with the longest timeframe. It is wrong that there is no proper debate on it and that the Houses will not vote on it.

I am asking for an annual review to allow the relevant Oireachtas committee to debate the plan and discuss its progress. There is no point in having a 20-year strategy for the country if we do not know where it is going and we cannot review it annually. Under the review, all relevant economic data on the various projects would be made available. Some progress has been made in developing a capital tracker in the Department of Public Expenditure and Reform. Having studied the tracker, I find the information available on the website extremely vague as it does not provide any details. None of the documentation required to carry out a review has been published. The tracker, which is little more than one line, is poor and the International Monetary Fund will not be satisfied if it is not improved. It certainly falls a long way short of the recommendations made by the IMF.

I am not sure whether the Minister of State is willing to accept these amendments which seek to ensure major capital investment projects are not made on a political whim. I am not saying that will occur under this Government but there will probably be four, five, six or seven Governments between now and 2040. Will we allow each of them to make decisions based on a political whim as opposed to factual, hardcore information on financial economics and whether the projects stand up?

The national planning framework provides for major investment in the future of the country. It will dictate where people live, work and access services, how we deal with the housing crisis,

how we ensure more people live on the west coast and not only on the east coast, and how major capital investment projects by the State are funded and progressed. The toolkit is available in the Department of Public Expenditure and Reform. While the public spending code is mentioned in the national planning framework documentation, I emphasise the word "mentioned" because it does not provide the specifics that are required.

This will be our only opportunity to debate the legislative standing of the national planning framework if the Minister of State does not accept these amendments. I hope he will do so and I will be interested in hearing his reasoning in the event that he does not do so. What is the reason for the reluctance to allow both Houses democratic oversight of both of these national plans? Will the Minister of State explain the fear of doing so?

Will Fine Gael turn around in five or ten years and blame the new Government, of which it may not be a part, for wrong decisions made on public expenditure on capital projects when it could have put the necessary oversight mechanism in place in 2018? The Minister of State has the tools available to do that now but Fine Gael will not be able ten years from now to blame anyone else for overrunning on budgets unless it is willing to put the legislative provisions in place now that would address that. I would be interested to hear what the Minister of State has to say on that matter.

Senator Victor Boyhan: I formally second amendment No. 30 and indicate that I will also formally second amendment No. 31. I will be brief as I am conscious there are time constraints and that we want to make progress. I have always supported the national planning framework. It is a very good and positive document. I genuinely believe a mistake was made about it. As I have said previously, there was an expectation it would come before the Houses of the Oireachtas and be approved. I do not believe it would have been defeated. There is an amazing confidence and supply arrangement between Fine Gael and Fianna Fáil. I wonder at times when I come into this House to debate measures, and when my colleagues go into the other House, having put much energy and effort into bringing forward measures and debating them, only to find that the matter has all been done and dusted. A much more elaborate system underpinning this confidence and supply Government is working in the complex of Leinster House. Much effort is put in by politicians but, essentially, we are banging our heads against a brick wall, despite the great success of the previous amendment.

2 o'clock

Deputy Damien English: It only happened five minutes ago.

Senator Victor Boyhan: It was a lost opportunity because I believe Fianna Fáil would have-----

Deputy Damien English: We might need to revisit the other amendments.

Senator Victor Boyhan: -----fully supported Fine Gael on it. It is a fantastic plan. I was in Athy and Sligo the other day and they are wonderful towns but they are falling down on their knees, as it were. I was also in Ennistymon the other day. There seems to be no sense of there being a bigger national plan. We need a national plan. This is a big document. Another mistake that was made is that it was too wrapped around and built around Fine Gael and the Government parties, and I acknowledge there are other add-ons to the current Administration. That had the potential to alienate certain people but it has been done and we must move on. There is a strong case to bring such a plan before the Houses of the Oireachtas, which is dealt with in

amendments Nos. 30 and 31, and to have a debate on it.

As a member of the Oireachtas Joint Committee on Housing, Planning and Local Government, of which Senator Murnane O'Connor is also a member, this document has been discussed extensively and we have had amazing input on it. There is a very strong relationship with all facets and aspects of the Department in terms of the work. As members of that committee, we will ask some months hence, if we are all still here, for an update on it. The Minister of State made valid points. He has my support. It is a national plan for all the people. That is the way it must be sold. That is the way it will be successful and embraced, namely, that it is a national vision and a national plan. Regardless of who is in government in six months or in two or three years, the plan must continue. We have not had consistency and a continuation in planning for this country. We need to get our villages, towns and cities up and running and make them attractive places in which to live and work.

These are two important aspects and I agree it is important that these reports should come before these Houses and that we should have ongoing discussion on them.

Senator Jennifer Murnane O'Connor: I agree with the previous speakers. I and the Fianna Fáil Party will be supporting amendments Nos. 30 and 31. Like, Senator Boyhan, I am a member of the Joint Committee on Housing, Planning and Local Government and I have seen the work involved in preparing Project Ireland 2040, the national planning framework. At our meetings we extended the process because we did not get as many submissions as we had expected. I will wait until the Minister of State is finished talking.

Deputy Damien English: I am listening to the Senator.

Senator Jennifer Murnane O'Connor: I can wait. I also need to have the ear of the Minister of State.

Deputy Damien English: I am listening.

Senator Jennifer Murnane O'Connor: I am a firm believer that the national planning framework for 2040 will have a massive impact on people's lives. As a former councillor and a Senator and like most Members, I would have seen that over the years. This plan is crucial. It did not come before the Houses of the Oireachtas to be voted on. Senator Boyhan spoke about its launch. I was not aware it was to be launched in Sligo and I am a member of the housing committee. The first I heard of that was on radio on the morning of the launch. That is not appropriate. It is a very good plan. We are working on our vision for Carlow. Value for money must be secured. It involves public spending and there must be accountability and transparency. I know how hard members of that committee, the Minister of State and the Minister, Deputy Eoghan Murphy, worked. I have been part of this process but certain things were not done right. The plan was not brought before the Houses for Members to discuss it and to know when it would be launched. I only heard on radio on the morning of the launch that the Taoiseach would launch it in Sligo. That was unacceptable. We should never allow that to happen again.

This is a planning framework up to 2040. It is a major plan. It will affect everybody. We all need to work together to make sure that will not happen again. It is all about accountability, ensuring that money is put in the proper areas and that we will not have a rural-urban divide. I have spoken to the Minister of State about that. Rural and urban areas both need to have the same level of funding. Everything needs to be properly divided. As I have said to the Minister of State on several occasions, he cannot forget Carlow, and I will always say that to him.

Deputy Damien English: Where does the Senator come from?

Senator Jennifer Murnane O'Connor: While it is a national planning framework, every county needs to get equal funding. I will be supporting amendments Nos. 30 and 31 and I hope the Minister of State will support them also, as they are good measures.

Senator Fintan Warfield: It has been suggested to me that my amendment No. 29 has been ruled out of order because I called for a vote on the previous Stage? Is that correct?

Acting Chairman (Senator Gerry Horkan): I will give the Senator the official ruling. It is not my ruling but the ruling of the Cathaoirleach. Amendment No. 29 is a repeat of an amendment No. 34 from the Committee Stage of the Seanad which was considered and rejected. Accordingly, the amendment must be ruled out of order in accordance with Standing Order 159, as it was previously rejected in a committee of the whole Seanad. The House has decided on that particular matter. We are now discussing amendments Nos. 30 and 31.

Senator Fintan Warfield: Thankfully Senator Ó Domhnaill has tabled amendment No. 30. In the absence of amendment No. 29, Sinn Féin will support amendment No. 30. We have consistently called on the Government to ensure that a vote is held on the final draft. I do not need to tell the Minister of State again that Sinn Féin engaged with every step of the process, and constructive and detailed submissions were made. We need to learn lessons from this process. If a document is to be placed on a statutory footing, it is imperative that a vote of the Oireachtas is held on it. We identified gaps in the document in the north west and in the North-South dimension. There must be a much stronger all-Ireland focus and a North-South dimension in the context of Brexit. We hear talk about how we cannot unite Ireland with a 50% plus one majority. Rather than open up the Good Friday Agreement and allow it to be entirely rewritten, we should accept that that conversation was had, namely, the democratic will of the people who supported the Good Friday Agreement. We should have confidence in getting buy-in and greater consensus on a united Ireland project, a huge European project of our time with international buy-in. We believe a much stronger focus, an all-Ireland focus, is needed. Symbolic gestures are welcome and necessary but actions speak louder than words. This national development plan does not go far enough on the North-South dimension. I have spoken previously about the failure to address socioeconomic disadvantage. We will be supporting amendment No. 30.

Senator Kevin Humphreys: I am not questioning the length of or the efforts that went into the consultation process by Members of this House, the Dáil and the committee and by members of the public and the local authorities. Every effort was made. We have to learn lessons from the past and particularly from what the country has gone through over recent years. The proposed amendment No. 30 is a good suggestion because it means there will be a final debate on the national plan. I ask Senators to cast their minds back to the introduction of other national plans not so long ago. When a Fianna Fáil-Progressive Democrats plan was drawn up, Tom Parlon put up signs saying "Parlon country" with no understanding of proper spatial planning. This amendment relates to what will happen at the end of the day after the process of consultation. I am delighted that people are starting to learn. I hope Fianna Fáil will support this because we have to learn from the mistakes of previous Fianna Fáil Governments.

Senator Jennifer Murnane O'Connor: Mistakes have been made by all Governments.

Senator Kevin Humphreys: I think this amendment has some merit because it will give Members of the Oireachtas an opportunity to debate the framework after it has been finished but

before it takes its place as a statutory enactment. I ask the Minister of State to take the amendment on board. We need to learn from the past. If both Houses need to debate these matters as part of a belt-and-braces approach to making sure the public understands what is happening, so be it. The review has excellent merit.

On Committee Stage of the climate change legislation that went through under the last Government, I proposed that Ministers should report to each of the Houses of the Oireachtas on an annual basis. That took place recently. Some Ministers are taking that more seriously than others, which is unfortunate, but at least there is an opportunity for both Houses to discuss whether we are reaching our targets and what is going on within the Department.

The Government launched the national planning framework programme - the national plan - in Sligo some months ago. There is a real need for both Houses to have an opportunity to review, debate and consider the progress being made with this national plan and to evaluate whether it needs to be fine-tuned. Something that is designed now will not be as relevant in five years' time. Each plan will have to be considered, reviewed and improved, if necessary, on a regular basis. I ask the Minister of State to accept both amendments. By agreeing the previous amendment, which was proposed by Senator Boyhan, we have legislated to enhance the powers of councillors. These amendments propose to enhance the powers of Deputies and Senators. I ask the Minister of State to accept them.

Senator Paudie Coffey: Having heard the views of various Senators, I want to give an alternative view. I have genuine fears in this regard. My concerns are based on past experience of previous national plans. Senators have mentioned the national spatial strategy, which has been an abject failure. It was diluted too strongly to the point where there was something for everyone in the audience. The Fianna Fáil-led Government that introduced the spatial strategy in the last decade then transposed it by means of other measures, such as the decentralisation plan, which was pulled like a rabbit out of a hat to satisfy political demands rather than to uphold the exigencies of proper sustainable planning involving regional growth areas and a proper hierarchy of planning needs. If we bring that type of thinking to what Senators are now proposing in this amendment, it will affect the current national planning framework, which sets out a clear and definitive hierarchy of priorities and specifies the cities and towns that need to grow and the nature of the rural development that will follow.

I hope the media can take account of the next point I am about to make. Senators can correct me if they think I am wrong in this regard. If we were to bring the current national planning framework before the Seanad and the Dáil, I believe it would be torn to shreds due to the Government's current minority status. I suggest it would be diluted beyond recognition and would no longer be a sustainable planning framework. I do not think it would recognise the hierarchy of the regional cities we need to have in this country. It is quite right that Deputies fight their corner, but if every Deputy wants regional and county towns to have the services to which cities normally aspire, we will not have good planning.

The national planning framework should be adopted by the Government of the day after it has been informed by deep consultation. It is acknowledged by Senators that the Government has been so informed in this instance. There was consultation at every level when the national planning framework was being drawn up. There was consultation at Oireachtas committees and regional assemblies. There were various regional meetings as well. The Government took on board the concerns that were expressed in the various regions. That is why the national planning framework has been broadly welcomed. I do not see anybody being too critical of it. If we

start making the national planning framework a location for the parish pump in the Oireachtas, we will be going down a very bad road. I would love to have everything in the constituency I come from. At the moment, we are fighting for regional services for our hospital. The south east is one of the few regions that does not have 24-7 cardiac care. I do not believe there should be a hospital at every crossroads, or city services at every crossroads.

Senator Jennifer Murnane O'Connor: That does not make sense.

Senator Paudie Coffey: That is what the national planning framework devises. If we are going to bring the national planning framework in here to have it voted on by every Deputy and Senator, it will be torn to shreds. The national spatial strategy that was proposed by Fianna Fáil in the 2000s proved that, as did the subsequent decentralisation programme. It is not good planning and it is not good governance. It would be a retrograde step to introduce such a measure here this evening.

Deputy Damien English: We had a lengthy discussion on this issue previously when various amendments were proposed. I feel a little sympathy for Senator Warfield because he is unable to get in on the action officially. The amendments are pretty much the same, but were dealt with in the Houses at an earlier stage. We went through them and voted on them.

Acting Chairman (Senator Gerry Horkan): He was able to contribute on amendments Nos. 30 and 31.

Deputy Damien English: I am just saying it is fair to recognise that everyone has a problem with this. Some people want a final vote on it. We debated this difficulty at length a few months ago. I was here for that debate. I do not have time to go back over the entire conversation. I ask people to think seriously about how they intend to vote on this proposal. Senator Coffey mentioned a few issues that I would like to go through in detail. This legislation relates to the national planning framework rather than to Project Ireland 2040. Project Ireland 2040 brings together two plans - the national planning framework and the ten-year national capital plan.

Senator Brian Ó Domhnaill: They are separate.

Senator Jennifer Murnane O'Connor: They are separate.

Deputy Damien English: They are separate. Some Senators have discussed matters that are not relevant to this legislation. They are separate. The capital plan part - the expenditure of €116 billion, and probably a few more billion on top of it - is led by the Department of Public Expenditure and Reform. I ask Senators to trust me when I say that Department spends its money wisely. It adheres to all the codes and procedures. The Minister, Deputy Donohoe, and the officials in the Department are very careful in what they do with taxpayers' money. They spend it wisely. They go through all the procedures. The Department does not spend money willy-nilly. There is no political influence. That is not what the Department of Public Expenditure and Reform does. It is very clear on these issues.

The planning framework sets out where we are going from a planning point of view over a period of 20 to 25 years. The capital plan funds some of the infrastructure to go with that. It funds some other things as well. The Department of Public Expenditure and Reform is in charge of the capital money. That money goes through the budgetary process here every year, just like every other euro of taxpayers' money that is spent. I ask Senators not to try to insinu-

ate that there is political inference in this process, because that is not the case. All the proper codes are observed. The Minister, Deputy Donohoe, is very clear on that. As he has outlined, there are other projects he might have wanted to include but he could not do so because they had not gone through all the procedures. I ask Senators to separate Project Ireland 2040 and the national planning framework because they are not the same. Project Ireland 2040 is the document that brings the two together for discussion. There was a launch and so on. Senators are very upset about the launch, but I think it is time for them to get over that, to be honest.

Senator Kevin Humphreys: It should have been held in Carlow.

Deputy Damien English: There are two separate issues at stake here. I remember sitting in the Dáil while Brian Cowen launched the national development plan somewhere else down the road. I understand the annoyance of Senators about that. They need to get over it because it is a separate issue. The issue of the launch is not the same as the planning issue we are talking about. The launch is not the same as the actual process of drawing up the plan. The plan is what is important.

In this legislation, we are setting out a process for formulating that plan. This legislation was not in place when we started the last plan. It is still not in place. Everyone admits that we tried to honour the spirit of it when we launched the plan. Most people here say it is a great plan. Everyone is complimenting the consultation process. I am confused over what the actual argument is about. In the absence of this legislation having been passed, we made sure to honour the spirit of it by going through all the consultation. I will not go back over that again.

Last night Senator Brian Ó Domhnaill made a point about feedback during the process, but he had left the Chamber by the time I addressed it. I said that if we had failed in that process, in the case of the marine strategy we were certainly making sure there would be proper feedback. During the debate on that strategy last night I committed to making sure we would get the feedback loop right. I had thought we had done it right in the last process, but the Senator has doubts in that regard. I was present at all of the meetings throughout the country, at the committee, in this House and everywhere else. I thought we were giving feedback, but perhaps it was not done during the formal process. We will learn from it and make sure the feedback loop is in place for future plans. We will certainly do it in the case of the marine strategy also. We are prepared to learn.

The Senator was not here last night when I made the position clear. He made a charge that the changes made at the end of the national planning framework process were political changes and represented interference at the last minute. That is not true. I watched the changes being developed as they fed through the system. They came from councillors, Deputies, Senators, the thousands of submissions received, the discussions and especially the regional meetings which were not controlled by the Government, local authorities meetings and the committee meetings I attended. The Senator can track them through that process, if he wants to take the time to examine it because I was present at the meetings and know about them. The changes came through in the right way through the consultation process. It was in place because we honoured the spirit of the legislation. It is now being turned into a formal process.

I will deal with the detail of the amendments, but for most of his contribution the Senator spoke about the sponsoring of and having a debate here on amendment No. 30. The amendment refers to having a vote, but in his contribution on it, it was all about having a debate. We have had a debate here and there will be ample time to have further debates on it. I was available, as

was the Minister, Deputy Eoghan Murphy. We had committee meetings and were in this House and the Dáil for statements on the issue. We can come back every week and have a debate on it, if that is what Members want. They are in charge of what is debated in this House. The Senator's amendment requests a vote, not a debate, on the final document. We have had all of the debates Members wanted and I offered to have more, as did the Minister. There was no issue in that regard. I ask Members not to confuse the two issues because there has been no shortage of debate. The legislation proposed encourages debate. The Senator's issue was with a vote on the final document, but in his contribution it was alleged that we had not had a debate. That is not true and it is not what is envisaged for the future. They are two separate matters, namely, having a debate and a discussion and who gets to finally sign-off on the document. There is also a reason for that and I went through it.

The wording of the Bill, as it stands, refers to seeking the approval of the Oireachtas, rather than a vote. Achieving consensus on the content of a national planning framework requires extensive engagement with a spectrum of stakeholders, interests and experts, including in but also beyond the political realm. It is very important that it not just be a political document; it is a planning document for the country and all of the different stakeholders should be involved. I sat in at a workshop this morning and met an advisory group on the new marine strategy and all stakeholders were represented. They are not political; perhaps they are in their own right but they were not there wearing political hats. They were there representing their stakeholders and agency groups. Likewise, the planning framework process provided for the same consultation. It is not just a political document or Members' framework, it is everybody's, the country's, planning document.

Achieving consensus on either a draft, new or revised national planning framework in order for it to be brought before each House of the Oireachtas for approval signifies that an intense and complex engagement process has resulted in a workable document that is fit for approval and implementation. Requiring a vote in each House of the Oireachtas would risk opening up the overall development process to being revisited, triggering potential delays that would have significant implications. Senator Paudie Coffey was right in the point he made. As I mentioned, if we had come here to have a vote on the final document, the chances are we would never have got it finished.

I referenced the Action Plan for Jobs which was introduced five or six years ago, a time most people want to forget, when there was a 16% unemployment rate and it was heading towards 20%. The plan was put in place and turned things around. It did its job and involved hundreds of actions. If we had brought it forward in year one and tried to get consensus on it and held a vote to pass it, in the current set-up where we have a minority Government, it would never have got through. At the time we had to make decisions in the Labour Party-Fine Gael Government to implement and go with it. It was driven by the Government. Everyone would now say it has done its job. The unemployment rate is now down to approximately 5%. That might not suit everybody here, but it is the factual position. If we were to bring forward that plan today under the current working arrangements in the Dáil, we would be here for years trying to get it through and the unemployment rate would continue to move in the wrong direction. That is the danger in that regard.

Likewise, the danger with a planning document like this which is vast and involved a consultation process spanning three or four years with all stakeholders is that we could get stuck in trying to get it through for years with rows over tit-for-tat issues and making little changes here and there. I hope that will not happen because the majority of Members will be responsible

but some will not be. We might never get it through and the country would stand still again or there might be bad planning in certain cases. That is the difficulty in having a vote on the final document. Somebody has to bring it to an end. That is the job of the Government. Governments change, as do political parties in office. I hope that will not happen in the near future, but it might. Governments come and go. We are putting in place a process to get us through the end result on a new planning framework and then the Dáil will discuss it, suggest and make changes to it and pass it for final decision-making by the Government of the day, but somebody has to end the conversation. This House had the chance to debate it and did so. The committee and the Dáil debated it and the Dáil made a decision - I am not sure if it was discussed in this House also - to let the committee do all of the formal work on all of the recommended changes and that happened. The committee went through all of the recommended changes and suggestions and brought a report to the Dáil. It was a cross-party committee, not one controlled by the Government. That was the decision taken by the Dáil, not a majority Government. Members handed the work over to the committee to be done on their behalf. Some of the debate and the detailed discussion took place at committee level because that was the decision that was made. Understandably, the debate could not take place for hour after hour on the floor of the Dáil. It is not true to say we did not have a debate; we had it and there will be further debates in the future because that is guaranteed by the legislation.

The amendment would have implications not only for the national planning framework approval process but also for the possibility of future alignment with the national development plan process which would impact on regional spaces, economic strategies and all statutory land-use plans across the country. It is important to note that the amendment would not apply retrospectively, as the current national planning framework was adopted and published by the Government on 16 February 2018 to replace the national spatial strategy for the purposes of section 2 of the Planning and Development Act 2000, as amended. Therefore, the current national planning framework is on a statutory footing afforded by the provisions of existing legislation and will not be impacted by the introduction of the amendment. I am not trying to ask Senator Brian Ó Domhnaill not to press the amendment because it would affect the current national planning framework because it would not. This is for the future when I might not even be in this position. It is not personal for me, my party or the Government; we are trying to encourage proper planning. I want to be very clear in that regard.

Introducing the amendment would also place new and onerous statutory obligations on the Oireachtas in complying with European environmental law, which requires further legal advice from the Attorney General's office to fully establish the exact role of the Oireachtas and the associated obligations by which each House of the Oireachtas would legally be bound. This is because the amendment would have the effect of making Dáil Éireann the designated competent authority for the purposes of considering and approving the environmental report under the strategic environmental assessment, SEA, directive and appropriate assessment under the habitats directive. Moreover, subsequent to a vote, if the national planning framework was to be amended, the Members of Dáil Éireann would be drawn into a very complex legal and scientific area and it might have a whole series of unintended consequences regarding the scope to make or amend policy.

I mentioned this previously in this House and made the offer that if anybody doubted me or wanted further discussion to engage with our officials who would explain the complexities surrounding it. I do not believe anybody took up the offer. If Members are genuine about requesting a vote, before proposing it I suggest they would have taken the advice and realised the

complicated process in which they would be involving this House. That is not our role because we are not the competent planning authority. I do not believe any Member approached me or any of my officials to tease out the matter which is serious. I mentioned it here three or four times, but there was no follow up.

Members need to think deeply about what they are trying to do in requesting a final vote in terms of what they would be taking on. The legislation provides for a vote on the final draft, the publishing of a report and for the Minister to address it. That goes a long way towards ensuring transparency, proper planning, having everybody involved and copper-fastening a procedure, but we are down to a vote on the final document. That would change the game a lot and Members need to think much more about it. I am not sure if that level of thought has been given to the process involved.

I will give an example of something that might happen. Nine Members might want more flexibility in dealing with the issue of one-off housing. It is a popular issue and one with which we tried to deal in the national planning framework. It is also dealt with at European level. It is likely that an appropriate assessment would find this to be seriously problematic, if Members wanted to change it from a habitats directive perspective, thereby triggering complex legal mechanisms, for which the Oireachtas would be entirely responsible. That is one example, but there could be any number, even hundreds. That is what would happen because everybody would feel obliged to come and give their tuppence worth on local issues. We all say we would not do that, but it would happen. We would draw out the process here for a long time and it would also become legally complicated, but I am not sure everybody has taken this on board.

Amendment No. 31 proposes three additional requirements that do not appear to serve any practical purpose and would create an excessively elaborate monitoring and implementation process. I understand the practical reasons behind the suggestion of a review, but I am not convinced that providing for a one-year period would be practical. I understand what Senator Brian Ó Domhnaill is trying to achieve; he is seeking to ensure we will do our job right. I was involved in the process mentioned by Senator Kevin Humphreys, but it involved a Department doing work in a new area. This is a planning framework for 20- or 25-year period and it will be hard to judge its success over six months or one year.

The first requirement in the amendment is to have an annual review of the national planning framework, which is to be laid before the Oireachtas. As a long-term framework, the NPF is not readily amenable to annual review. At a national spatial scale, the change on the ground in terms of outcomes will not be readily apparent on a year-to-year basis, nor will coherent or comparable databases be available to measure a clear national pattern. We have discussed here before a different timeframe and settled on six years. While I acknowledge that the proposal is genuine, a year will not achieve what the Senator wants and would be a cumbersome process to go through. It might not show much in the way of results given that this is a long-term planning framework that we are putting in place. There are local development plans, regional plans and a six-year review to assess all of the work. While we can have a discussion on that in the Houses, I am not convinced much would be achieved by holding annual reviews.

Subjecting a long-term strategy to annual review would embed uncertainty and create a near-constant process of reflection rather than an implementation of the content of the national planning framework. It would be disruptive to the development and implementation of plans and projects at regional and local levels which need certainty over a multi-annual period. In addition, it would not allow sufficient time for meaningful evidence to be gathered to inform the

review process and duplicate the planned monitoring role of the office of the planning regulator which this legislation will establish. It will be the job of the regulator to monitor ongoing plans. In relation to an earlier amendment, for example, I discussed the ability to have variations. All of those changes will come through the regulator which will judge them to determine if they are in order under national planning policy and local or regional plans. It is an ongoing process. That is what Members are voting on, what the legislation is for and what the staff of the regulator will do.

The Bill already provides that the national planning framework will be reviewed every six years, which is a meaningful timeline, in particular for data gathering and the analysis of outcomes. We are doing long-term planning here. It is long-term thinking and rightly so. That is the whole idea of having a national planning framework. The legislation also provides for a six-year review cycle, mindful of the availability of CSO census data every five years and building in a further one-year period for the requisite analysis. As such, there is a logic to what we are trying to do here. We used a great deal of ESRI and CSO data in our planning of targets. The framework is built on data and evidence gathered over a period. It is not built on a whim. It is proper, logical planning based on evidence and involving the various stakeholders who contributed. Therefore, I cannot accept the first part of the amendment as it is contrary to what is already provided for elsewhere in the legislation, meaningless in practical terms and wholly unnecessary in the context of a long-term spatial planning framework. I accept the spirit of what is proposed. I am not trying to criticise what the Senator wants to achieve.

The second part of the amendment appears to be based on a misunderstanding of the legislative meaning of an "appropriate assessment report", which is wholly separate from the public spending code. Appropriate assessment is a process further to the EU's birds and habitats directives whereby certain plans and programmes must be assessed to ensure they do not affect the integrity of an EU-designated habitat or species. It has nothing to do with the public spending code on value for money, which is a different process but must separately apply to the national planning framework in terms of general outcomes. To link the two in legislation, as proposed based on an erroneous presumption, would be a serious mistake and cannot be accepted.

The third part of the amendment proposes a factual clarification, the inclusion of which in primary legislation is unnecessary and would be better addressed by way of a note or definition in the preamble to the legislation. It is therefore unnecessary although it can be dealt with elsewhere. I must, therefore, oppose amendments Nos. 30 and 31. I hope Members understand that I am trying to be genuine. We have discussed this before and I opened the door for people to have discussions with officials to prove it is not a political desire on my part to avoid this. There are solid and logical planning reasons behind it, which I hope Senators will accept and vote accordingly.

Senator Brian Ó Domhnaill: I am disappointed, to say the least, at what the Minister of State has said. He appears to be trying to paint the picture that there is some misunderstanding on our part regarding these amendments. I assure him that there is no misinterpretation. Project Ireland 2040 was published by the Government and no Member of the Oireachtas outside Fine Gael or the Independent Alliance was invited to contribute.

Deputy Damien English: That is not true.

Senator Brian Ó Domhnaill: It is true.

Deputy Damien English: The Senator's colleagues were there.

Senator Brian Ó Domhnaill: Only Fine Gael and the Independent Alliance were involved. It is not the people's plan, it is a political one. Until the Government gets buy-in from the Houses, it will continue to be that way. It was a grave mistake. To give an example, neither of the two Fianna Fáil Deputies in the Sligo-Leitrim constituency was invited to the launch. While one of them turned up, he was not invited, which was not right. Of course the two programmes are linked. It is not true to claim the ten-year capital expenditure programme and the national planning framework are in some way separate. The Government's documentation and the foreword provided by the Minister of State's line Minister state categorically that they are intertwined, which they are.

Deputy Damien English: For clarification, I clearly stated they were launched together and they are linked. I am referring here to the legislation, which deals with the national planning framework and is not related to the capital plan. I ask the Senator not to mix up my words. This is a serious issue. They are not linked in this legislation, which is what I said to the Senator at the start. I cannot be clearer than that. They are not linked. This has to do with planning law, not capital expenditure.

Senator Brian Ó Domhnaill: I accept fully what the Minister of State just said, but on page 45 of the legislation, at subsection 2(b), he will note that the national infrastructure priorities to address the strategic development requirements referred to in paragraph (a), which is the national planning framework, are included. As such and irrespective of what the Minister of State says, this is the only opportunity we have to raise our concerns. They are intertwined and interlinked. It is like day following night. Independent economists and professors in some of our leading universities in the Republic have stated that. It is not just me. I do not buy into the idea that, as the Minister of State says, we would be here for years if we had to have a debate in both Houses. That is very disingenuous having regard to the Deputies and Senators in these Houses and it takes them for parish pump fools. I do not accept that.

Deputy Damien English: The Senator said that.

Senator Paudie Coffey: We saw that with decentralisation.

Senator Brian Ó Domhnaill: We are here for the good of the country and we are raising issues of national importance. I acknowledge that everyone has his or her own priorities and I am not for one moment suggesting that any Member of the Oireachtas would vote against the plan in any event because it is a good plan and it concerns the future of the country. If the Government had full confidence in the plan, it would have no difficulty putting it before both Houses for a vote. If the evidence based approach to which the Minister of State referred in his contribution were a matter of fact, he would have absolutely no difficulty allowing both Houses to vote on the plan. I am not sure what the fear factor is here. There are gaping holes in the plan, some of which relate to the Minister of State's own county and were raised with me by members of Meath County Council. These include the absence of recognition for major towns like Ratoath and Ashbourne. These are matters we want to raise and it is not about delaying the plan. Why not take the month of August or September to debate the plan here? There is nothing to stop us if we want to do it. Let us have a five or ten-day debate.

Deputy Damien English: We were all here last year too.

Senator Brian Ó Domhnaill: Absolutely. It could be done at other times. For example,

the Seanad does not sit on Mondays or Fridays and nor does the Dáil.

Deputy Damien English: That is not a problem. The Houses are open.

Senator Brian Ó Domhnaill: We do not have to delay anything here. There are ways around it. The charge was made against other plans which were introduced, including the national spatial strategy introduced by a Fianna Fáil Government at the time, that they were political plans. How can that charge be levelled with any sense of reality when the same charge will be levelled at this plan if the Government does not accept the amendment? There is no parliamentary buy-in with this plan and it is the wrong approach to take. If the Government wants to move forward, if this is such a great plan and if it really is evidence based, the Minister of State would subscribe to the vote and look at reviewing the NPF sooner than in six years' time.

The Minister of State mentioned that the Department of Public Expenditure and Reform has a major input on the capital expenditure side, which it does. I welcome that as I welcome the excellent work the Department does in that context. The Department is a leading authority across Europe in some of the work it has done. I acknowledge that it was under Deputy Howlin, when he was Minister for Public Expenditure and Reform, that the best of that work was carried out. The one-year review, which I requested, is a very simple review. The information is already available within the Department of Public Expenditure and Reform because the tracker system has already been set up. It is just a matter of debating the tracker system and all the current projects under Project 2040. I do not see the difficulty in having an annual review. With a six-year period, two Governments, perhaps even three, could come and go. We are looking at 2026 before there will be a review of the national planning framework. We would be about 35% of the way into the project before there is a review. That is wrong. If we are moving along the wrong path on any element of the programme, it would be too late to try to make corrections. I do not agree with the Minister of State. There is no need to move in the direction in which he is moving. We should have the debate. All Members of both Houses would be very responsible and would wear the Irish jersey on this issue. It is not just about our county but about our country. We all have a right as parliamentarians, whether Deputies or Senators. Our constituencies are national. Most Senators in the House have a national constituency base and we want to raise those concerns validly here. This is not about delaying a plan. No one wants to see a cent delayed for the plan. If the implementation of the plan is in 2020, there is loads of time because we are in the middle of 2018. There is loads of time. It is not about delaying the plan; it is about giving the plan absolute democratic scrutiny. It is about democratic accountability, stakeholder buy-in and having all political parties and none subscribe to this plan.

I will return to the situation in Sligo. It was the wrong thing to do. It was very wrong to exclude Members of the Seanad and Dáil from that launch. It turned into a political launch. The Minister of State can correct that by accepting this amendment today. I appeal to the Minister of State. If there is any element of the wording of the amendment that he does not agree with I am happy to look at it but I appeal to him to accept it in the interest of democracy and buy-in for this very crucial plan for the future of our country. It would also give recognition to the officials who worked on the drafting of the plan and the work they did. This is not about one person's plan or one party's plan; it is the country's plan. Let us have the country's Parliament debate the plan properly so all can see. I do not think there is any difficulty with that.

Amendment put:

The Seanad divided: Tá, 21; Níl, 18.

Tá	Níl
Black, Frances.	Burke, Colm.
Boyhan, Victor.	Burke, Paddy.
Clifford-Lee, Lorraine.	Butler, Ray.
Conway-Walsh, Rose.	Buttimer, Jerry.
Daly, Paul.	Byrne, Maria.
Devine, Máire.	Coffey, Paudie.
Gallagher, Robbie.	Coghlan, Paul.
Higgins, Alice-Mary.	Conway, Martin.
Horkan, Gerry.	Hopkins, Maura.
Humphreys, Kevin.	Lawlor, Anthony.
Mac Lochlainn, Pádraig.	McFadden, Gabrielle.
Mullen, Rónán.	Mulherin, Michelle.
Murnane O'Connor, Jennifer.	Noone, Catherine.
Nash, Gerald.	O'Donnell, Kieran.
O'Sullivan, Grace.	O'Mahony, John.
O'Sullivan, Ned.	O'Reilly, Joe.
Ó Céidigh, Pádraig.	Reilly, James.
Ó Domhnaill, Brian.	Richmond, Neale.
Ó Donnghaile, Niall.	
Warfield, Fintan.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Jennifer Murnane O'Connor and Brian Ó Domhnaill; Níl, Senators Gabrielle McFadden and John O'Mahony.

3 o'clock

Amendment declared carried.

An Cathaoirleach: Before I move on to amendment No. 31, I have two very pleasant tasks to announce. First, I have been asked to welcome the Ballygarvan historical society from Cork to the Chamber. Senator Buttimer has a particular interest in that group.

Visit of Australian Delegation

An Cathaoirleach: I welcome a group of parliamentarians from Australia led by Mr. Scott Ryan, President of the Senate. In the Australian Parliament, like Ireland, the Upper House is more important than the other one.

On my behalf and on behalf of my colleagues in Seanad Éireann, I extend a very warm welcome to them and wish them every success in their visit to Ireland. The Leader will endorse

that.

Senator Jerry Buttimer: As Leader of the House, I welcome the Australian delegation. It is very important we acknowledge their presence and congratulate them on their recent historical achievement regarding marriage equality. I commend them on their bravery.

I welcome my friends from Ballygarvan to the House. They are very welcome.

An Cathaoirleach: I thought the good Leader was congratulating the Australians for beating us in Brisbane last week.

Senator Jerry Buttimer: No.

Planning and Development (Amendment) Bill 2016: Report Stage (Resumed)

An Cathaoirleach: We will now move on to amendment No. 31 in the name of Senator Ó Domhnaill and others. It arises out of committee proceedings. It has already been discussed with amendment No. 30 so cannot be discussed again.

Senator Brian Ó Domhnaill: I move amendment No. 31:

In page 46, line 34, to delete "revised."." and substitute the following:

"revised.

(10) The Government shall cause a copy of an annual review of the revised or new National Planning Framework to be laid before each House of the Oireachtas for consideration and debate and shall cause a copy to be sent to the relevant Oireachtas Committee.

(11) In this section 'Appropriate Assessment Report' includes that the Public Spending Code (2013) appraisal toolkit and value for money criteria be followed and implemented, prior to any announcement, in respect of all relevant public spending decisions under the auspices of the National Planning Framework.

(12) In this section 'relevant Oireachtas Committee' means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to which has been duly assigned the role of examining matters relating to environment and planning (other than the Committee of Public Accounts or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a sub-committee of such a relevant Oireachtas Committee."."

Senator Jennifer Murnane O'Connor: I second the amendment.

Amendment put:

The Seanad divided: Tá, 19; Níl, 17.	
Tá	Níl
Black, Frances.	Burke, Colm.
Boyhan, Victor.	Burke, Paddy.
Clifford-Lee, Lorraine.	Butler, Ray.
Conway-Walsh, Rose.	Buttimer, Jerry.

Daly, Paul.	Byrne, Maria.
Devine, Máire.	Coffey, Paudie.
Gallagher, Robbie.	Coghlan, Paul.
Higgins, Alice-Mary.	Conway, Martin.
Horkan, Gerry.	Hopkins, Maura.
Humphreys, Kevin.	Lawlor, Anthony.
Mullen, Rónán.	McFadden, Gabrielle.
Murnane O'Connor, Jennifer.	Mulherin, Michelle.
O'Sullivan, Grace.	Noone, Catherine.
O'Sullivan, Ned.	O'Donnell, Kieran.
Ó Céidigh, Pádraig.	O'Mahony, John.
Ó Domhnaill, Brian.	O'Reilly, Joe.
Ó Donnghaile, Niall.	Richmond, Neale.
Warfield, Fintan.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Jennifer Murnane O'Connor and Brian Ó Domhnaill; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared carried.

Government amendment No. 32:

In page 47, between lines 3 and 4, to insert the following:

"Amendment of section 28 of Principal Act

10. Section 28 of the Principal Act is amended by—

(a) substituting the following subsection for subsection (1C):

"(1C) Without prejudice to the generality of subsection (1), guidelines under that subsection may contain specific planning policy requirements with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply.",

and

(b) inserting the following subsection:

"(1D) A strategic environmental assessment or an appropriate assessment shall, as the case may require, be conducted in relation to a draft of guidelines proposed to be issued under subsection

(1).”.”.

Amendment agreed to.

Senator Kevin Humphreys: On a point of order, I want to give Senator Coffey an opportunity to correct his statement to the House where he accused a majority of Senators of being parish-pump politicians. In fairness, I do not think the Senator meant it in that manner but it came out that way. This is in the context of our new politics and respect for Cabinet confidentiality where we have the Minister for Transport, Tourism and Sport, Deputy Ross's office ringing around councillors telling them of the new unannounced boundaries, which I find disappointing.

An Cathaoirleach: Senator Humphreys is going well beyond a point of order. I will not let Senator Coffey back in. I am ruling it out. It is not a point of order.

Senator Paudie Coffey: I must have an opportunity to respond to Senator Kevin Humphreys. That is on the record.

An Cathaoirleach: It is not a point of order.

Senator Paudie Coffey: On a point of order,-----

An Cathaoirleach: Briefly, the Senator is entitled to his view but I want to put this to bed.

Senator Paudie Coffey: It is not a view. On a point of order,-----

An Cathaoirleach: I am saying the other Senator is entitled to his view.

Senator Paudie Coffey: -----there was reference to statements that were ascribed to me. That was not what I had said and the record will prove that.

An Cathaoirleach: Okay.

Senator Paudie Coffey: For the record, and I think I deserve this opportunity, I stated that we were debating a national planning framework and we should not allow that framework to be torn asunder and brought back into parish-pump politics like previous national planning frameworks.

An Cathaoirleach: Senator Coffey's point is noted. Amendment No. 33 in the name of Senator Grace O'Sullivan arises out of committee proceedings.

Senator Grace O'Sullivan: I move amendment No. 33:

In page 47, between lines 3 and 4, to insert the following:

“**Amendment of section 28 (Ministerial guidelines) of Principal Act**

10. Section 28 of the Principal Act (as amended by section 2 of the Planning and Development (Amendment) Act 2015) is amended by the insertion of the following subsection after subsection 1C:

“(1D) Where the Minister is considering issuing or amending guidelines which contain specific planning policy requirements, they shall be put to public consultation and subsequently, a draft of the

guidelines shall be laid before both Houses of the Oireachtas, and the guidelines shall not be issued or amended as the case may be, until a resolution approving the issuing or amending of the guidelines has been passed by each House.”.”.

At the request of the former Minister, Deputy Kelly, the 2015 Act included a power for the Minister to issue binding directions without consultation. He immediately used it to establish maximum housing standards which local authorities cannot improve upon - an unacceptable situation. On Committee Stage, my proposal to delete that power was rejected. At this Stage, I propose that this significant power be subject to checks and balances by requiring that the specific planning policy requirements be put to public consultation and that the guidelines they are contained in be approved by each House of the Oireachtas.

Senator Fintan Warfield: I second the amendment.

Senator Kevin Humphreys: I support the amendment. These powers were introduced - Senator Coffey was a Minister of State in the Department - for good reasons. We were starring down what has become the housing crisis and it was to try to get the building of houses started within the country. At this stage, we are still struggling to get built the volume of new houses that is badly needed.

However, there is a need for such checks and balances. With such checks and balances, we have had further changes used by the Minister which have delayed the building of new homes across the country because of uncertainty that if there is enough pressure put on the Minister one can get yet another change. Even when the most recent change was made by the Minister, Deputy Eoghan Murphy, there were cries from the builders and the developers seeking even further changes and delaying developments. The latest changes brought in by the Minister, Deputy Eoghan Murphy, delayed housing starts as most developers sought new planning permissions and let the old ones wither. There is a strong need for the checks and balances with respect to the 2015 Act and I very much support Senator Grace O’Sullivan’s amendment.

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): Senator Grace O’Sullivan’s amendment relates to section 28 of the Planning and Development Act 2000, which currently provides that planning authorities shall have regard to guidelines issued by the Minister in the performance of all their planning functions such as determining planning applications, enforcement and forward planning. The amendment proposes to insert a new section 28(1D) which states: “Where the Minister is considering issuing or amending guidelines which contain specific planning policy requirements [SPVRs, pursuant to section 28(1C)] they shall be put to public consultation and subsequently, a draft of the guidelines shall be laid before both Houses of the Oireachtas”. The amendment further provides “the guidelines shall not be issued or amended as the case may be, until a resolution approving the issuing or amending of the guidelines has been passed by each House”.

Section 28(1C) enables the Minister in preparing statutory planning guidelines to distinguish between advisory or general commentary, on the one hand, and specific planning policy requirements to be applied by planning authorities in the performance of their planning functions, which requirements generally flow from wider settled policy, regulatory and operational requirements. I am opposing this amendment because it is impractical and unworkable in a manner that would defeat the purpose of preparing planning guidelines in the first place, which is to give guidance to planning authorities on the many varied and constantly changing types of

issues that have to be grappled with on a day to day basis in the performance of their planning functions.

Senator Grace O'Sullivan's amendment would subject all cases of guidelines with SPVR-type content to an elaborate process of political scrutiny as well as public consultation, which would very significantly delay or even frustrate the rapid development and dissemination of advice that local authorities themselves frequently request. Senator Humphreys made the point that people would wait. Likewise, if one were to go through a big long process with this provision, one could have the same delays and they might also result in the putting off of proposed developments. There are pluses and minuses in terms of that space.

The need for such mandatory type guidance arises in many contexts, some being of a highly operational and time-bound nature, as in the frequent guidance produced by my Department in dealing with illegal quarries, under the provisions of section 261A, some years ago, and for which members of Senator's Grace O'Sullivan's party had pressed hard. If the Senator's provisions were enforced at that time, then the rapid development and deployment of guidance with SPVR-type content would have been delayed for months, to the detriment of citizens expecting effective enforcement of illegal quarries. In other cases where SPVR-type provisions were involved, as in the recently updated Department guidelines or where strategic environmental assessment type issues may arise, the Department engages in public consultation before the final guidelines are issued.

Therefore, the approach to developing guidelines and the need for engagement and public consultation on them is, in our view, best determined on a case-by-case basis, having regard to the individual circumstances in question, rather than being bound by a rigid requirement to submit them to an excessively elaborate vetting process before they are issued. It is for this reason that I oppose the amendment.

Acting Chairman (Senator Catherine Noone): Does the Senator wish to respond?

Senator Grace O'Sullivan: I accept what the Minister of State said but we are talking about doing something in a timely fashion. I understand we are in a housing crisis and that the planning process needs to move on in many cases. It is not just about being timely it is also about being appropriate. As this amendment is about doing something in terms of housing standards that I believe is appropriate, I will press it.

Deputy Damien English: The Senator proposes putting this process in place for essential interventions but some of them do not require that lengthy public consultation. We have shown, on the record, that when it was needed we have done that but on the need to intervene quickly, which the Minister has the ability to do at present, that would change if we were to include the Senator's amendment. I am not sure it will achieve what she is trying to achieve.

Amendment put:

The Seanad divided: Tá, 8; Níl, 22.	
Tá	Níl
Black, Frances.	Burke, Colm.
Conway-Walsh, Rose.	Burke, Paddy.
Humphreys, Kevin.	Butler, Ray.
O'Sullivan, Grace.	Buttimer, Jerry.

Ó Céidigh, Pádraig.	Byrne, Maria.
Ó Domhnaill, Brian.	Coffey, Paudie.
Ó Donnghaile, Niall.	Coghlan, Paul.
Warfield, Fintan.	Conway, Martin.
	Daly, Paul.
	Gallagher, Robbie.
	Hopkins, Maura.
	Lawlor, Anthony.
	Leyden, Terry.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Mahony, John.
	O'Reilly, Joe.
	O'Sullivan, Ned.
	Richmond, Neale.
	Wilson, Diarmuid.

Tellers: Tá, Senators Frances Black and Grace O'Sullivan; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

An Cathaoirleach: Amendment No. 34 has already been discussed with amendment No. 6.

Government amendment No. 34:

In page 47, between lines 3 and 4, to insert the following:

"Amendment of section 31 of Principal Act

11. Section 31 of the Principal Act is amended, in subsection (1), by—

(a) substituting the following paragraph for paragraph (a):

"(a) a planning authority, in making a development plan, a variation of a development plan, a local area plan or an amendment to a local area plan (in this section referred to as a 'plan') has failed to—

(i) implement a recommendation made to the planning authority by—

(I) the Minister under section 12, 13 or 20, or

(II) the Office of the Planning Regulator under section 31AM or 31AO,

or

(ii) take account of any submission or observation made to the planning authority by—

(I) the Minister under section 12, 13 or 20, or

(II) the Office of the Planning Regulator under section 31AM or 31AO,".

(b) inserting the following paragraph:

"(ba) a plan is not consistent with—

(i) the national and regional development objectives set out in the National Planning Framework and the regional spatial and economic strategy, or

(ii) specific planning policy requirements specified in guidelines issued by the Minister under subsection (1) of section 28,".

(c) substituting the following subsection for subsection (3):

"(3) (a) The Minister may, following the making of a recommendation by the Office of the Planning Regulator under subsection (9) of section 31AN or subsection (9) of section 31AP, give a direction under this section to a planning authority in relation to a plan.

(b) The Minister shall, before giving a direction under this section to a planning authority, issue a notice in writing to the planning authority of his or her intention to give such direction and such notice shall not be issued after the expiration of 4 weeks from the making of a plan by the planning authority.".".

Amendment agreed to.

An Cathaoirleach: Amendment No. 35 has already been discussed with amendment No. 20.

Senator Grace O'Sullivan: I move amendment No. 35:

In page 47, between lines 29 and 30, to insert the following:

"(2) Section 34 of the Principal Act is amended by inserting the following subsection after subsection (2):

"(2A) A planning authority shall, unless a derogation from the provisions of the Water Framework Directive has been granted, refuse permission for any project which may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the Water Framework Directive.".".

Senator Fintan Warfield: I second the amendment.

Senator Grace O'Sullivan: This amendment is designed to reflect the findings against Germany on compliance with the water framework directive in the European Court of Justice in case C-461/13 decided in July 2015. The Court of Justice of the European Union was asked what obligations the water framework directive imposes on a public authority in deciding on an application that could have an impact on a water body. The example before the court was the dredging of parts of the River Weser in Germany. The court decided that a public authority could not grant consent for development that may cause deterioration of the status of a body of surface water or jeopardise the attainment of good surface water status or good ecological potential and good surface water chemical status by the date laid down by the directive. This is already European law and it is very clear. As such, it is something which Ireland is required to achieve through our planning system. As legislators we must ensure that we give effect to EU law in our national legal systems. When local authorities consider their functions they look first not at the case law of the European Court of Justice but at the Planning and Development Act 2000, especially section 34. We as legislators must play our part in ensuring that we implement the Water Framework Directive and thereby protect water bodies from pollution. That is why it is vital that we put this important and clear legal obligation into the planning code.

Deputy Damien English: Senator Grace O'Sullivan's amendment is much the same as the one she tabled on Committee Stage to insert a requirement in the planning code that planning applications be refused where the proposed development would be contrary to the Water Framework Directive because it might cause a deterioration in water quality or the status of water quality and thereby jeopardise the attainment of good chemical status of water as required under the directive. As outlined in my response on Committee Stage, while Senator Grace O'Sullivan's amendment is well intentioned, I am opposing the amendment because the Water Framework Directive 2000/60/EC is already given general effect in section 1A of the Planning and Development Act 2000, as amended. More specifically, the Water Framework Directive is also given effect in relation to the forward planning functions of planning authorities by way of section 10(2)(*cb*) of the principal Act relating to the content of development plans.

I also draw the Senator's attention to the commitment given by the Department in the publication, Public Consultation on the River Basin Management Plan for Ireland, 2018 to 2021, to prepare a high-level guidance document for planning authorities on the relationship between physical planning and river basin management planning for the purpose of the development of river basin management plans under the Water Framework Directive. In that regard, my Department published the river basin management plan for Ireland in April of this year. One of the plan's objectives over the period 2018 to 2021 is that my Department will deliver guidance for planning authorities on physical planning and the Water Framework Directive, which will contribute to the protection of waters from deterioration arising from inappropriate future development. Support and technical guidance will also be produced, which will ensure that best environmental practice is applied where alterations to surface waters are undertaken.

Following on from the publication of the national river basin management plan my Department has already scoped out the development of this detailed guidance which will assist planners in their plan making and development management roles as well as developers and other stakeholders in the planning process. It has been recognised that external, expert consultancy support will be required to assist in the preparation of the guidance and in the completion of the project. As such, consultancy services have been procured by a public tender process and the successful consultants have been confirmed in recent weeks. The work to prepare this guidance

will commence soon and it is expected that the guidance will be published in 2019. Training for planning authorities in the application of the guidance will also be necessary following on from the guidance. The preparation of this guidance will include input from the County and City Management Association, the Department of Agriculture, Food and the Marine, the Environmental Protection Agency, Inland Fisheries Ireland, Irish Water and the National Parks and Wildlife Service, as well as the Office of Public Works and other key stakeholders, as required. In preparing the guidance, consideration will also be given to relevant recent developments at EU level, including guidance recently published by the EU Commission concerning derogations from the provisions of the Water Framework Directive under Article 4(7) of the directive. In this regard it is acknowledged that new legislative processes may be required to facilitate the possibility of applying derogations from the Water Framework Directive in accordance with Article 4(7) where justified.

Given the integration of the requirements of the Water Framework Directive at a more fundamental level in the planning Act, it is unnecessary at this time to make this amendment. It would also be premature to do so pending the completion of my Department's work on the proposed guidance for planning authorities on the consideration of risks to river basis management plan objectives in plan making and development management. I therefore oppose this amendment.

Amendment put and declared lost.

Amendment No. 36 not moved.

Acting Chairman (Senator Catherine Noone): Amendments Nos. 37 and 41 are related and will be discussed together by agreement.

Government amendment No. 37:

In page 50, between lines 29 and 30, to insert the following:

"Revocation or modification of planning permission for certain reasons

15. The Principal Act is amended by inserting the following section:

"44A. (1)The Minister may, upon the request of the Minister for Justice and Equality, the Minister for Foreign Affairs and Trade or the Minister for Defence and with the approval of the Government, make an order revoking or modifying a grant of permission under this Act if he or she is satisfied that—

(a) the carrying out of the development to which the grant of permission relates is likely to be harmful to—

(i) the security or defence of the State, or

(ii) the State's relations with other states,

and

(b) the revocation or modification concerned is necessary in the public interest.

(2) The Minister may, before making an order under this section, consult with—

(a) the planning authority that granted the permission concerned,

(b) the person to whom the permission was granted, or

(c) any other person who, in the opinion of the Minister, is likely to be materially affected by the making of such order,

but shall not so consult if he or she considers that to do so would be harmful to the security or defence of the State or to the State's relations with other states.

(3) This section shall apply to permissions whether granted before, on or after the passing of the *Planning and Development (Amendment) Act 2018*.

(4) Where an order is made under this section, the planning authority that granted the permission to which the order relates shall, within such period as may be specified in the order, serve—

(a) a notice in writing on—

(i) the person to whom the permission concerned was granted, and

(ii) any other person specified in the order,

informing him or her of the revocation or modification effected by the order, and

(b) a notice in writing—

(i) in the case of development commenced but not completed, on any person carrying out the development in respect of which the permission was granted, or on whose behalf such development is being carried out, requiring him or her to cease the development and restore the land, on which the development concerned is being carried out, to the condition it was in before the development commenced, or

(ii) in the case of development completed, on any person who carried out the development, or on whose behalf the development was carried out, requiring him or her to restore the land, on which the development concerned was carried out, to the condition it was in before the development was commenced.

(5) A person on whom a notice is served under paragraph (b) of subsection (4) shall comply with the notice.

(6) (a) The Minister shall, as soon as practicable after the making of an order under this section, give a copy of the order to the planning authority that granted the permission to which the order relates.

(b) A planning authority shall, as soon as practicable after the copy of an order has been given to it in accordance with paragraph (a), give a copy of the order to—

(i) the person to whom the permission to which the order applies was granted, and

(ii) any other person the Minister may direct.

(7) A permission to which an order under this section applies shall, upon the making of the order, stand revoked or modified, as may be appropriate, in accordance with the order.

(8) Any development carried out in contravention of an order under this section shall be an unauthorised development.

(9) Where the Minister makes an order revoking an order under this section—

(a) the second-mentioned order shall, for all purposes, be deemed never to have been made, and the register shall be amended accordingly, and

(b) the period between the making of the second-mentioned order and the first-mentioned order shall not be reckonable for the purpose of calculating the period since the granting of the permission.

(10) The Minister shall not, in relation to a permission, make an order under this section if the period since the grant of the permission exceeds 5 years.

(11) The making of an order under this section shall be recorded in the register as soon as may be after it is made.

(12) (a) Any proceedings before a court relating to an order under this section shall be heard *in camera*.

(b) A court before which proceedings relating to an order under this section are heard shall take all reasonable precautions to prevent the disclosure—

(i) to the public, or

(ii) where the court considers it appropriate, to any party to the proceedings,

of any evidence given or document submitted for the purposes of the proceedings, the disclosure of which, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.

(c) Without prejudice to the generality of paragraph (b), precautions referred to in that paragraph may include—

(i) the prohibition of the disclosure of such evidence or documentation as the Court may determine, and

(ii) the hearing, in the absence of any person or persons including any party to the proceedings, of any evidence or the examination of any witness or document that, in the opinion of the Court, could reasonably be considered to be harmful to the security or defence of the State or to the State's relations with other states.".".

Deputy Damien English: This proposed amendment to the principal Act to include a new

section 44A has arisen from recent discussions with the Departments of Justice and Equality, Defence and Foreign Affairs and Trade, where it was considered that some provision should be made for the Minister, following the decision by Government, to be able to revoke or modify a granted planning permission where the carrying out of the development of the given permission would likely be harmful to the security or defence of the State, or the State's relations with other states, and where the revocation or modification concerned would be necessary in the public interest.

While it is envisaged that this power would only be invoked in very rare and extreme cases, it is considered that such options should be available to the Government and Minister to take proportionate and justifiable action where the national interests outweigh the personal rights of the individual or entity who has secured permission which is assessed to be a threat or unacceptable risk to the State.

The proposed section provides a number of safeguards, including consultations, where appropriate, with those impacted by the revocation order including the person or entity to whom the permission was granted, the planning authority that granted the permission concerned, or any other person who in the opinion of the Minister is likely to be materially affected by the making of any such order; notification to the person or entity concerned of the order to revoke or amend the planning permission, although such orders may not specify the reason for the revocation if detrimental to national security; and limiting such orders to permissions only granted within the five years prior to the order being made.

Any development carried out in contravention of an order under this section shall be an unauthorised development and there is further provision for an order to require any person carrying out development works to cease such works and restore the property to the condition it was in before the development works commenced. There are also avenues for affected parties to appeal such orders, through the courts, but given the national security nature of the rationale for issuing such an order, the draft provision ensures that all reasonable precautions are taken to prevent the disclosure of information that could harm or undermine the security or defence of the State including the conducting of hearings *in camera*.

These draft provisions supplement the existing provisions in section 44 of the planning Act empowering planning authorities to revoke or modify planning permissions granted where it is considered expedient and necessary to do so.

There is a further consequential amendment to section 195 of the principal Act to include a reference to the new section 44A in this section, which relates to the payment of compensation in the case of a permission being revoked or modified. Under this section, where the person who has an interest in the land on which the permission was granted has incurred expenditure or entered into a contract to incur expenditure in respect of works which are rendered abortive by the revocation or modification, he or she can seek compensation in respect of reasonable expenditure incurred prior to the order being made.

Overall, these amendments in relation to the revocation or modification of planning permissions for stated reasons in the interests of national security or defence, or the State's relations with other states, are considered to be reasonable and appropriate incorporating necessary checks and balances for any affected parties.

Senator Fintan Warfield: I wish to take a firm stand against this extremely significant

amendment. While Sinn Féin is not opposed to measures that protect the security of the State, the proposal is very wide-ranging in scope. I cannot see how such a decision would even be appealed. I also do not think it is appropriate to propose such an amendment at this Stage given the significant and profound change involved. We have expressed concern about the increased powers provided to the Minister since the introduction of the Bill and that entire approach has been informed by the Mahon tribunal report. We are very concerned at the scope of the power it is proposed to give the Minister and the appeals process. Given the significant scale of the proposed amendment, Sinn Féin will not support it.

Deputy Damien English: When one reads the amendment closely and goes through the detail it does not in any sense accord an untrammelled power to the Minister. That is not what we are trying to do. I accept one might be concerned about handing over too much power to the Minister. The Minister can only make an order under this section having been requested to do so by the Ministers for Justice and Equality, Foreign Affairs and Trade and Defence. Moreover, that can happen only with the approval of the Government. It is not that the power is given to any one individual Minister. It is a Government decision and it involves three or four Departments as well. That is clearly set out.

Furthermore, as it is normal for a person affected to have recourse to the courts in respect of such a decision, the provisions in the proposed section 44A(12) are designed to ensure that the conduct of the court proceedings would not of themselves cause damage to the vital national interests that the order has sought to protect. That is simply common sense given the nature of the issues at hand. Of course it is a matter solely for the courts to decide on the provision of disclosure of evidence or documents or other precautions that would be taken in the course of proceedings. The courts operate independently subject only to the Constitution and the law. These precautions serve as much to protect the interest of the person or body challenging the order as they serve the national interest.

It is proposed to amend section 195 of the Act of 2000, which deals with compensation, to ensure that it applies to the proposed section 44A. Certainly, the idea is not to give extreme powers to the Minister. The order is brought forward by the Department of Justice and Equality, the Department of Foreign Affairs and Trade and the Department of Defence for good reason. It is brought through the Government as well. I accept the measure has been brought in at a late stage and I cannot argue with that point, but I appeal to Senators to bear in mind that it is a matter of national security. That is why we are putting it in. Certainly, the precautions are there to ensure that it is not abused.

Amendment put:

The Seanad divided: Tá, 22; Níl, 7.	
Tá	Níl
Boyhan, Victor.	Black, Frances.
Burke, Colm.	Conway-Walsh, Rose.
Burke, Paddy.	Devine, Máire.
Butler, Ray.	Ó Domhnaill, Brian.
Buttimer, Jerry.	Ó Donnghaile, Niall.
Byrne, Maria.	O'Sullivan, Grace.
Coffey, Paudie.	Warfield, Fintan.

Coghlan, Paul.	
Conway, Martin.	
Daly, Mark.	
Daly, Paul.	
Gallagher, Robbie.	
Hopkins, Maura.	
Horkan, Gerry.	
Lawlor, Anthony.	
McFadden, Gabrielle.	
Noone, Catherine.	
O'Donnell, Kieran.	
O'Mahony, John.	
O'Reilly, Joe.	
Richmond, Neale.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Gabrielle McFadden and John O'Mahony; Níl, Senators Rose Conway-Walsh and Fintan Warfield.

Amendment declared carried.

Government amendment No. 38:

In page 51, between lines 19 and 20, to insert the following:

"Amendment of section 50B of Principal Act

16. Section 50B of the Principal Act is amended—

(a) in paragraph (a) of subsection (1), by—

(i) substituting "statutory provision" for "law of the State",

(ii) deleting "or" in clause (II),

(iii) substituting "applies, or" for "applies; or" in clause (III), and

(iv) inserting the following clause after clause (III):

"(IV) paragraph 3 or 4 of Article 6 of the Habitats Directive; or",

and

(b) inserting the following subsection: "(6) In this section 'statutory provision' means a provision of an enactment or instrument under an enactment.".".**Deputy Damien English:** Sec-

tion 50B of the Planning and Development Act 2000 provides for the special legal costs rules set out in sections 2 and 4 of Article 9 of the UN Aarhus Convention as applying to access to justice in environmental litigation, whereby independent judicial review proceedings challenging decisions, acts or omissions subject to the public participation provisions of the convention must not be prohibitively expensive.

Section 50B applies this requirement by providing that, in litigation of this type challenging decisions, etc., made under enactments giving effect to provisions of the environment impact assessment directive and two other directives, the strategic environmental assessment and the industrial emissions directives, each party to the proceedings shall, generally speaking, bear its own costs and may be entitled to costs from the losing party if the former wins. A party to proceedings may also be awarded costs in cases of exceptional importance and where it is in the interest of justice. Section 50B extends beyond the Planning and Development Act 2000 and regulations made thereunder to cover other relevant environmental legislation.

On foot of recent advice from the Office of the Attorney General, amendment No. 38 makes two substantive changes to subsection (1) of section 50B of the 2000 Act. The first substantive change is the substitution of new text in paragraph (a)(i) of the amendment, which removes the possibility that the provision could be interpreted as meaning that the special cost rules apply to challenges to decisions, etc., made under any provision of an Act that includes a provision giving effect to one of the three EU directives specified in the subsection. In this connection, the revised wording makes it clear that the special legal costs rules apply only to challenges to decisions, etc., made under a legislative provision that itself gives effect to one of the three EU directives concerned. This amendment also involves the insertion of a new subsection (6) in section 50B, clarifying the meaning of the term "statutory provision" that is being inserted into subsection (1).

The second substantive change to section 50B(1) is set out in paragraph (a)(iv) of the amendment and implements the November 2016 ruling of the European Court of Justice in the Brown Bears II case that the special costs rules under the Aarhus Convention apply to challenges to decisions, actions or omissions made under statutory provisions giving effect to provisions of a fourth EU directive, that is to say, paragraphs 3 and 4 of Article 6 of the habitats directive relating to appropriate assessment. The effect of the amendment is to apply the section 50B special legal costs rules to those elements of legal challenges to relevant statutory consents, including planning permissions, that are grounded in arguments relating to the requirement for, and carrying out of, appropriate assessment under the requirements of the habitats directive in respect of the projects concerned.

Similarly, Part 2 of the Environment (Miscellaneous Provisions) Act 2011 applies the special legal costs rules set out in sections 3 and 4 of Article 9 of the UN Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters to legal challenges aimed at securing enforcement of statutory provisions relating to the environment that are specified in section 4(4) of the 2011 Act. These special legal costs rules effectively provide that legal challenges on relevant environmental matters shall not be prohibitively expensive for members of the public or environmental organisations.

On the advice of the Office of the Attorney General, amendment No. 51 makes a substantive change to the existing special legal costs provisions by inserting two new paragraphs in subsection (4) of section 4 of the 2000 Act. In this regard, this insertion is aimed at implementing the November 2016 ruling of the European Court of Justice in the Brown Bears II case to the

effect that the special costs rules under the Aarhus Convention shall apply to challenges to decisions, actions or omissions made under statutory provisions giving effect to paragraphs 3 and 4 of Article 6 of the habitats directive relating to appropriate assessment. The effect of the amendment is to extend the provisions of section 4 of the 2011 Act, first, to consents for which a screening for appropriate assessment is required under regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 and, second, to consents and notices issued under regulation 43 of those regulations relating to the giving of consent for plans or projects for imperative reasons of overriding public interest, referred to as the IROPI process, notwithstanding that the plan or project will likely have an adverse impact on an important habitat that has been designated for protection or earmarked for such designation.

4 o'clock

I should add that my colleague, the Minister for Communications, Climate Action and Environment, Deputy Naughten, is drafting the heads of a Bill to apply the requirements of the Aarhus Convention in a single piece of legislation. Senators will have the opportunity for a fuller debate on Ireland's obligations under the Aarhus Convention when the Bill comes before the House.

Senator Grace O'Sullivan: These amendments are about the very important issues of access to justice in environmental matters. They are intended to give effect to the Aarhus Convention. Unfortunately, I do not think they do so as well as they should or may be intended. Important aspects of the environmental and legal regime are being altered by Report Stage amendments with no information about the changes in advance and no opportunity for public input into the changes. This goes against the Aarhus Convention, in particular Article 8.

I am concerned about the substances of the changes in that they do not go far enough and do not take into account recent decisions of the Court of Justice of the European Union which are binding on the Minister. For example, the Minister of State proposes to maintain the reference in the Environment (Miscellaneous Provisions) Act 2011 to compliance failures which have caused, are causing or are likely to cause damage to the environment, despite the European Court of Justice holding in the recent North East Pylon case that such a derogation is not possible as a matter of EU law. This clause means a civic minded individual or organisation seeking to ensure the implementation of the law has an unnecessary and unlawful hurdle to jump before he or she can avail of the costs protections which we have legally committed to as a member state of the European Union and as a party to the Aarhus Convention.

The practical consequences for many is that they cannot take the risk of litigation or, at their own expense, prove damage beyond a reasonable doubt. I am sure the Minister of State would agree that where the law has been developed or clarified by the European Courts he is bound to take the earliest opportunity available to bring legislation into compliance in the interests of legal certainty so that the public can know precisely what their rights are.

It is welcome that the amendments are providing clarity in extending the cost provisions to the habitats directive. However, the references in the amendment seem to restrict the costs provisions to only some elements of the directive. I would like the Minister of State to explain this. For example, it seems that there would be no cost protection for a litigant seeking to ensure the implementation of the provisions for the protection of species in Articles 12 to 16, inclusive, of the directive or raising issues relating to the ministerial direction under regulation 28 of the birds and natural habitats regulations. Is my reading of this correct? Is this the intention of the Minister?

Senator Kevin Humphreys: There is a sense of nervousness in respect of the amendments the Minister of State is proposing. I would have far preferred to have an opportunity to discuss and debate them in detail on Committee Stage. To be honest, it is not clear to me what the Minister of State trying to achieve. My fear is that a citizen who wishes to uphold his or her rights will be prevented from seeking justice through the courts due to costs. Can the Minister of State allay those fears? Can he give me a practical example of how the amendments would affect a citizen who is trying to protect his or her rights and would not impose unjust costs on him or her? If one cannot afford to seek justice through the courts, one cannot access it.

Bringing in what I consider to be far-reaching amendments at this stage without the due rigour of consideration on Committee Stage is not good practice. I would like the Minister of State to provide a practical example. I am sure he has asked his officials how the amendment will impact on a citizen who is trying to uphold the environment or his or her rights. I am anxious to hear his response and I ask him to provide a down-to-earth, practical example.

Deputy Damien English: A decision on changes in the north east has yet to be made. It will probably be dealt with in the legislation being brought forward by the Minister, Deputy Naughten. As I said, we will have a lengthy discussion on the Bill brought forward by the Minister.

On whether we are reflecting the most recent changes of the European courts, we are trying to deal with the most recent change in 2016 and make the position stronger and clearer. I do not have an example of a case relating to concern expressed by Senator Humphreys, but I will get one for him. I do not think we are restricting anyone's abilities-----

Senator Kevin Humphreys: The Minister of State is asking about-----

Deputy Damien English: We are not creating a restriction. The Senator asked me to give an example. This will not damage anyone's opportunity; rather, it is the opposite. I do not share the Senator's concerns. I cannot give him an example of his concerns. He can outline how he thinks people will be affected. I do not think we are affecting people's rights by inserting this amendment. It will be part of the legislation being brought forward in respect of the European directive.

Acting Chairman (Senator Diarmuid Wilson): Is the amendment agreed? Agreed.

Amendment agreed to.

Government amendment No. 39:

In page 51, between lines 28 and 29, to insert the following:

"Amendment of section 169 of Principal Act

18. Section 169 of the Principal Act is amended—

(a) in subsection (8), by inserting "any specific planning policy requirements contained in guidelines under subsection (1) of section 28," after "the provisions of the housing strategy,", and

(b) by inserting the following subsection:

"(8A) (a) A planning scheme that contains a provision that contravenes

any specific planning policy requirement in guidelines under subsection (1) of section 28 shall be deemed to have been made, under paragraph (b) of subsection (4) of section 169, subject to the deletion of that provision.

(b) Where a planning scheme contravenes a specific planning policy requirement in guidelines under subsection (1) of section 28 by omission of a provision in compliance with that requirement, the planning scheme shall be deemed to have been made under paragraph (b) of subsection (4) of section 169 subject to the addition of that provision.”.”.

Acting Chairman (Senator Diarmuid Wilson): This amendment arises out of committee proceedings.

Deputy Damien English: Amendment No. 39 will amend section 169 of the principal Act to clarify that planning decisions in strategic development zones, SDZs, shall be bound by specific planning policy requirements set out in ministerial planning guidelines. Consistency of policy approaches and practices in dealing with planning applications is a key requirement for the planning process to function effectively. Statutory planning guidelines issued by the Minister under section 28 of the principal Act are an important national policy instrument to give guidance and ensure greater consistency of approach across all local authorities. Recent amendments to the principal Act in 2015 have strengthened the scope within the publication of such guidelines to distinguish between advisory policy requirements and specific mandatory policy requirements under the provisions of section 28(1C) of the Act.

In such circumstances, where the Minister indicates in planning guidelines issued by him or her under section 28(1C) that the content of such guidelines is a specific planning policy requirement, SPPR, then local authorities must mandatorily apply these, even where their development plans might indicate otherwise. Section 28(1C) has been used sparingly but has been highly effective in bringing about more consistency in the planning system, such as in the case of the previously and increasingly disparate minimum standards specified by local authorities in regard to apartments and housing types generally, which was leading to confusion and increasing costs in residential delivery between different local authority areas.

However, some local authorities with approved planning schemes in Government-designated SDZs - some are in Dublin and there is one in my county - have questioned whether section 28(1C) applies in respect of such areas, pointing to the provisions of section 170 (2) of the principal Act which requires that no permission shall be granted for any development which would not be consistent with such an SDZ planning scheme.

In light of this, it is proposed to clarify that, similar to decisions on planning applications in a wider policy context, the decision of a planning authority in respect of an SDZ application is similarly bound by the provisions of section 28(1C), and that in addition to taking on board the requirements of such schemes, the planning authority also has to take on board relevant statutory guidelines, including the application of any specific planning policy requirements under section 28(1C), even where the requirements of an SDZ planning scheme might differ.

Acting Chairman (Senator Diarmuid Wilson): Is the amendment agreed?

Senator Kevin Humphreys: In respect of the Poolbeg West SDZ, the local planning authority increased the requirement for social and affordable housing above the regulated 10% figure. Will this be recognised under this amendment or is there a possibility of inserting in the

planning guidelines the recognition of a local authority to increase the number of social and affordable houses above the 10% currently outlined in the SDZ? Will this amendment allow that or could the amendment be expanded to allow the local authorities the power to expand beyond the 10% in an SDZ where there is a proven need for and shortage of housing?

Deputy Damien English: In this case, the amendment specifically relates to the SPPR process that we discussed earlier. That is what I understand. It has to be the Minister's decision. As regards local authorities having that power, it would need to be the other way around, that the Minister would make an SPPR recommendation and guidance.

Senator Kevin Humphreys: Could the Minister of State clarify what he is saying? Does this control reduce the power of the Minister to not sign off on the SDZ if the local authority's condition is not included in An Bord Pleanála's decision on the SDZ? It is a reserve function of the Minister?

Deputy Damien English: This amendment relates to the SDZs. There is some confusion whether when a section 28(1C) is used there is a specific planning policy requirement. There is a confusion whether it is relevant in an SDZ area. There have been consultations between local authorities and our Department over the past few months about this. This will bring clarity to that matter to say that it does. If an SPPR is issued by the Minister, it takes effect in an SDZ zone as well as other zones.

Amendment agreed to.

Senator Grace O'Sullivan: I move amendment No. 40:

In page 52, between lines 18 and 19, to insert the following:

"Amendment of section 179 of Principal Act

22. Section 179 of the Principal act is amended by inserting the following subsection after subsection (2):

"(2A) The regulations to be made under subsection (2) shall provide that the information to be made available in accordance with subsection (2)(b) (ii) and subsection (2) (c) shall be at least as detailed as that which would be required for a planning application for the same development.".".

Senator Kevin Humphreys: I second the amendment.

Senator Grace O'Sullivan: This amendment aims to respond to a problem with Part 8 applications in some local authorities. The Green Party contends that Part 8 applications which are for local authority owned developments should contain as much information as ordinary planning applications. I ask the Minister of State to accept this amendment. At least as much detail should be available for public developments as there is for private ones. This is clearly consistent and makes common sense.

Senator Kevin Humphreys: In seconding the amendment, I recognise that local authorities do a public consultation process on Part 8 planning which is also important and informs the planning process. To be honest with the Minister of State, he needs to talk to a lot of the local authorities on Part 8 planning. Part 8 planning would be an excellent way to deal with the housing crisis rather than the rapid build because this is where local councils can recognise that

there is a specific problem in housing within their area. The local authorities should be using their powers and we often hear them saying they do not have enough powers. Part 8 planning gives them the power to fast track the building of housing in local authority areas rather than going for these newfangled planning processes of 100 units. This is much more transparent than the application that can be made to An Bord Pleanála for 100 units or more because in Part 8 planning there is a process, public consultation and a vote in the council. However, I recognise that there should be the same onus in terms of giving information to the public as in an ordinary planning application. I, for one, wish to see Part 8 planning used a lot more.

Deputy Damien English: Senator Grace O'Sullivan also raised this issue on Committee Stage. It relates to section 179 of the principal planning Act which in association with Part 8 of the planning regulations sets out the arrangements for approval by local authorities of own development proposals on social housing, local roads, libraries and community facilities, etc. This amendment proposes to insert a new subsection 2A in section 179 of the planning Act to provide that regulations made under that section shall require a local authority, when notifying prescribed bodies or providing information to the public, on any local authority own development proposal, and that the information provided shall be the same as required if the proposed development was subject to a planning application. It is important to note that the Part 8 process is not the same as an application for planning permission but is rather a notice of intention to undertake a proposed development, which is ultimately subject to the approval of the elected members. In any event, the Part 8 provisions already set out the procedure to give public notice of, and ensure the public and prescribed bodies are consulted on, any such proposed developments and inviting submissions on any such proposed developments. The councillors have full control over that and full sign off on a Part 8, so if there is any doubt in terms of information there are no better people than councillors to make sure that is addressed. I consider that the current Part 8 requirements are sufficient in this regard and on this basis, I do not consider the amendment is necessary and, as on Committee Stage, I oppose it.

On the use of Part 8, I agree with Senator Humphreys that Part 8 could be used more often to move developments forward. Rapid build is a form of construction but it is often used as a term to describe projects that are getting stuck in the planning system. Part 8 could and should be used and local authorities, in taking control of addressing the housing shortage in many areas, should be able to use Part 8. Some have used it quite well and I engage with local authorities most weeks and in fairness councils have been adhering to their responsibilities quite well and trying to bring Part 8 through, in many cases, in co-operation and consultation with the local community because housing developments are often being brought in to brownfield or greenfield sites. The councils are doing their job quite well, but Part 8 should be used more often because it will speed up the process and help us to solve the housing crisis.

Amendment put and declared lost.

Government amendment No. 41:

In page 53, between lines 13 and 14, to insert the following:

"Amendment of section 195 of Principal Act

23. Section 195 of the Principal Act is amended by inserting the following subsection:

"(3) This section shall apply to an order made under section 44A subject to—

(a) the modification that references to planning authority shall be construed as references to the Minister, and

(b) any other necessary modifications.”.”.

Amendment agreed to.

Senator Grace O’Sullivan: I move amendment No. 42:

In page 53, between lines 17 and 18, to insert the following:

“24. Section 208 of the Principal Act is amended in subsection (1) by deleting:

“in force on the commencement of this section”.”.

Senator Kevin Humphreys: I second the amendment.

Senator Grace O’Sullivan: This amendment seeks to maintain rights of way referred to in a development plan. Currently, the legislation only requires maintenance of those rights of way listed in the plans at the time when the section was commenced. As interpreted by Dún Laoghaire-Rathdown County Council, for example, the obligation to maintain does not apply to any rights of way listed subsequently. The Green Party finds this illogical and is thus seeking to amend that provision with this amendment.

Deputy Damien English: This amendment by Senator Grace O’Sullivan proposes the deletion of the phrase “in force on the commencement of this section” from section 208(1) of the principal Act of 2000. In this regard, section 208(1) requires that a public right of way shall be maintained by the planning authority where: a public right of way is created pursuant to this Act, or a provision in a development plan in force on the commencement of the section relates to the preservation of a public right of way. The reference in section 208(1) to “a provision in a development plan in force on the commencement of this section” was a transitional provision in the principal Act which was intended only to apply to such development plan provisions relating to public rights of way which were in force at the time of the commencement of section 208 in January 2002. While I understand the intentions of Senator Grace O’Sullivan’s amendment, I am of the view that her amendment is neither warranted nor appropriate as it appears to seek to introduce the ability to make planning authorities responsible and liable for maintaining historic public rights of way which have not been created pursuant to this Act, and which are not therefore the responsibility of planning authorities. Consequently, I do not propose to accept this amendment to the 2000 Act on the basis that it would, if adopted, oblige planning authorities around the country to become liable for the maintenance of numerous historic public rights of way going across private property which they have not created, with all the potentially significant funding and resource issues and potential legal liabilities that would ensue. For these reasons, I must, therefore, oppose this amendment.

Amendment put and declared lost.

Government amendment No. 43:

In page 53, between lines 17 and 18, to insert the following:

“Amendment of section 246 of Principal Act

24. Section 246 of the Principal Act is amended—

(a) in subsection (1), by substituting the following paragraph for paragraph (d):

"(d) the payment—

(i) to local authorities of prescribed fees in relation to applications for grants of licences under section 231 or certificates of safety under section 239, and

(ii) to planning authorities of prescribed fees in relation to any consultation or advice under section 247, and",

and

(b) in subsection (3), by substituting the following paragraphs for paragraph (a):

"(a) Where, under regulations under this section, a fee is—

(i) payable to a planning authority by an applicant in respect of an application to which paragraph (a) or (e) of subsection (1) applies, or

(ii) payable to a local authority in respect of an application to which subparagraph (i) of paragraph (d) of that subsection applies, a decision in relation to the application shall not be made until the fee is paid.

(aa) Where, under regulations under this section, a fee is payable to a planning authority by a person in respect of—

(i) a request to which paragraph (c) of subsection (1) applies, or

(ii) a consultation or advice to which subparagraph (ii) of paragraph (d) of that subsection applies,

the planning authority shall not—

(I) give the declaration, or

(II) provide the consultation or advice,

as may be appropriate, until the fee is paid.".".

Deputy Damien English: Amendment No. 43 inserts a new section in the Bill which proposes to amend section 246 of the principal Act, which contains the enabling provision for the Minister to make regulations for the payment to planning authorities of prescribed fees for a range of services provided. In this regard, under section 247 of the principal Act, before making a planning application, a person may request a pre-planning application consultation with the relevant planning authority in order to have initial discussions on a proposed development. Such consultation meetings are offered as a service by planning authorities for the purpose of ensuring that a proposed development is in accordance with the proper planning and sustainable development of the area and for providing advice regarding a proposed planning application. In certain circumstances, such consultations are mandatory. Under the new fast-track planning arrangements for strategic housing developments, developers must consult the relevant planning authority regarding such proposed developments before they commence engagement with An Bord Pleanála. Section 24 of this Bill proposes to require mandatory pre-planning application consultations with planning authorities in respect of housing schemes of ten or more units and

commercial developments with a gross floor area of 1,000 sq. m or more. Currently, there is no legislative basis for planning authorities to charge a fee for the purposes of such informal pre-application consultation meetings. It is a free service, in essence, at the moment.

Given that such consultations may involve input from local authority planning, roads, water and housing services, depending on the scale of the proposed development, it is proposed to provide that planning authorities may charge a fee for consultations held in this regard, with the rate of the fee being proportionate to the type of proposed development. I refer, for example, to strategic housing developments, smaller scale housing, commercial developments or other forms of development. In the first instance, this requires an amendment to section 246 of the principal Act to be amended to provide that the Minister may prescribe fees to be paid to planning authorities for consultations held under section 247. I am providing for this in amendment No. 43. A subsequent supporting amendment to the 2001 planning and development regulations, in which other planning related fees are prescribed, will be required to provide for the fees which should apply.

Senator Kevin Humphreys: I have no problem with the introduction of fees for pre-planning consultation meetings. This consultation mechanism assists the introduction of good and strong planning permissions. I would be anxious for the fees to be set at a manageable level, especially in the case of small developments. They should not act as a disincentive for small infill developments in the city. I ask the Minister of State to watch that carefully.

I have been involved in several planning processes in Dublin city. Planning information meetings are available in Dublin City Council for residents. In many cases, residents do not want to object to developments. They often simply want their views to be taken on board at an early stage. I know of cases in which simple changes in the orientation of windows would have prevented observations that were made on planning applications going to An Bord Pleanála. By making provision for a community consultation mechanism in the case of a development of ten or more units, we can speed up the process. I accept the Minister of State's amendment. I suggest that a little more thought might help to bring about a quicker process, especially in cases of infill developments, which can be problematic. I ask the Minister of State to take that on board.

Amendment agreed to.

Government amendment No. 44:

In page 56, between lines 12 and 13, to insert the following:

"Amendment of Seventh Schedule to Principal Act

29. The Seventh Schedule to the Principal Act is amended by inserting the following:

"*Communications and Data Infrastructure*

5. Development comprising the following:

A facility consisting of one or more than one structure, the combined gross floor space of which exceeds 10,000 square metres, used primarily for the storage, management and dissemination of data, and the provision of associated electricity connections infrastructure.".".

Deputy Damien English: This amendment, which proposes to introduce a new classifica-

tion of "communications and data infrastructure", will allow data centres above a specified size threshold to be designated as strategic infrastructure development in the Seventh Schedule to the Planning and Development Act 2000, as amended. In effect, this will allow planning applications for qualifying data centres to avail of the fast-track planning arrangements that apply to strategic infrastructure development under the planning Act.

The existing fast-track arrangements for the determination of planning applications for strategic infrastructure developments were introduced in 2006. These arrangements relate to proposals for specific forms of strategic development, including energy infrastructure like power plants and oil refineries, transport infrastructure like airports, ports and motorways, environmental infrastructure like waste disposal installations and wastewater treatment plants, and health infrastructure like hospitals.

Data centres are essential infrastructure for the operation of companies in the digital economy. Many leading global players in this sphere are already operating in this country. Accordingly, such centres are an increasingly important aspect of our foreign direct investment package. Their presence here significantly enhances our reputation as a location for foreign investment. We recently saw the consequences of delays in obtaining planning permission for a substantial high-profile data centre project in the west of Ireland. We saw the subsequent further delays arising from court challenges to the planning permission for the data centre project in question.

In light of this recent case, and having regard to their strategic national and regional economic significance in terms of jobs and investment, the Government has approved the inclusion of data centres with a gross floor space in excess of 10,000 sq. m within the planning arrangements for strategic infrastructure developments. This will allow a more streamlined one-stage direct application process to An Bord Pleanála instead of the general current two-stage process involving initial application to the local authority concerned, with the possibility of a subsequent appeal to An Bord Pleanála. This process can take anything from eight to nine months and in some cases up to two years.

To supplement the proposal regarding data centres, it is proposed, subsequent to the enactment of this Bill and under the provisions of section 37J(5) of the planning Act, to prescribe in regulations a mandatory maximum timeframe for the determination of planning applications in respect of data centres by An Bord Pleanála. This will give project promoters greater planning certainty about the timelines for the determination of such planning applications. These proposed arrangements with regard to data centres are part of a wider package of measures being developed, including the streamlining of the judicial review of strategic infrastructure projects generally. These measures will be proposed later this year in the next planning Bill.

I hope Senators on all sides of the House can support and accept this important amendment, which relates to the inclusion of data centres under the planning arrangements for strategic infrastructure developments. It sets out clearer timelines. People will still have an opportunity to raise concerns and have their objections dealt with. We need to bring more certainty to key parts of the development of infrastructure.

Senator Kevin Humphreys: I have a certain amount of concern. What happened in the case of the proposed Apple data centre in the west of Ireland was totally wrong. It probably robbed key infrastructure and jobs from that area. I am conscious that we could have a knee-jerk reaction to what happened in that case.

These data centres are huge consumers of energy. We have problems regarding climate change. Most data centres are offshore. Ireland is an offshore data centre for Europe. While I do not intend to object to this amendment, I suggest the Government needs to think more deeply about how we use our energy output in Ireland. A serious cost-benefit analysis is needed.

We will have to meet tough climate change regulations in the coming decades. We need to look at the energy consumption and carbon footprint of the infrastructure we develop in Ireland. Such factors need to be considered when infrastructure is being planned. I advise the Minister of State to be cautious. I will not object to this amendment because I agree that what happened in the case of the Apple centre was incorrect. We need a far more wide-ranging strategy for energy use and carbon emissions within our borders. As I have said, it is going to get much tougher to reach the targets we have set for ourselves and the EU has set for us. We have to watch everything.

Senator Paudie Coffey: I welcome this amendment. We need to learn from the Apple case in the west of Ireland. The Minister of State did not name the company involved, but I am happy to do so. The delays in that case were such that the proposed communications and data infrastructure did not ultimately go ahead. I believe this was a loss to Ireland Inc. and to the Irish economy.

I appreciate the concern expressed by Senator Humphreys on the basis that data centres are heavy consumers of energy. In this era of new technologies, we need data centres. If they are not in Ireland, they are going to be somewhere else. I understand they tend to be located here because of the suitability of the cooler Irish climate. Less energy is needed to run data centres in Ireland than in other countries.

At a time when we should be looking at climate change in a global sense, it makes sense to facilitate the installation of data centres in Ireland, where appropriate. Data centres in Ireland use less energy than data centres in locations that are much warmer. We need to learn from the mistakes of the past.

I welcome this amendment, which will help to clarify matters from a planning perspective and will bring certainty. It will allow for the future development of large-scale infrastructure that meets certain criteria. It is not the case that everything and anything will be allowed to go ahead. Proposals for infrastructural development have to meet specific criteria. This amendment brings clarity to the criteria that apply to data centres.

Deputy Damien English: I thank the Senators for their support for this amendment, which we have flagged over many months. We said in 2017 that we would introduce a proposal of this nature on Report Stage as part of our efforts to deal with these issues in this planning Bill. The Government is proceeding with caution in this area, which is under constant review.

Data centres are prioritised by IDA Ireland and the Department of Business, Enterprise, and Innovation, both of which are doing great work to secure investment and jobs for this country. Data centres are recognised as key infrastructure in supporting companies that are located here. The companies in question are creating a lot of employment here and will continue to do so into the future. They have been well looked at. They are being prioritised as part of national policy. As part of this process, we need to be fully aware of the level of energy use associated with them. Each application is subject to an environmental impact assessment, EIA, and an energy consumption assessment as well. In many cases, the proposals include suggestions on

energy production, which is important. Senator Humphreys made the point that as a country we have to decide where we will use our energy resources. We are determined that data centres are a key part of our offering and they are a major part of the IDA's work. All Departments are monitoring the issue.

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Government amendment No. 45 arises out of committee proceedings. Amendments Nos. 45 to 48, inclusive, are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 45:

In page 56, between lines 22 and 23, to insert the following:

"(b) by inserting the following definition:

" 'shared accommodation' means a building or part thereof used for the provision of residential accommodation consisting of—

(a) communal living and kitchen facilities and amenities shared by the residents, and

(b) bedrooms rented by the residents,

but does not include student accommodation or a building, or part thereof, used for the provision of accommodation to tourists or visitors;",

(c) in the definition of "strategic housing development"—

(i) by inserting the following paragraph after paragraph (b):

"(ba) development—

(i) consisting of shared accommodation units that, when combined, contain 200 or more bed spaces, and

(ii) on land the zoning of which facilitates the provision of shared accommodation or a mixture of shared accommodation thereon and its application for other uses,",

(ii) by substituting the following paragraph for paragraph (c):

"(c) development that contains developments of the type to which all of the foregoing paragraphs, or any two of the foregoing paragraphs, apply, or",

(iii) by inserting ", (ba)" after "(b)" in paragraph (d),

(iv) in paragraph (i), by—

(I) substituting "houses, student accommodation units, shared accommodation units or any combination thereof" for "houses or student accommodation units, or both, as the case may be,",

and

(II) by inserting "or shared accommodation" after "within student accommodation",

(v) by substituting "or shared accommodation" for ", or both, as the case may be," in clause (I) of paragraph (ii), and

(vi) by inserting "or shared accommodation" after "student accommodation" in clause (II) of paragraph (ii),

(d) by inserting the following definition:

" 'student accommodation'—

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use—

(i) as permanent residential accommodation, or

(ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,

and

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times;",".

Deputy Damien English: Amendments Nos. 45 to 48 amend section 3 of the 2016 Act to include "shared accommodation" in the definition of strategic housing development, which was originally introduced in the 2016 Act.

This requires consequential amendments to sections 5, 8, and 13 of the 2016 Act to incorporate shared accommodation within the established strategic housing development provisions. Shared accommodation is a form of residential accommodation that is increasingly common in other countries, but is relatively new in Ireland and has been recently enabled by the publication of updated statutory planning guidelines on apartments by the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy. Demand for this form of accommodation is expected in larger urban areas, in particular in city centre areas where an increasingly professional and internationally mobile workforce and other smaller households such as single persons seek a high quality managed and serviced rental accommodation solution which, in addition to living accommodation, provides shared facilities and amenities such as catering areas, work stations, communal areas and facilities that residents can work and use either for personal or social purposes.

As a result of the publication of the recently revised apartment guidelines and other actions under Rebuilding Ireland, there is a growing level of interest and activity in developing apartment schemes, including shared accommodation type schemes, especially through the fast-track planning arrangements for strategic housing developments, SHDs, allowing the submission of

planning applications directly to An Bord Pleanála. However, as the shared accommodation concept is a relatively new accommodation format in Ireland, which was not envisaged at the time the legislation on the strategic housing developments was being drafted in 2016, the definition of residential developments admissible to the An Bord Pleanála fast-track SHD process needs to be widened. At present, the SHD application can only be made in a special development containing houses, apartments and student accommodation above specified thresholds. It is therefore proposed to add to the definition of strategic housing development in order that the new shared accommodation formats can be considered by the planning process, particularly the new fast-track planning process.

Senator Kevin Humphreys: What proof does the Minister of State have that there is a demand for this type of shared accommodation, other than the case being made by developers? This type of shared accommodation is basically student accommodation for adults. A recent survey found that adults do not want to share accommodation when they reach the age of 25 years to 30 years. Professionals, building workers, clerical workers, bank officials and so forth want to live in their own accommodation. They do not want to share accommodation but to have accommodation that allows them to live independently. I have not seen any factual studies or know of any demand for so-called shared living. It is popular among the upper echelons, so to speak, among people who may work in New York or London from Monday to Friday and travel home to their country residence for the weekend. There is no great demand for shared accommodation, yet the Government is proposing to provide for it in planning legislation.

The Minister for Housing, Planning and Local Government repeatedly states that decisions will be evidence based. Where is the evidence of demand for shared accommodation? Is it what the developers who have been knocking on the doors of the Custom House want? The profits from this type of accommodation would be very good but I am not sure people in our cities want to live in shared accommodation for the foreseeable future.

I object to the amendments. If the Minister or Minister of State has proof, based on studies and in-depth research, that shared living is badly needed in our cities and towns, let him put the evidence on the table and let me read it. I will then support the measures but, as yet, I have not seen any proof for these assertions.

Deputy Damien English: The Minister for Housing, Planning and Local Government, Deputy Murphy, is not proposing that the Government will build such developments with taxpayers' money. This is about people having a choice. Developers will build something if there is a need for it. Our planners and our team in the Department engage with their colleagues from jurisdictions all over the world. I remember when when we proposed our original housing plan two years ago, a proposal was made for different types of rental accommodation, including shared accommodation and shared spaces. It is a popular concept. I cannot show the Senator that there is a major demand for it in Dublin, but we will find out if that is the case.

The provision will allow for shared accommodation. We are not making anybody build or live in such accommodation. It will be a choice and if there is demand for it, people will build it. Similarly, if there is no demand for it, it will not be built and people will not have a choice. Senator Humphreys, a former Minister of State and potentially a future Minister, usually understands that people should be able to choose what form of accommodation they want. We accept there is not enough property in the system today and that cost is an issue. Developments of different shapes and sizes will be built in the years ahead and people will be able to choose what accommodation they want. This is a cost-effective solution to provide accommodation

for people who want to live in Dublin during the working week and go down the country at the weekends. That is their choice and we are giving them a choice. We are not forcing anybody to live in this type of accommodation. I am surprised the Senator is against the Government allowing for it. This is not being done at the behest of developers who are banging on our door. The idea came from within the Department.

Amendment put:

The Seanad divided: Tá, 24; Níl, 14.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Black, Frances.
Butler, Ray.	Boyhan, Victor.
Buttimer, Jerry.	Conway-Walsh, Rose.
Byrne, Maria.	Devine, Máire.
Clifford-Lee, Lorraine.	Freeman, Joan.
Coffey, Paudie.	Higgins, Alice-Mary.
Conway, Martin.	Humphreys, Kevin.
Daly, Mark.	Kelleher, Colette.
Daly, Paul.	Mac Lochlainn, Pádraig.
Gallagher, Robbie.	O'Sullivan, Grace.
Hopkins, Maura.	Ó Domhnaill, Brian.
Lawlor, Anthony.	Ó Donnghaile, Niall.
Leyden, Terry.	Warfield, Fintan.
McFadden, Gabrielle.	
Mulherin, Michelle.	
Murnane O'Connor, Jennifer.	
Noone, Catherine.	
O'Donnell, Kieran.	
O'Mahony, John.	
O'Reilly, Joe.	
Ó Céidigh, Pádraig.	
Richmond, Neale.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Gabrielle McFadden and John O'Mahony; Níl, Senators Kevin Humphreys and Grace O'Sullivan.

declared.

Business of Seanad

An Leas-Chathaoirleach: I call on the Leader to make an announcement.

Senator Jerry Buttimer: Notwithstanding the Order of Business in the Seanad today that proceedings on No. 1 shall be adjourned no later than 5. p.m. and the proceedings on No. 2 shall commence immediately after, I am proposing that we extend the time by 20 minutes to allow for the conclusion at 5.20 p.m. at this stage. If not, we can come back later on.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Planning and Development (Amendment) Bill 2016: Report Stage (Resumed) and Final Stage

Government amendment No. 46:

In page 56, to delete line 32 and substitute the following:

"(b) in subsection (8), by—

(i) substituting ", student accommodation units or shared accommodation units"for "or student accommodation units, or both, as appropriate,", and

(ii) substituting "gross floor spaces" for "internal floor spaces".".

Amendment agreed to.

Government amendment No. 47:

In page 57, between lines 8 and 9, to insert the following:

"(i) by substituting the following subparagraph for subparagraph (i):

"(i) specifying the location of the proposed development and containing a brief description of the proposed development, including a description—

(I) of the number of houses, student accommodation units or shared accommodation units of which the proposed development is intended to consist, and

(II) in the case of student accommodation units or shared accommodation units, of—

(A) the combined number of bed spaces of which the proposed development is intended to consist, and

(B) any other uses to which those units are intended to be put,",".

Amendment agreed to.

Government amendment No. 48:

In page 57, between lines 30 and 31, to insert the following:

"Amendment of section 13 of Act of 2016

35. Section 13 of the Act of 2016 is amended by the deletion of paragraph (d).".Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 49 and 52 to 54, inclusive, are related and may be discussed together.

Government amendment No. 49:

In page 58, between lines 11 and 12, to insert the following:

"Definition

36. In this Part "Act of 2015" means the Urban Regeneration and Housing Act 2015.".

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): This group of amendments relates to the vacant site levy provisions in the Urban Regeneration and Housing Act 2015. As Members will be aware, the 2015 Act introduced the concept of the vacant site levy for the purpose of incentivising the development of vacant and underutilised sites and urban areas for housing and regeneration purposes. It was with the intention of bringing such sites back into beneficial use, ensuring a more efficient return on State investment in infrastructure and helping to counter urban sprawl.

Amendment No. 53 inserts a new section into the Bill to amend the 2015 Act by substituting a new section for the existing section 16 relating to the rate of the levy and provides for three key changes. An increase in the rate of the levy was first signalled in budget 2018. It is proposed to increase the rate of the levy from 3% to 7% of the market valuation of the relevant sites from January 2020, reflecting sites included in the vacant sites register in 2019. The proposed increase aims to ensure the levy will be more aligned with the increase in house price inflation in recent years, thus having a more meaningful impact, while also helping to counter land hoarding. As the increase will not take effect until 2020 for sites on the register in 2019, the amendment also provides advance notice for site owners of the increased levy rate that will be applicable in 2020.

5 o'clock

As mentioned, the 2015 Act provides for a reduced rate of the levy that can be applied in specific circumstances. These arrangements were introduced in different economic circumstances. In light of the improved economic circumstances since the passage of the 2015 Act and for the purposes of further strengthening and tightening the vacant site levy provisions, the second key change is that it is proposed to remove the relevant reduced levy rate provisions in section 16 of the 2015 Act.

It is also proposed to provide that the Minister may, by regulations, vary the levy rate by a reduction or an increase, with the levy rate not to exceed the 7% set out in this legislation. In making such regulations it is proposed that the Minister be required to have regard to increases or decreases in property prices and relevant property related information as published by the Central Statistics Office.

Amendment No. 52 inserts a new provision into the Bill amending section 5 of the 2015 Act. Section 5 contains a definition of a vacant site – for residential and regeneration land, respectively - for the purposes of the application of the levy. The amendment proposed relates to the clarification of what constitutes "vacant and idle" lands for the purposes of the vacant site levy

on residential land. This is to address the situation where developers or land speculators could hoard residentially zoned land and avoid the levy liability by leasing it or putting it to use for a non–residential purpose, for example, farming, by claiming that the land is not vacant or idle for the purposes of the levy. It is proposed that a site on residentially zoned land shall be regarded as vacant if it is "vacant or idle" or if it is not being used primarily for the purpose for which it has been zoned, that is, the provision of housing, where the most recent purchase of the land occurred after it was zoned residential, irrespective of when it was purchased. By differentiating between lands purchased following a zoning change to residential and lands long held and operated as farms, the amendment targets developers or speculators who are hoarding zoned, serviced lands purchased for residential use, while also allowing farmers who have operated their farm for a number of years prior to the rezoning from agricultural to residential to continue to operate the farm without liability to the levy on the basis that no purchase of residentially zoned land was involved. I consider that the amendment is balanced and proportionate and in line with the intention of the levy measure.

The other amendments related to the vacant site levy are of a general or minor nature. Amendment No. 49 inserts a new section into the Bill which is a standard definition provision. Amendment No. 54 inserts a section into the Bill which contains five minor, consequential or miscellaneous amendments to the vacant site levy provisions included in the 2015 Act.

Senator Grace O'Sullivan: The Government amendments implement the following changes which were first recommended in my Derelict and Vacant Sites Bill in February 2017 and the Green Party's Living Cities Bill 2017 which is currently part of the lottery. There will be an increase in the vacant and derelict sites levy to 7%, the removal of the loophole that allows vacant sites in negative equity to hide from the levy and increased transparency in how and why vacant sites are added to the register. I warmly welcome the Government's change of heart on these issues after a long wait during which cities and town centres have been blighted by empty sites and derelict buildings fast becoming rubbish tips.

I point to the following changes recommended in the Green Party Bills that the Government is not implementing and would like to know why. In terms of process it is a pity that I am asking these questions on Report Stage. Why are vacant sites less than 0.05 ha still exempt from the vacant sites levy? That 0.05 ha measurement includes house sites the size of a basketball court, including adjoining gardens. Green Party Councillor Ciarán Cuffe has done a lot of work on sites of this size in the city of Dublin that could accommodate fantastic public housing projects.

Why is there a continued lack of public transparency in the process by which sites are entered into the derelict sites registers? We all know that the levy is not being applied by local authorities and the reasons need to be made public and questioned.

Why is there no incremental increase in the vacant sites levy, as in the Derelict Sites Act? Why is the current local authority power to increase incrementally the derelict sites levy being restricted?

Does amendment No. 50 mean that the derelict sites levy will be reduced to 3% all across the country until 2020, even if it is higher in some local authority areas? We also ask why the increase from 3% to 7% is not being applied until 2020. We have waited too long already for these eyesores of derelict sites to be dealt with. Some derelict buildings have been standing for decades without the payment of levies. The changes being made at the eleventh hour could come back to haunt what overall is a move in a positive direction in dealing with vacant and

derelict sites. I hope the Minister of State will give this issue some more time.

Senator John O'Mahony: Let me clarify a situation in respect of the vacant sites levy. There are different requirements in rural and urban Ireland. In my town of Ballaghaderreen people are receiving letters about vacant sites for which planning permission was never sought. They were used as farmland. When I inquired, I found that there were 352 vacant houses in Ballaghaderreen. Why is there a levy on land that is not needed? It would be totally off the wall if this land was to be developed because there would be no demand for it. Will there be clarity for local authorities or a circular sent to them to the effect that the vacant sites will be geared to meeting the needs of the area? Derelict sites are another issue. I know sites which have been derelict for the past 50 years adjacent to where I live and nothing has happened with them. There is a need for clarity. Legislation such as this should never be a revenue collecting measure. It should be to meet the needs of and enhance local areas, but that is not what the outcome will be, particularly in rural areas.

Senator Kevin Humphreys: I wholeheartedly support the vacant site levy and compliment the former Minister of State, Senator Paudie Coffey, and the former Minister, Deputy Alan Kelly for pressing the issue. Unfortunately, the Attorney General's opinion at the time was that we had to give people a window of opportunity. I certainly wanted the levy to start at a lot more than 3%, but we are beginning to move in the right direction. Especially in urban Ireland, in many town centres, property has been hoarded, not developed. I, therefore, welcome the provision.

Earlier a Senator touched on the following matter. For five or six weeks prior to the referendum I spent every afternoon and evening knocking on doors canvassing as part of the Repeal the Eighth campaign. My companions and I used to play a game of counting derelict houses and the winner was the person with the greatest number. It was difficult to prove that a house was derelict because the roof and windows were intact, but, to us, it was plain to see that no one had lived in a house for many years. When we talked to neighbours on either side of a derelict house, they complained about it affecting their properties in various ways. Will the Minister of State consider including a definition of derelict house as part of the Derelict Sites Act? We have developed a register for vacant homes, some of which I hope will become available again. We need to keep the pressure on in dealing with this matter because there is a huge of number of vacant or derelict houses that could easily be brought back into the housing market. Such a solution will not resolve the housing crisis, but every step taken to reduce it is helpful.

On the vacant sites register, there is a very moderate estimate that Dublin City Council owns sites in the city worth over €64 million. If that figure is correct, we need to call in local authorities to meetings to discuss the matter. Dublin City Council has been very reluctant to publish and, in fact, was late in publishing its list of vacant sites. When one reads the register, one will see that the vast majority of properties are owned by Dublin City Council, the Department of Justice and Equality, Irish Rail, etc. These are lands that badly need to be developed. I have not had time to assess how much property is owned by Fingal County Council and other councils. However, from a quick perusal of their lists, there is a considerable number of vacant sites in local authority ownership. Since 2015, we have been stating we need to build on local authority lands. There must now be a sense of urgency. When one peruses the vacant sites register, one can see the value of the sites owned. I have reached the stage of calling on the chief executive officers to get on with their job or that they will be sacked. In 2015 the then Minister of State at the Department of the Environment, Community and Local Government, now Senator Paudie Coffey, and the then Minister for the Environment, Community and Local Government, Deputy

Alan Kelly, argued strongly in favour of the provision of additional staff in local authorities in order that staff could put together the sites for which planning permission had been granted. Unfortunately, nothing has happened. Excuses only last so long and we need action now. The vacant sites register highlights how much of the State's, or taxpayers', money is tied up in these sites, yet nothing has happened.

I will not oppose the amendment as it moves in the right direction, but I would prefer if it went much further. I have great confidence in the ability of the Minister of State and know that he will consider this matter, as we share the same views on housing. We know that people should stop talking about doing things and just build the bloody things. Clearly, the vacant sites register has highlighted the lack of urgency on the part of local authorities in resolving the matter.

Senator Paddy Burke: I support the point made by Senator John O'Mahony about the vacant site tax. I agree with him that in some towns there are lands that could be developed. Unfortunately, there is an oversupply of houses. Therefore, if there are lands that should be or could be developed, no bank manager in his or her right mind would give funds to develop them, given the oversupply of houses. Where does one draw the line? Let us say there is an oversupply of houses in a town and they cannot be sold owing to a lack of demand. At the same time, the local authority will issue invoices for the collection of the vacant site tax. It is a chicken and egg scenario, one which will recur every year.

Deputy Damien English: The original charge was based on 0.1 of a hectare. As a result of an amendment tabled by Deputy Mick Wallace, it was increased to 0.5 of a hectare. However, the size can be examined again in the future when we will probably fight over what the figure should be.

The charge will kick in from 2019, but the money will only be collected from 2020. It is not the case that the introduction of the tax was delayed. It is simply a matter that we had to give people some time. We know what the Attorney General's advice is. We would all have liked to see the tax being introduced straight away, but it could just not be done.

On sites not being needed, if there is no housing need, the levy cannot be charged. Housing need is part of the requirements one must fulfil to charge a vacant site levy. Therefore, the levy will not be charged in the areas described. Also, if land has always been been used for farming and was purchased before the register was established, it will not be levied. The amendment clarifies the matter, on which guidance notes will be given to local authorities. However, it is a different story if land was purchased by local authorities for residential or development purposes. If someone is genuinely farming and has always been, he or she will be looked after.

Senator Kevin Humphreys: Just de-zone the land.

Deputy Damien English: There is the option of getting land back.

On vacant houses, we totally and utterly want to do more in that space. Vacant office sites are being allocated to local authorities. A lot of work has been done in adopting a carrot and stick approach which works both ways. We need to strengthen the stick, something we are considering.

Amendment agreed to.

Government amendment No. 50:

In page 58, between lines 11 and 12, to insert the following:

"Amendment of section 23 of Derelict Sites Act 1990

37. Section 23 of the Derelict Sites Act 1990 is amended by—

(a) substituting the following subsection for subsection (3):

"(3) The amount of the derelict sites levy shall—

(a) in respect of the local financial year prescribed in accordance with subsection (1), be such amount as is equal to 3 per cent of the market value of urban land concerned,

(b) in respect of any subsequent local financial year falling before the year 2020, be such amount as is equal to—

(i) 3 per cent of the said market value, or

(ii) such other percentage (not exceeding 3 per cent) of the said market value as may stand prescribed for the time being,

and

(c) in respect of the local financial year 2020 or any subsequent local financial year, be such amount as is equal to—

(i) 7 per cent of the said market value, or

(ii) such other percentage (not exceeding 7 per cent) of the said market value as may stand prescribed for the time being.",

and

(b) substituting the following subsection for subsection (4):

"(4) Where it is proposed to make regulations under subsection (3), a draft of the regulations shall be laid before each House of the Oireachtas not later than 3 months before the beginning of the year in which it is proposed that the regulations would come into operation, and the regulations shall not be made unless a resolution approving the draft is made by each such House.".".

Deputy Damien English: The amendment proposes to provide for an increase in the levy that can be applied by local authorities on the owners of sites included in the derelict sites registers kept by local authorities. In that connection, the amendment provides for the substitution of section 23(3) of the Derelict Sites Act 1990 with a revised section incorporating the proposed increased rate of levy, from 3%.

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 51 has already been discussed with amendment No. 38.

Government amendment No. 51:

In page 58, between lines 11 and 12, to insert the following:

"Amendment of section 4 of Environment (Miscellaneous Provisions) Act 2011

38. Section 4 of the Environment (Miscellaneous Provisions) Act 2011 is amended—

(a) in subsection (1), by—

(i) inserting ", notice" after "lease" in paragraph (a), and

(ii) inserting ", notice" after "lease" in paragraph (b),

and

(b) in subsection (4), by—

(i) substituting "Planning and Development Act 2000," for "Planning and Development Act 2000." in paragraph (n),

(ii) inserting the following paragraphs:

"(o) a consent to a plan or project for which a screening for appropriate assessment is required under regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011), and

(p) a consent or notice under regulation 43 of those regulations.".".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 52 has already been discussed with amendment No. 49.

Government amendment No. 52:

In page 58, after line 16, to insert the following:

"Amendment of section 5 of Act of 2015

37. Section 5 of the Act of 2015 is amended, in paragraph (a) of subsection (1), by substituting the following subparagraph for subparagraph (iii):

"(iii) the site, or the majority of the site is—

(I) vacant or idle, or

(II) being used for a purpose that does not consist solely or primarily of the provision of housing or the development of the site for the purpose of such provision, provided that the most recent purchase of the site occurred—

(A) after it became residential land, and

(B) before, on or after the commencement of *section 3* of the *Planning and Development (Amendment) Act 2018*.".".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 53 has already been discussed with amendment No. 49.

Government amendment No. 53:

In page 58, after line 16, to insert the following:

"Vacant site levy

38. The Act of 2015 is amended by substituting the following section for section 16:

"16. (1) The amount of the vacant site levy shall—

(a) in respect of the year 2018, be such amount as is equal to 3 per cent of the market value of the vacant site determined in accordance with section 12, and

(b) in respect of the year 2019 and every subsequent year thereafter, be such amount as is equal to—

(i) 7 per cent, or

(ii) such other percentage (not exceeding 7 per cent) as may stand prescribed, for the time being, by regulations, of the market value of the vacant site determined in accordance with section 12.

(2) The Minister shall, in prescribing a percentage for the purpose of subparagraph (ii) of paragraph (b) of subsection (1), have regard to changes in the value of property and the Residential Property Price Index published by the Central Statistics Office.

(3) Where regulations under subparagraph (ii) of paragraph (b) of subsection (1) are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas not later than 3 months before the beginning of the year in which it is proposed that the regulations shall come into operation, and the regulations shall not be made unless a resolution approving the draft is passed by each such House.".".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 54 has already been discussed with amendment No. 49.

Government amendment No. 54:

In page 58, after line 16, to insert the following:

"Miscellaneous amendments of Act of 2015

39. The Act of 2015 is amended—

(a) in section 3, by deleting the following:

" 'prescribe' means prescribe by regulations;",

(b) in paragraph (d) of section 8, by inserting "by regulations" after "prescribe",

(c) in section 9, by—

(i) substituting "was not a vacant site" for ", or a majority of the site, was not vacant or idle" in subsection (2), and

(ii) substituting "a vacant site" for "vacant or idle" in subsection (3),

(d) in subsection (2) of section 18, by substituting the following paragraph for paragraph (a):

"(a) the site was no longer a vacant site on 1 January in the year concerned, or",

and

(e) by substituting the following section for section 25:

"25. (1) The Minister may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision in relation to—

(a) the establishment and maintenance of the register under section 6,

(b) the procedure for the making of an entry in the register under section 7,

(c) the procedure for the cancellation of an entry in the register,

(d) the form of notice to be given under section 7, 9, 11, 12, 13 or 18,

(e) the form of a demand for payment under section 15,

(f) the form of a receipt or certificate under section 21.

(3) Regulations under this Part may contain such incidental, supplemental and consequential provisions as appear to the Minister to be necessary or expedient.

(4) Every regulation (other than a regulation under subparagraph (ii) of paragraph (b) of subsection (1) of section 16) or order under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House sits after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.".".

Amendment agreed to.

Bill recommitted in respect of amendments Nos. 55 to 65, inclusive.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 55 has already been discussed with amendment No. 1.

Government amendment No. 55:

In page 58, after line 16, to insert the following:

"PART 5

MARINE SPATIAL PLANS

Interpretation

40. (1) In this Part—

"Act of 2006" means the Sea-Fisheries and Maritime Jurisdiction Act 2006;

"coastal waters" means, in relation to the State—

(a) surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline (within the meaning of section 85 of the Act of 2006), and

(b) the outer limit of those bodies of surface water in the vicinity of river mouths that are partly saline in character as a result of their proximity to surface water referred to in paragraph (a) and that are substantially influenced by freshwater flows;

"company" has the meaning assigned to it by the Companies Act 2014;

"Directive" means Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014[1] establishing a framework for marine spatial planning;

"enactment" has the meaning assigned to it by the Interpretation Act 2005;

"marine spatial plan" has the meaning assigned to it by *section 43*;

"maritime area" means—

(a) the foreshore within the meaning of the Foreshore Act 1933,

(b) the territorial seas within the meaning of Part 3 of the Act of 2006,

(c) the exclusive economic zone within the meaning of Part 3 of the Act of 2006,

(d) any area of the sea bed or subsoil outside the said foreshore, territorial seas and exclusive economic zone over which the State has rights for the purposes of exploration thereof and exploitation of natural resources, and

(e) coastal waters;

"Minister" means the Minister for Housing, Planning and Local Government;

"North-East Atlantic marine region" means the marine region to which the Convention for the Protection of the Marine Environment of the North-East Atlantic, done at Paris on 22 September 1992, applies;

"public body" means—

(a) a Minister of the Government,

(b) a local authority within the meaning of the Local Government Act 2001,

(c) a body (other than a company) established by or under an enactment,

(d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or

(ii) the issue of shares held by or on behalf of a Minister of the Government.

(2) A word or expression used in this Part that is also used in the Directive shall have the meaning that it has in the Directive.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 56 has already been discussed with amendment No. 1.

Government amendment No. 56:

In page 58, after line 16, to insert the following:

"Competent authority

41. The Minister shall be the competent authority for the purposes of the Directive.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 57 has already been discussed with amendment No. 1.

Government amendment No. 57:

In page 58, after line 16, to insert the following:

"Application of Part

42. (1) This Part shall apply to the maritime area.

(2) This Part shall not apply to those parts of the maritime area to which a develop-

ment plan, a local area plan, the national planning framework, a regional spatial and economic strategy, a guideline or a directive under Part II of the Principal Act applies.

(3) This Part shall not apply to activities that relate solely to defence or national security.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 58 has already been discussed with amendment No. 1.

Government amendment No. 58:

In page 58, after line 16, to insert the following:

"Marine spatial plans

43. (1) The Minister shall, following the carrying out of a process of marine spatial planning, prepare and publish a plan (in this Part referred to as a "marine spatial plan") for the maritime area in accordance with this Part and the Directive.

(2) The objectives of the marine spatial plan shall be—

(a) to analyse and organise activities in the maritime area for the purpose of achieving ecological, economic and social priorities,

(b) to establish a national strategy for Government in relation to the strategic planning and sustainable development in the maritime area,

(c) to apply an ecosystem based approach for the purpose of supporting proper planning and sustainable development in the maritime area, and

(d) to encourage the colocation of relevant activities and developments in the maritime area.

(3) The Minister may prepare—

(a) one marine spatial plan for the entire of the maritime area,

(b) different marine spatial plans for different parts of the maritime area, or

(c) a marine spatial plan referred to in *paragraph (a)* and different marine spatial plans referred to in *paragraph (b)*.

(4) The Minister shall, in the performance of his or her functions under this section—

(a) give consideration to the matters specified in paragraph 1 of Article 5 of the Directive, and

(b) aim to contribute to the matters specified in paragraph 2 of Article 5.

(5) A marine spatial plan shall identify the matters specified in paragraph 1 of Article 8 of the Directive and the Minister shall, when making a marine spatial plan,

ensure compliance with paragraph 2 of that Article.

(6) Marine spatial plans for the time being in force shall be known collectively as the National Marine Planning Framework.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 59 has already been discussed with amendment No. 1.

Government amendment No. 59:

In page 58, after line 16, to insert the following:

"Requirements of marine spatial planning

44. (1) The Minister shall, for the purpose of marine spatial planning and the preparation of a marine spatial plan—

(a) comply, or ensure compliance, with the requirements of paragraphs 1 and 2 of Article 6, and Articles 10, 11 and 12, of the Directive, and

(b) take account of circumstances particular to the North-East Atlantic marine region.

(2) The Minister shall, not later than 6 years after publication of the most recent National Marine Planning Framework, carry out a review thereof and, following the

completion of the review, either—

(a) prepare and publish in accordance with this Part and the Directive a new National Marine Planning Framework replacing the first-mentioned National Marine Planning Framework, or

(b) in circumstances where he or she decides not to prepare and publish a new National Marine Planning Framework, prepare and publish a statement setting out the reasons why he or she has decided not to do so.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 60 has already been discussed with amendment No. 1.

Government amendment No. 60:

In page 58, after line 16, to insert the following:

"Public participation on marine spatial plans

45. The Minister shall make arrangements to ensure compliance by the State with the requirements of Article 9 of the Directive.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 61 has already been

discussed with amendment No. 1.

Government amendment No. 61:

In page 58, after line 16, to insert the following:

"Strategic environmental assessment and appropriate assessment

46. The Minister shall, in the preparation of a National Marine Planning Framework, ensure that the National Marine Planning Framework does not contravene the following acts of the institutions of the European Union, or any provision of an Act of the Oireachtas or instrument under an Act of the Oireachtas enacted or made for the purpose of giving effect to any such act:

(a) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;

(b) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;

(c) Council Directive 92/43/EEC of 21 May 1992[1] on the conservation of natural habitats and of wild fauna and flora.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 62 has already been discussed with amendment No. 1.

Government amendment No. 62:

In page 58, after line 16, to insert the following:

"Laying of marine spatial plans before each House of Oireachtas

47. (1) Where the Minister proposes to make a marine spatial plan, he or she shall lay a draft of the plan, together with the Environmental Report and Appropriate Assessment Report in respect thereof, before each House of the Oireachtas, and shall not make the plan until a resolution approving of the draft has been passed by each such House.

(2) The Minister shall, in the making of a marine spatial plan, have regard to any resolution, report or recommendation of any committee of both Houses of the Oireachtas or either such House in so far as such resolution, report or recommendation relates to a draft laid before each such House in accordance with *subsection (1)*.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 63 has already been discussed with amendment No. 1.

Government amendment No. 63:

In page 58, after line 16, to insert the following:

"Compliance by public bodies

48. (1) A public body shall adopt such measures as—

(a) are consistent with its functions, and

(b) necessary to secure the objectives of the National Marine Planning Framework.

(2) In this section "functions" includes—

(a) the formulation of any policy, programme or plan in relation to development or activity, or proposed development or activity, in the maritime area,

(b) the giving of any consent or approval, or the grant or issue of licences, certificates or other like documents, under any enactment for the purposes of any such development or activity, or any such proposed development or activity,

(c) the regulation of any such development or activity.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 64 has already been discussed with amendment No. 1.

Government amendment No. 64:

In page 58, after line 16, to insert the following:

"Directions of Minister

49. (1) The Minister may give a direction to a public body to adopt such measures as are specified in the direction relating to—

(a) the implementation of marine spatial planning,

(b) compliance with a marine spatial plan, or

(c) compliance with the State's obligation under the Directive.

(2) A direction under this section shall be in writing and may apply to one or more than one public body.

(3) A public body to whom a direction under this section is given shall comply with the direction.

(4) In this section "public body" does not include the Minister.".

Amendment agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 65 has already been discussed with amendment No. 1.

Government amendment No. 65:

In page 58, after line 16, to insert the following:

"Revocation

50. (1) The Regulations of 2016 are revoked.

(2) In this section "Regulations of 2016" means the European Union (Framework for Marine Spatial Planning) Regulations 2016 (S.I. No. 352 of 2016).".

Amendment agreed.

Bill reported with amendments.

Question, "That the Bill, as amended, be received for final consideration", put and agreed to.

Question, "That Fifth Stage be taken now", put and declared carried.

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

Education (Admission to Schools) Bill 2016: Second Stage

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

Acting Chairman (Senator John O'Mahony): I welcome the Minister.

Minister for Education and Skills (Deputy Richard Bruton): I thank the Acting Chairman and am delighted to have the opportunity to introduce this Bill. It has been a long time in gestation but, in that time, we have managed to develop elements. There was consensus in the Lower House that an admission Bill was required, specifically on the matter of religion being used in selection and to provide the Minister with the power to intervene and make an order for a special class where an area needed one.

The third issue that was considerably debated in the Lower House was one on which I intend to introduce a Committee Stage amendment, that being, how to prioritise access to Irish-medium schools. There was a Government amendment as well as a number of Opposition amendments. The line we are trying to take is to introduce a provision whereby a child who has a minimum level of fluency that is consistent with normal usage of the language in non-education settings has priority access to the school. Some formulations sought to frame this in terms of exchanges between the child and a parent or speaking Irish from birth, but an assessment showed that these proposals seemed to give rise to problems of discrimination, in that they would be using what the lawyers described as pedigree rather than fluency to be a factor in determining access. I intend to introduce an amendment on Committee Stage that I hope will commend itself to the House.

Many of the Senators will be familiar with the Bill's sections, although the way they are laid out in the index is not easy to read. One must look at the headings.

Senator Rónán Mullen: On a point of order,-----

Deputy Richard Bruton: The Bill has 13 sections. Basically, section-----

Senator Rónán Mullen: I am sorry to interrupt. An bhfuil cóip dá óráid ar fáil dúinn?

Deputy Richard Bruton: A text?

Senator Rónán Mullen: Yes, please.

Deputy Richard Bruton: I do not have a copy.

Acting Chairman (Senator John O'Mahony): The Minister is not required to circulate one.

Deputy Richard Bruton: Historically-----

Senator Rónán Mullen: No, but it is a normal courtesy for us to have it so that we can refer back to the Minister's important words.

Deputy Richard Bruton: I see.

Senator Rónán Mullen: The Minister is not underendowed with staff.

Acting Chairman (Senator John O'Mahony): He can agree to have it done.

Deputy Richard Bruton: Yes. We will arrange to have a copy provided for Senators.

Senator Rónán Mullen: It is helpful for debates.

Acting Chairman (Senator John O'Mahony): The Minister can proceed.

Senator Rónán Mullen: It should be common practice. Copies of statements are always requested.

Deputy Richard Bruton: My common practice is not to use a script. It is only in this instance that I have one.

Senator Rónán Mullen: We would not be asking the Minister for a script if he was not using one. I just want to make that clear.

Deputy Richard Bruton: The reason I have a script is to go through the Bill section by section. It is close to what is contained in the explanatory memorandum, which has become the convention.

Acting Chairman (Senator John O'Mahony): If the Minister wants to arrange to have it distributed, that is fine. In the meantime, he can continue with his contribution.

Deputy Richard Bruton: I will.

Section 3 updates section 9 of the Education Act 1998, replacing the phrase "maximum accessibility", which was there as a provision of what the school should do to observe the Act. In this Bill, we are moving away from that phraseology to one that deals more comprehensively with admission policy.

Section 4 updates section 10 of the Act. A technical change, it requires a patron to operate in accordance with all regulations that a Minister makes under the Bill as opposed to just under section 33, which was a regulation section. This recognises that regulations can come from

other parts of the Bill.

Section 5 updates section 15 of the Act and addresses the functions of the board to align with the wording of the Bill, which reads: "subject to this Act, publish the admission policy of the school". As regards that policy, the principle of inclusion shall be respected in addition to the principles already specified in the Act, for example, equality and respect for the rights of parents. We are also providing that the admission policy must be published whereas the Act allowed the school some discretion over the form in which it was published.

Section 5 also provides for the removal of the requirement on a board to publish a specific policy concerning admission to and participation in the school by students with disabilities or special needs. It tidies up matters. Similarly, it removes the reference to "relating to the expulsion and suspension of students", which is provided for under the code of behaviour elsewhere in the legislation. They are largely technical amendments. Section 6 mirrors section 4 but on this occasion it applies to the principal as opposed to the patron. In other words, the principal must observe regulations set by the Minister.

Section 7 amends section 29 of the Act, the whole appeals mechanism within the old Education Act 1998, and it remains section 29. Many of these changes relate to operational matters to seek to align the legislation with practice and procedures as they have been developed over the years to increase the efficiency of the processes. However, there are several changes which relate to policy matters and these include setting the cumulative number of days on suspension that have to elapse before an appeal can be lodged at 20 days and clarifying that an appeal against a decision to suspend, expel or refuse to admit a child that is not due to oversubscription is an appeal *de novo*. If the refusal is not due to oversubscription, there is a full hearing of the matters by an appeals committee based on the evidence and materials properly available to the committee. By contrast, if the refusal has to do with oversubscription it is described as an appeal on the record where the evidence and materials properly relied on by the appellate body are the same as those which were before the first instance body of the school. The next item provides that procedures for appeals shall be determined by the Minister including timeframes for appeals. The next element provides for an appeals committee to issue a preliminary decision, in the case where it is not due to oversubscription, giving people a breathing space in which to respond to that before a final decision. In the case where an appeal is made where oversubscription is the issue, the applicant must have requested the board of management to review the decision before going on to an appeal. That is a change in procedure. There is also a provision for a fast track for appeals against a decision to refuse enrolment where a school has places available but for some reason is refusing to offer a place contrary to one of the most fundamental provisions of the admissions Bill. In other words, the Bill provides that every child has to be admitted. That is the general presumption. If there is a place and a child is being refused an appeal can be fast-tracked. That is to ensure there is a quick response should a child need it.

The other element of the appeals process is that it introduces compellability such that where an appeal is allowed the school must readmit the student or adjust the ranking of the student on the waiting list as applicable. There is that power to require a school to make those changes.

We are removing a layer that was in the section 29 appeals, which required the education and training board, ETB, to have had an appeal before it was heard. There had to be a first instance appeal in the ETB before it went on to a section 29 appeal in the Department. That was seen to be a layer too many.

Section 8 is the section under which the Minister, on the advice of the National Council for Special Education, NCSE, can compel a school to open a special class within a mainstream school. There are several steps in this process: the NCSE must identify the need for such provision within the area, the Minister has a chance to review that case and the exercise of power by the Minister is preceded by several steps that allow engagement between the NCSE, the board of management and the patron of the school. This is to allow people make comments, for those to be considered at different levels and there is also a provision that if agreement is not reached on property arrangements – the Minister would normally be providing supports to the school to open the unit – the Minister may refer the matter to arbitration in accordance with the Arbitration Act 2010. If there is a question of whether the Minister is making adequate provision to allow the school to open this special unit which is being required that can be arbitrated on. The power is required to ensure that where there is a gap in provision for the education of children with special needs as identified by the NCSE and no school is willing to make such a provision available, the gap can be addressed effectively by issuing a direction by the Minister to the school. As a note for information in that context, in 2011 there were 548 such units; there are now 1,304. They are expanding very rapidly. While we are putting in this provision that is not to say that the majority of schools are resisting the opening of special units. That would not be the case. We see quite a degree of desire to open such units. There can be areas where there are difficulties. This power is something that the Lower House believed was important. It complements other powers later in the Bill.

Section 9 is the main part of the Bill, the admission to schools in the Education Act 1998. It provides for the inclusion of several sections in the 1998 Act, from sections 60 to 70. Section 61 includes the provision for single sex and certain denominational schools to reflect in their admission policy the exemption applicable to such schools under equality legislation. It requires the admission policy of a school to include an admission statement confirming that the school shall not discriminate in its admission of a student to the school on the following grounds: gender, civil status, family status, sexual orientation, religion, disability, race, Traveller community ground and special educational needs of the student or of the person who has applied on behalf of the student. This is the general provision of non-discrimination in the admission policy.

Section 62 deals with the drawing up of the admission policy and sets out mandatory elements that must be contained in the policy. They include that it must set out the characteristic spirit of the school, include an admission statement, provide details of the school's arrangements for students who do not wish to attend religious instruction, provide that the school shall enrol each student seeking admission, other than where the school is oversubscribed, where the parent of a student fails to confirm in writing that the code of behaviour of the school is acceptable to them, and that they should make all reasonable efforts to ensure compliance with such a code by the student or in accordance with the relevant exemptions in the Equal Status Act 2004 or in the case of a student seeking admission to a special school or a special class in a school where the student does not have the category of special educational need specified by the Minister in respect of the special school or class. Sometimes we open a special class that seeks to cater for a particular profile of disability and this provision allows that such a unit would not have to accept a child that did not have those specifications. For example, if we want to have a special unit for children on the autistic spectrum, that unit cannot accept children who have other special needs but not of that type. We have made sure that it is the Minister, not the school, who decides what is the specification, requirement or competence of that unit. If we set up an autistic spectrum disorder, ASD, unit we do not want it filled with children with a different type of need and others not getting the special support for which it was designed.

The policy must also set out the selection criteria that will apply where the school is oversubscribed. It provides that schools shall not consider or take into account any of the following when deciding on the application for admission: prior attendance at a preschool, payment of fees, the student's academic ability, the occupation or status of the parents, a requirement that the student, or his or her parents, attend an interview - with an exception for admission to a residential placement in a boarding school or to a post-leaving certificate, PLC, college or further education and training course - and the date on which an application for admission was received by the school.

Effectively, this bans the use of waiting lists, application fees, academic tests, interviews and so on.

In addition, the policy must set out the procedures for admission of students after the commencement of the school year and to classes or years other than the school's intake group. It must include a statement that no application fees or contributions can be requested as part of the admission process, except in limited circumstances set out in the new section 64, which I shall outline shortly.

Under the Bill, a new section 63 sets out the requirement for schools to publish an annual admission notice. This notice must set out the dates on which the school shall commence and cease accepting applications for admission to the intake group or to any special class, and the date by which applicants will be notified of the decision on their application and the date by which they shall confirm acceptance. It provides that different dates may be set for special classes and for residential places in boarding schools.

The annual admission notice must also set out the number of places being made available in the intake group and special classes. In the case of a boarding school, the number of residential and non-residential places must be set out. In circumstances where the school or special class was oversubscribed in the previous school year, the notice must contain details of the number of applications received in the previous year and the number of offers made under each of the selection criteria.

Section 64 prohibits the charging of fees or seeking payment or contributions in respect of an application for admission to a school or for the admission or continued enrolment of a student in a school. Exceptions are provided in the case of fees charged by schools known as fee charging schools, fees charged by boarding schools for the boarding element and fees charged by schools for post-leaving certificate courses or for other further education and training courses.

A new section 65 clarifies the power of the Minister to make regulations in relation to the preparation, content, publication and review by schools of admission policies and the arrangements and procedures applicable to the admission of students to schools. The section provides for regulations to be made on a range of matters such as the selection criteria that schools may be permitted to use; information that must be contained in the annual admission notice and the application form; the manner in which and period during which an admission policy must be published; documents and information that a school may not require an applicant to provide; timelines for the admission processes in schools; requirements that applicants must adhere to; and arrangements and procedures on places that become available after the admission process is completed for applications that are made after the start of the school year or to classes or years other than the intake group.

A new section 66 provides for the Minister, where he or she considers that it is in the best interests of students in an area or in order to accommodate students in the case of a school closure, following consultation with the patrons and boards of the schools concerned, to direct two or more boards to co-operate with each other in respect of their admission processes. This measure has been fruitful in some cases.

The new section 67 provides for the National Council for Special Education, NCSE, to designate a school in the case of a child who has no school place for reasons related to their special educational needs and for the Child and Family Agency to designate a school in the case of a child, other than a child to whom an NCSE designation may apply, who has no school place. This will give the NCSE two powers - to designate a school to take a child who has no place and, the much more restrictive process through the Minister, to require a school to open a special unit if a clear need is established. This section also provides for the Minister to establish an appeals committee to deal with appeals from schools in respect of designations by either the NCSE or the Child and Family Agency. Under the section the Minister may, following a consultation with the relevant stakeholders, determine procedures to be followed by appeals committees and the time limits applicable to such appeals.

A new section 68 enables a patron, following issue of a notice and consideration of any representations received in respect of same, to issue a direction to a board where he or she is of the opinion that: the board has failed to prepare and publish an admission policy; the admission policy of the school does not comply with the Education Act; students are not being admitted to the school in accordance with the Education Act or the admission policy of the school; the board has not complied with section 64 which bans the charging of fees or the board has not complied with a direction to it on a section 29 appeal, co-operation with other schools or a designation by the NCSE or the Child and Family Agency. These are important elements. If the board fails to comply with the direction the patron may, following issuance of a further notice and consideration of any representations received on same, and subject to the consent of the Minister, appoint an independent person to carry out the direction.

The new section 69 enables the Minister, following issue of a notice and consideration of any representations received in respect of same, to nominate an authorised person to prepare a report where the Minister is of the opinion that the board has failed to prepare and publish an admission policy; the admission policy of the school does not comply with the Education Act; students are not being admitted to the school in accordance with the Education Act or the admission policy of the school; and the board has not complied with section 64, which bans the charging of fees or the board has not complied with a direction to it in relation to a section 29 appeal, or with a designation by the NCSE or the Child and Family Agency. Upon consideration of the report, the Minister may issue a direction to a board which shall set out the remedial action to be taken by the board. There is a long-stop power of the Minister to ensure the provisions of this legislation are fully complied with.

The new section 70 enables the Minister to request a patron to direct a board to comply with a direction made by the Minister under section 69, where following issuance of a notice to the patron and the board and consideration of any representations received, the Minister is of the opinion that the board has failed to comply with the direction. Where the patron is of the opinion that the board subsequently fails to comply with its direction, the patron shall, following issuance of a further notice and consideration of any representations received in respect of same, and subject to the consent of the Minister, appoint an independent person to carry out the direction. There are a number of loops in there, but it recognises the position of patrons within

our system.

Section 10 amends section 23 of the Education (Welfare) Act 2000 to require a board to publish the school's code of behaviour. Section 26 of the Education (Welfare) Act currently provides that the Child and Family Agency may take an appeal under section 29 of the Education Act against a decision of a school to permanently exclude a student from a school or to refuse an enrolment of a student. To avoid a conflict of interest due to the new role of the agency under this Bill in respect of designating a school for a child without any school place, section 8 amends section 26 of the Education (Welfare) Act to provide that the Child and Family Agency may appoint a person independent of the agency to undertake this role in respect of the taking of section 29 appeals. This would protect the independence of the appeal process.

Section 11 amends the Equal Status Act 2000 to remove, in the case of recognised denominational primary schools, the existing provisions that permit such schools to use religion as a selection criterion in school admissions. It also provides that a recognised denominational primary school does not discriminate where it admits as a priority a student from a minority religion who is seeking admission to a school that provides religious instruction or religious education that is the same or similar to the religious ethos of the student concerned. These changes apply only in the case of oversubscribed primary schools, which are predominantly located in large urban areas. Given that only 20% of schools are oversubscribed, it means that in the vast majority of the State, no real impact will be felt as a result of these changes. During discussion on the Bill we had a consultation where we issued a number of options for consideration. No consensus emerged from that consultation process. I reflected on the issue and I have developed this formula, which has support in the Lower House. The idea behind the provision is that we are trying to be fair and respect the wishes of three groups: Catholic parents, parents of minority religions and parents of children who do not subscribe to any religion.

At the moment, all denominational schools, which currently account for 19 of every 20 schools, can use religion as a selection criterion where they are oversubscribed. This was unfair because it led to children living a considerable distance from a school being selected ahead of children living in the local area. It also created pressure to baptise children. We have removed the use of religion as a selection criterion from 19 in every 20 schools or 95% of schools, namely, all non-denominational, multi-denominational and Catholic schools. We have, however, protected the right to use religion as a selection criterion in cases involving children of a minority religion who will only have access to one in every 20 schools. These schools will be able to continue to give priority to a child of the minority religion who wishes to be admitted. Failure to provide for this would effectively result in Protestant schools disappearing as a distinctive cohort because they would be swamped by parents of a different ethos. On the other hand, Catholics are well provided for and have a considerable range of choice available to them because the Catholic Church is the patron of 18 of every 20 schools. It should be noted, however, that most Catholic schools go out of their way to ensure that children of all persuasions and religious denominations are welcomed and supported in their school. The use of religion as a criterion needs to be removed, which was the thinking behind this provision.

With the introduction of this provision, I have sought to be fair to all parents, while recognising the right of all schools to have their distinctive ethos. As a result of these changes, children of minority religions will be able to access schools of their own religion, Catholic families will continue to be able to enrol children in 90% of schools and non-denominational families will find that for more than 95% of primary schools they will be treated the same as all other families in their primary school.

Section 12 is a standard provision providing for the repeal of a number of existing legislative provisions. Section 13 is a standard provision providing for the Short Title, collective citations of the Bill and the further commencement of the Bill. I apologise for my lengthy contribution. To summarise, the purpose of the Bill is to make admission fairer, more transparent and simpler. I commend it to the House and look forward to hearing the views of Senators.

Acting Chairman (Senator John O'Mahony): I will take speakers in the order in which they appear on the list. I call Senator Robbie Gallagher.

Senator Robbie Gallagher: I welcome the Minister to the House this evening and I thank him for outlining the different sections of the Bill in great detail. The Fianna Fáil Party is pleased to support the Bill, which brings clarity to the issue of admissions for parents, teachers, schools, children and everyone else involved. As the Minister stated, the legislation is long overdue. It is good that we have finally reached this point.

Thankfully, the problem the Bill addresses does not affect the vast majority of schools. It could be legitimately argued that the principal issue here is a lack of resources. A small number of schools in urban areas such as Dublin and a few other pockets have a difficulty in that the infrastructure of the school simply will not accommodate the number of children seeking enrolment. The Department should be more cognisant of this problem and engage in better forward planning to project where population increases will take place. Perhaps the Minister will advance forward planning to enable us to look into a crystal ball, as it were, identify areas where the population is increasing above normal rates and ensure the physical infrastructure of schools can keep abreast of population increases. If that had been done previously, this legislation may not have been necessary. That being said, we have a problem for which the Bill probably is a quick-fix solution. From that point of view, it is to be welcomed.

In my experience, the issue facing schools in my constituency is the opposite of the issue facing schools in urban areas. When schools open their doors for admissions every year they place public advertisements for students, as opposed to closing their doors to some students, which is very welcome. Every child, regardless of religion or nationality, is welcomed with open arms and there is open competition among the schools to attract children. One school principal told me that if Damien, the character from the film, "The Omen", arrived at his school at the age of four, he would be welcomed with open arms. It is a completely different picture from the position in certain oversubscribed schools. Thankfully, the issue arises in only a small number of schools but I appreciate that it must be dealt with.

It could be argued that if more classrooms were available to accommodate children in oversubscribed schools, the Minister and I would not be having this conversation. Once the legislation is passed, we should keep an eye on whether bringing children who are currently at the back of the queue to the front of the queue results in other children losing out. It will be interesting to see how that develops.

The Minister also noted he will have the power to designate a school place for a child with a special need, as defined by the National Council for Special Education, NCSE, and Tusla. This change is very welcome and I compliment all those involved in bringing forward the measure. It is important that the children concerned are accommodated in schools and it will be interesting to see how this develops.

The Minister referred to the minority of children from families of no faith. Everyone agrees

that the Bill's proposals to provide for these children are to be welcomed.

The Gaelscoileanna are a work in progress, as the Minister outlined. I know the Minister had discussions with different Members of the Lower House with a view to trying to find a sensible consensus on that issue. I hope we will see a draft of his final proposals in that area on Committee Stage. It is important that a common sense attitude is adopted to selection in this area to ensure parents and children are not subjected to an excessively onerous procedure to classify their level of the cúpla focail.

The legislation will create an additional burden for schools. It is important that schools draw up admission policies and do so correctly. All of the work in this area must be done properly and in that regard I expect additional resources will be required from the Department to ensure school principals and boards of management are properly resourced and have the wherewithal to implement these provisions in a proper fashion. I hope the Minister will not be found wanting in circumstances where schools need additional resources of whatever kind. I am interested in hearing his views on that.

I thank the Minister for outlining the detail of this welcome Bill. Something needs to be done, especially for schools that are oversubscribed. Catholic schools, particularly in areas where schools are not oversubscribed, have always opened their doors to children and continue to do so.

That is a point worth noting. For those schools that do have a problem, however, it is important that children are accommodated. It is to be hoped this legislation will ensure that is the case, but we must keep a watchful eye on it because once this legislation is implemented, the child who is at the back of the queue will go to the front of the queue and some other child will be pushed to the back. We must keep an eye on that because we cannot get away from the fact if school accommodation was able to keep pace with the growth in population in the areas concerned, we would not need this Bill and we would not be having this conversation. It is important that we monitor this and continue to resource schools, particularly those in areas with large populations that need additional accommodation. It is important that such schools are signposted in good time and sufficient financial resources are allocated to them to enable them to build on and accommodate all children, regardless of where they come from or what they believe in.

6 o'clock

Senator Rónán Mullen: Cuirim fáilte roimh an Aire. The Minister is very welcome. I am sorry for being awkward earlier on the subject of scripts, but everything that the Minister had to say was very interesting and there were points in his speech that I would have liked to have been able to refer to, word for word, but cannot. I would make the point again that it is very useful to have Ministers' scripts. We are listening intently and there are things we would like to pick up on or ask a question about and it is very useful to have the precise words before us.

Most of the public and media attention on this Bill has focused on the role of religion in admissions. Indeed, religion has received a crazy amount of attention when one considers the net effect of the changes being made. There are other very important changes within the Bill which need to be highlighted and properly debated. As the chairperson of a board of management of a small rural primary school, I would argue that the power in this Bill to compel a school to open a special class or classes where the National Council for Special Education, NCSE, has identified a need for such provision within an area is not as necessary in the primary sector. I listened very carefully to everything the Minister said in terms of such a power only being used as a last

resort, if at all. I also listened very carefully to the limitations to that power as described by the Minister and the conditions attached to its use.

It is generally acknowledged by principals of mainstream schools with special classes that these classes have a positive impact on inclusion within their schools. A number of valid concerns have been raised by school principals, however, regarding the provision of training, the management of challenging behaviour, difficulties accessing external support and an increased workload on principals. Addressing these legitimate concerns would encourage more schools to open special classes willingly and would be preferable to ordering the unwilling to do so. This argument was recently put succinctly by an experienced teaching principal who said the following:

> I believe our school is a very good example of how pupils with ASD are successfully included holistically in school life. In 31 years of teaching, I believe setting up this unit was my greatest achievement. I am very proud of our school in its entirety and I believe we have all benefited enormously from becoming a school that has an ASD unit. Our school community agrees. However, it created a huge body of work for me that has overwhelmed me more than once. The workload is not sustainable and the personal toll it takes on the principal is, at best, unfair. I believe schools like ours, who agree to open special classes, should be better supported and more schools would subsequently opt in as a result.

The challenge for principals is to manage what are, in effect, two separate schools with very different needs, challenges and expectations under the one roof and to make them gel together to make one successful educational facility. To make this situation even more challenging, our teaching principals engage in these activities while also teaching full time. The role of a teaching principal is a very challenging one. It is one of the most challenging roles in Irish education, and adding the challenge of a special class to the burden of administration borne by all principals, combined with the full-time teaching responsibility of teaching principals, is asking the impossible.

Behaviour management issues, for example, can be more challenging in special classes and principals are regularly called to become involved. This means that teaching principals can be regularly called out of class to become involved in managing behaviour issues. There is a significant amount of management and time spent by principals dealing with professionals who work with pupils in special classes, including special educational needs officers, SENOS, occupational therapists, psychologists, speech therapists, psychiatrists, play therapists and staff of child and adolescent mental health services, CAMHS.

Principals are also managing a much larger staff than that illustrated on the official designation from the Department of Education and Skills. All of the extra ancillary staff associated with a special class, including special needs assistants, SNAs and bus escorts, for example, must be managed by the principal. Dealing with appointments, sudden absences, planned leave, replacement staff, Garda vetting and so on for these extra staff all falls to the principal. Managing transport to and from the special class is especially demanding for principals, particularly at the start of the new school year as new routes are being established.

The primary school system has been very open to setting up special classes. It is equally true to say that were adequate resources to be provided, even more schools would be willing to do so. Our teaching principals deserve not only the one principal release day per week for which they are campaigning but also additional supports to manage the challenges posed

by a special class. Teaching principals are the unsung heroes of Irish education. They do a wonderful job with grossly inadequate resources. What they need is not a Big Brother telling them what to do but a Big Brother who provides them with the support they need to do their job. There is real enthusiasm and commitment to inclusion among the teaching community in Ireland. We must ensure that we foster that enthusiasm by providing the supports that teachers need and pupils deserve.

I refer to the points made by the Minister around the changes being introduced in terms of admissions and the non-permissibility of religion as a principle for determining priority where school places are in short supply. I welcome the fact that the Minister acknowledged that most Catholic schools are inclusive although he could probably go further and say that all Catholic schools are such unless and until we hear evidence to the contrary. The problem here has always been a shortage of places, as the Minister's words clearly imply. Once there is a shortage of places, the problem is that shortage, and Senator Gallagher expressed this eloquently in the closing part of his speech when he said that not one student is better off as a result of this particular change. I do not object to it, in particular, because I also take on board what the Minister said about the fact that the vast majority of schools are Catholic.

It is clear from what the Minister said that he accepts that parents are entitled to send their children to a school that reflects their own ethos and beliefs. The Minister stressed that entitlement very strongly. We are facing into an era where the Catholic Church needs and wants to be, and in some ways already is, a persuader for greater diversity in our school system in terms of ethos and patronage. We are in a situation where we have to be fair here and acknowledge that schools were funded by the State but established by the sacrifices, in harsher times, of members of faith communities. They did so with a clear understanding that they were not just providing a school but one which was within the framework of their faith and values.

We also have to bear in mind the different and equal aspirations of people who do not share the values of the majority faith or tradition. Are we approaching a crisis here where a new majority will impose its will on a new minority? Should we think creatively and inclusively here? Is it time to start talking about a concordat, for example, where we would acknowledge the new diversity so that both the State and the majority Church would commit to a greater diversity in educational patronage?

Can it also be made very clear and practical in terms of guaranteeing to faith-based schools their right to educate according to their values? Increasingly we see that those values diverge from what is either mandated or, more generally, facilitated or enshrined in the law of the land. Will there be tolerance in terms of allowing schools to educate according to their values where those values differ from the spirit now enshrined in the law of the land, on life and death issues, for example? I hope there will not be the heavy hand that characterised the past, when the shoe was on the other foot, but a new inclusivity and a genuine tolerance and openness to different styles, values and beliefs in education.

I wish to raise an issue which has not arisen in my school and which came to mind while listening to the Minister's speech. What happens when parents, arising out of a disciplinary matter, are abusive to the teachers and staff of a school, come in with a heavy-handed approach and behave in a manner and conduct which borders on threatening? I wish to stress that this does not happen in a school with which I am involved. Is the Minister satisfied that there is enough protection for schools in managing that situation so as not to deprive a child of an education while at the same time ensuring a safe and confident environment for teachers who may

be somewhat in fear of bullies among parents who perhaps reject or resent legitimate disciplinary decisions arising out of the behaviour of their children in schools? I would like to hear the thoughts of the Minister on whether the issue is being addressed within the Department. Some people are of the view that something needs to be done in this area.

Senator Maria Byrne: I welcome the Minister and the Bill. I have been involved in schools for many years. People have lost out on places or have not been able to get a place because a school is oversubscribed. The Bill is very open and transparent. I highlighted two phrases in the Minister's speech, "transparency" and "fairness". The Bill is very much geared towards those terms.

Many schools have been oversubscribed while others have been undersubscribed. People end up getting places in schools which are not on their doorstep. The Bill will be very helpful in addressing that issue. I note that the Bill requires that everyone applies on the same day for primary school places. In the past people were putting down their children's names just after they had been born and waiting lists were formed. I know of a family where the main breadwinner's job was moved. The family had five or six children, but could not get places in a local school and instead ended up in a school on the other side of town, which did not help them to settle in the area. The allocation of places as set out in the Bill will be good in dealing with such situations in that there is fairness for everybody.

I have sat on many section 29 boards in secondary schools. People often raise section 29 appeals for valid reasons, which are important to them. While in many cases boards have made rulings in respect of appeals, the Bill's proposal is a fairer way to deal with appeals where people feel they have not been accepted. The term "minority" is to the forefront of the Bill. People from minority religions felt they did not get into schools because they were predominantly Catholic schools or whatever. The fact that religion is, in most cases, being left out of the process creates a fairer applications and acceptance process for everybody.

Most schools being built nowadays have an autism spectrum disorder, ASD, unit. I visited a new Educate Together school which was recently built in Limerick. The ASD unit there is second to none. The school experienced an increase in the number of applications for admissions to the unit. The Minister has recognised that there is a need to provide such education in some areas where schools are not in a position to do so at present. Schools can be instructed to accept applications from people who need places, which is very helpful. The Minister will have the power to intervene when necessary. In some cases schools may say there are resource issues or may provide different reasons for not taking a pupil but it is good that the Minister can intervene as an independent person. It is very important that the Minister be given such powers.

People send their children to Irish-speaking primary schools but are then unable to access second level education. It is very important that priority be given to such children. The Minister intends to bring proposals forward to address this on Committee Stage. If somebody attends an Irish-speaking primary school it is very important that he or she has the right to continue his or her education as Gaeilge. Sometimes it boils down to school places or the admissions policies of schools, which will only take a certain number of pupils who speak Irish and then offer a certain number of places to schools which teach through English. I am on the board of management of a Gaelcholáiste and I understand 80% of our student intake is from Irish-speaking schools, but there are 12 such schools in the area from which children apply for entry. The Minister needs to examine the issue carefully when drafting proposals on Committee Stage.

The Bill will also help people who feel they might be discriminated against because of their race, background or whatever. The Bill will provide fairness for everybody. Education is all about setting people up and educating them for the future. The level of education children receive in school is about setting them up for the future, job planning and so on. It starts at a very young age. It is very important that people do not feel discriminated against and that there is fairness for everybody. As I said, that is addressed in the Bill.

In the past some people felt they were discriminated against because of where they came from, they were part of an ethnic minority or schools were not inclusive. The Bill will address situations where people feel they are in a minority and are not receiving the same level of education as everybody else. I compliment the Minister and wish the Bill a very safe passage through the House. It is very important that we try to pull together in order to reach a successful conclusion sooner rather than later.

Senator Colette Kelleher: I welcome the Minister to the House. I also congratulate him, his Department and all of those involved in progressing this important Bill. Almost two years on from its publication in 2016, we are seeing the beginning of the reform of schools admission policies and access to education for all in Ireland. The Bill will provide a new framework that is designed to ensure fairness, greater clarity, more transparency and legitimacy in the admissions policy of our schools and takes a major step forward in ensuring equity in our education system.

I particularly welcome measures in the Bill which ensure that schools are made available for all students, including those with special educational needs or disabilities. Under the Bill, a school is required to include a statement in its admissions policy that it will not discriminate in the admission of a student on the grounds of disability. It will be good to see that written down in black and white. I would be interested to know what sanctions the Minister proposes in the Bill for schools which flout those requirements. From a reading of the relevant section, I am not clear about the provisions. That is a separate matter.

The Bill provides for a situation whereby when a child with special needs or otherwise cannot find a school place, the National Council for Special Education or Tusla can designate a school place for that child. The Bill enables the Minister for Education and Skills, once set procedures and processes are followed, to require a scheme to open a special class. While in most cases schools have been open to providing additional special classes, this welcome provision simply eliminates a scenario where schools can and sometimes do refuse to admit children. I thank Mr. Graham Manning, a concerned teacher from Cork, who sought to ensure such provisions would be made in the Bill for children with autism, in particular, and also Deputy Thomas Byrne who worked to that end when the Bill was going through the Dáil. We had a meeting in Cork and over 200 parents turned up. They were all parents of children in primary school who were really worried about where they would go come September.

The Bill moves to eliminate the baptism barrier in the majority of cases. I know that my colleague, Senator Lynn Ruane, as well as Senator Alice-Mary Higgins and I, are passionate about this element of the Bill and have worked with Mr. Michael Barron of EQUATE to see the baptism barrier removed from school admissions policies in 98% of cases. Section 7(3)(c) of the Equal Status Act 2000 allows State-funded schools to discriminate against children on religious grounds. In practice, this means that children who have been baptised get priority in enrolment over children who are not. Refusing a child a place in his or her State-funded local school because of his or her family's religion or beliefs is a denial of his or her rights and should not be acceptable in a modern democracy. While a minority of schools will be able to

use religion as a criterion for admission where school places are in limited supply, the Bill will be effective in the great majority of cases and keep such scenarios to a minimum.

The new Education (Admission to Schools) Bill makes it clear that schools are open and welcoming of all pupils. It is hoped its provisions in respect of children with special educational needs will address and remove impediments to accessing education for such children, including children with autism, particularly in accessing second level education. While I do not know if more recent statistics are available, in 2014 only 23% of students with autism were in a special class, with many going without the required support. From information provided for me, in the whole of County Cork, there are 81 classrooms at primary level and just 41 at second level, a difference of about 234 places. In Cork city only one boy was offered a place in a secondary school with an autism spectrum disorder, ASD, classroom in 2016 and 2017. Hundreds of children are missing out. There is an autism education gap in Cork and other places as children transition from primary to secondary school, in particular. It is hoped the provisions in the Bill will eliminate the gap and schools' veto.

While the Bill takes some very welcome steps towards equalising access to education and schools, there are some elements that could be strengthened further. The Bill needs to give special education needs organisers, SENOs, through the National Council for Special Education and the Minister's office, the authority to compel a school to establish a special class where there is a clear need for one. In that regard, I would prefer if the word "shall" rather than "may" was used. There should be as few steps as is necessary in the process. The timeframe for such a process must be as short as possible in order that it will not have an undue impact on and delay the education of the child or children while we wrangle about whether we have all of the information from the stakeholder consultation process and this, that and the other and all the while the child remains without a school place. The process needs to be transparent. The reasons a special class is to be established need to be put in writing. We also need to avoid a scenario where a school will propose to set up too many special classes because that will cause different problems.

Another issue the Minister might consider is the need for language to be clear and concise to guarantee the best possible results from the legislation. We should specifically refer to "special classes" rather than "additional provision of education for children with special educational needs". The areas mentioned in the Bill need to be clearly defined. I intend to study the Bill more to see how best we can strengthen it and may submit further amendments on the next Stage. I understand the National Council for Special Education is meeting later today to discuss the Bill. I will be consulting it and others further.

Another measure that could strengthen the Bill is an undertaking to review the Bill after a period of time to assess if it has achieved its goals of providing for equity and better access to education for children, including for children with autism. I am conscious that the capitation grants are different for children in primary schools which receive €682 extra per student per year. That money does not follow through into secondary schools with special units. Will the Minister comment on this?

In general, I welcome the Bill which addresses some long-standing and thorny issues related to admissions policies in schools. First and foremost, admissions policies in schools have to be about the children and their right to an education, not any issue that might arise for management boards and teachers. All of these things can be worked through. The Bill introduces enforceable measures to ensure all children, regardless of religion, can access education and additional

mechanisms to ensure schools are for everyone, including children with disabilities, autism or special educational needs, and that all children will receive an education, to which they have a right. That said, I am prepared to table amendments to sharpen key elements of the Bill to ensure it will be as effective as possible. I thank the Minister for bringing us this far. I also thank the Acting Chairman and look forward to having the opportunity to debate the Bill further.

Senator Fintan Warfield: I welcome the Minister. I broadly commend the overall objectives of the Bill. Sinn Féin is of the view that the proposed legislation takes a number of progressive steps towards the removal of discriminatory practices between children in the school enrolment process. For that reason, we will support the Bill on Second Stage.

Sinn Féin very much welcomes the important specific provisions made by the Minister for the admission to school of children with special educational needs. We particularly support the proposal that agencies such as the National Council for Special Education and Tusla have the power to designate a school place for a child who is having difficulty in securing admission to school. We agree that schools should, where necessary, be compelled to establish ASD units. The evidence on the ground indicates that many schools are creating soft barriers to the enrolment of children with special educational needs and turning such students away, forcing them to go elsewhere. In some circumstances, the next school could be 30 minutes away and the child could be forced to attend a different school from their siblings. This is entirely unfair both on the child and his or her parents. This discriminatory practice is entirely unacceptable and it is welcome that Bill seeks to address it.

We must point out that the reasoning many schools offer when they refuse to enrol a child with special educational needs is that they simply do not have the required funding or resources available to accommodate the child. This goes to the heart of many problems within the education sector which are legitimately down to historical under-investment in the sector. If we are in agreement that a State school should be compelled to enrol students with special educational needs, we should also be in agreement that they must be adequately funded to do so, otherwise this section of the Bill will be ineffective.

Sinn Féin gives its support to the Bill's proposal to prohibit the practice of seeking fees and contributions for the enrolment or continued enrolment of a child at school. This will come as welcome news to many families across the State and perhaps our attention should next be drawn to dealing with the growing phenomenon of seeking voluntary contributions from parents which is becoming prominent across Ireland.

The Bill provides for a much greater level of transparency on each school's admissions policy. Sinn Féin welcomes the fact that, from now on, schools will have to publish their admissions policies. This will provide for a much more balanced playing field for parents in looking to enrol their child in a particular State school and mean that they will no longer necessarily need to be in the know regarding what will give their child a fair chance of enrolment.

We would have liked to have seen the Bill go a little further in this section. For instance, the Bill does not prescribe what each school's admissions policy should or should not include. It is left entirely to the discretion of the school to decide. The view of Sinn Féin is that the State should look at having a level playing field or playing some role, rather than simply outsourcing the responsibility to the patron or whichever board is in charge. This is where Sinn Féin begins to see issues with the legislation as drafted. If the big picture is eliminating all barriers and discrimination between children in the enrolment process, we argue that the Bill falls some way

short of that objective. As things stand, section 7(3)(a) will still allow State-funded schools to discriminate against a child based on his or her parents' religious background if a school can prove that acceptance of the child is essential to maintaining the ethos of the school. The wording is quite vague and we should call out the section for what it is - a fudge. As others have said, it is an Irish solution to an Irish problem.

We have to discuss whether it is a good idea to continue to segregate children as young as four and five years based simply on their parents' faith, particularly children from minority faith backgrounds. Arguably, this section would be in contrast to many of the principles on which we would like our education system to be built in the first place. Education is a fundamental cornerstone of our society. Our publicly-funded education system must be governed by the principles of equality. Our schools should be inclusive places. They should welcome diversity irrespective of background. There should be an emphasis on children from all different backgrounds coming together to learn together in a secular environment. Their religious needs can be met at the end of the school day or after school. This is what happens in the small number of multidenominational and Educate Together schools at present. By fudging the baptism barrier issue, we are going to create further problems down the line. For instance, how do we define what is meant by maintaining the ethos of a school? How does a school make the case that it needs to discriminate to protect its ethos? It is possible that this section will allow minority schools to continue to discriminate on the grounds of faith even when the school is undersubscribed, simply because the proportion of the favoured faith falls below a certain percentage which is not prescribed in the legislation.

If Catholic schools in certain parts of the country begin to see their numbers dwindle ten or 15 years from now, they may begin to believe their characteristic ethos is under threat. At this point, they could turn to this section to seek respite. This Bill gives us a chance to put this issue to bed for good, but we are missing that chance. Equality is an unambiguous concept that does not need to be qualified, but that is exactly what this Bill seeks to do. It attempts to qualify equality with exceptions. The Equal Status Act 2000 does the exact same thing. The United Nations, the Irish Human Rights and Equality Commission and the Office of the Ombudsman for Children have recommended that the 2000 Act should be amended to give effect to the principle that no child should be given preferential access to a publicly funded school on the basis of his or her religion. The Government refused to deal with the 2000 Act on Committee Stage. It is about to compound that error by instilling the same discriminatory proposal in this legislation.

Sinn Féin will support the Bill on Second Stage today because it represents progress in several areas. A conversation still needs to be had regarding the baptism barrier because the legislation as it is currently drafted leaves a number of questions to be answered.

Senator Neale Richmond: I welcome the Minister and thank him for laying out this Bill, which is welcome, overdue and progressive. I would like to focus on one section of the Bill. Much of what I will say will be in contrast to what the previous speaker said. It is important to put things in the context of where we are before we speak about where we want to get to. I recognise that the role of religious institutions in our schools is completely oversubscribed and over-reliant. At a time in our history when the State was unable to fulfil its obligations in many areas, including education, we relied on the various churches to fill the gap. It would be disingenuous and perhaps ill-thought-out to remove them in one fell sweep. It is a fact that 89% of national schools in the State are under the patronage of the Roman Catholic Church. Another 6% are under the patronage of some other single religion, such as the Church of Ireland. There

are 23 Presbyterian schools, one Methodist school, one Jewish school and two Muslim schools. Another 5% of schools are run on a multidenominational, Educate Together or secular basis, which is entirely positive. I think we need to see more of those schools.

I welcome the proposal in the legislation before the House to remove the barrier from 89% of national schools. It is important that we are seeking to increase the level of choice for parents in providing national school education to their children or to children for whom they are acting as guardians. Where does choice begin? As I said, 89% of schools are under the ethos of the Roman Catholic Church. We have a responsibility to respect choice, minority faith and parents who want their children to receive minority faith education. Ultimately, when 89% of schools are under the ethos of a particular church, choice is not provided. We will not remove the basis until we start to look at the patronage as well.

The divestment of our schools from the Roman Catholic Church, in particular, is not covered in this Bill. We need to see accelerated progress in this wider area. We need to see more schools come into the secular fold, the non-religious fold or the multidenominational fold. Throughout my time as a public representative, I have championed the development of three new Educate Together schools - two national schools and one secondary school - in my area. I was delighted, after much campaigning, to receive the details of where the secondary school's permanent location will be. I was at the first meeting in 2010. The Minister has announced approximately 40 new schools in recent months. Regardless of the consultations and the surveys, I think there is merit in prescribing, if feasible, that these new schools will not have any religious ethos or alternatively will be multidenominational, secular or Educate Together schools. I think that is where we will achieve real progress.

The Bill before the House is welcome as part of the overall modernisation and progression of our national school system. I believe that if we rush from A to B without acknowledging where exactly we are, this legislation will be ill-thought-out. Therefore, it is wholly appropriate that exceptions are being made for minority faith schools in order to protect rich communities that have given so much to this State historically. Ultimately, they cannot be mistakenly overwashed by this well-meaning overall initiative. I commend the Minister, the Department and the officials on their work in this regard. I look forward to this Bill going through all Stages swiftly and being enacted in due course.

Senator Aodhán Ó Ríordáin: I welcome the Minister to the House. While I broadly welcome the Bill, I would like to make some comments on it. When we are making provisions that relate to religion, I always think the constitutional reality we have means we can do no more than tinker with the issue. That is why the Labour Party is arguing that the Citizens' Assembly should reconvene to discuss the relationship between the church and the State when it comes to the provision of education in Ireland. It makes absolutely no sense whatever to me, on any level, that we should separate children on the basis of gender or religion. I do not think it stands up to any examination as being good for children. Unfortunately, what is best for children is the last thing to be considered when education policy is being drawn up. We look at what is best for patrons and sometimes look at what is best for teacher unions, but we rarely look at what is best for children. We hope the Minister will advocate for the Citizens' Assembly to discuss this matter.

I would like to speak about enrolment fees. We have proposed a Bill that would ban voluntary contributions. We will have an opportunity to discuss this issue at greater length at some time in the future.

I commend what the Minister is doing with regard to the baptism barrier. There are restrictions on how much he can achieve in this space. As others have said, this is the best possible effort that can be made in the current circumstances. The Labour Party will support the Minister in this endeavour.

I have a serious grievance with one area of the Bill. It appears that the fee-paying school sector has an open door at Cabinet level. The proposed new section 62(9) of the Education Act 1998, as set out in section 9 of this Bill, will provide that "Subsection (7)(e)(vi) shall not apply to selection criteria based on a student's connection to the school by virtue of ... a parent or grandparent of the student concerned having previously attended the school, provided the maximum number of places filled pursuant to that criterion does not exceed 25 per cent of the available places as set out in the school's annual admission notice for the school year concerned". I know the Minister will say that the relevant figure has been 100% up to now. This legislation was delayed under the previous Government because of a row about this provision. The then Minister, Deputy Jan O'Sullivan, provided that the figure should be 0%. The Fine Gael response was that it should be 25%.

We need to be perfectly clear about what we are saying here. This Bill proposes that all schools should be allowed to provide a certain number of places to the children of parents or grandparents of past pupils. This automatically means that a child whose parents, or potentially grandparents, did not go to secondary school - by the way, I am one of those people - will be at a disadvantage where a school is oversubscribed. In my opinion, this is elitist tripe. It potentially overrides the rights of vulnerable and marginalised groups. If one is a Traveller child whose parents did not go to secondary school, if one is from a disadvantaged background and one's parents or grandparents did not go to secondary school, if one is not from the local area or if one is not from the country, how can one apply on the same basis? This is a demand of the fee-paying sector, which wants to have a royal blue line of succession running through their schools for fundraising purposes. They want to be in a position to fundraise from the children and grandchildren of past pupils.

As with many things in the case of this Government, when the fee-paying schools sector comes knocking, the door is flung right open. We can talk about the Wesley pitch or the fact that the fee-paying sector is exempt from the provision of special needs classes. While we support elements of the Bill in relation to the baptism barrier, want a further conversation on the Citizens' Assembly and the relationship between church and state, will progress legislation on voluntary contributions and appreciate the mechanisms within the Bill to deal with fees, we oppose this section absolutely. We will oppose it tooth and nail and will call votes on it left, right and centre because it is odious, elitist and wrong. It is only included at the behest of the private fee-paying schools sector, which has been campaigning and lobbying for it for a long time. It is the very reason the last Government did not produce this legislation. There was a row between the parties over this provision.

It is outrageous that a school should be allowed to keep 25% of its student body for children and grandchildren - I repeat "grandchildren" - of past pupils. On all the other measures, the Minister will have our support and we will do our best. I have great sympathy for parents raising their children through the Irish language and who wish to have their children educated through Irish. It is something we have to work on together and we can find solutions. The Minister will have no difficulty finding practical solutions from our end of things. However, this particular provision must be called out for what it is. It is intensive lobbying by a particular elitist sector in Irish society, which always seems to get its way. As the former principal of a

DEIS school, I wish we had the same "in" for the most disadvantaged students in the country which the fee-paying sector seems to have. They always seem to get what they want. In terms of this section, the Minister will get no agreement from the Labour Party. We will ensure that there is vote after vote on this and I encourage other Members of the House to support me and my party in that.

Senator Jerry Buttimer: I welcome the Minister. I welcome very much the fact that after two years, we are bringing the Education (Admission to Schools) Bill 2016 before the Seanad. When the Bill becomes law, it will place an obligation on schools to put together admissions policy statements which do not discriminate on a specific ground and allow the Minister to make regulations on the content of those policies. It is also important to recognise that this Minister has one overarching objective, namely, to ensure that we have a fair and transparent policy on admission to schools.

Senator Ó Ríordáin made some good points in his contribution. I spent 16 years in the classroom, taught a variety of subjects and was very much of the view that it was not a one-size-fits-all curriculum or a matter of the leaving certificate "plus plus". It was about the leaving certificate applied and other parts of the curriculum which brought people together, including the old VEC Youthreach, in which the Cathaoirleach was involved himself. It is not a case that one size fits all. I disagree with Senator Ó Ríordáin on one particular point, however. We all have an "in" regarding education as stakeholders, whether we are parents, educators or legislators. It is wrong to focus on elite fee-paying schools. I did not attend one but I support the right of people to attend schools and I support all students. My record as a public representative and as an educator has been about providing access to education. I was a director of adult education myself and I believe firmly in the power of education and its empowering and transformative potential.

As we speak, we are coming to the tail-end of the leaving and junior certificate examinations and that is probably the most harrowing time of anyone's life as a student or parent. Senator McFadden has probably done the leaving certificate again herself this week. I hope it is going well for her. The Minister has been very committed to ensuring that our schools welcome every person, regardless of religion, colour, disability or ability. That is the point he has been making repeatedly and it is why I have been impressed by him as a Minister. He has an overarching philosophy and a warm, embracing ability to reach out and bring people with him. I commend him for his approach. The Government is committed to diversity in education, which must include all faiths and none. That is the key point. It is a further continuation of a policy change which has been coming for a while. I am also of the view that the education system must be about different forms of patronage. I say that as someone who was educated in a seminary, who taught in a comprehensive and community school and who recognises the value of Educate Together as an example. The last Government and this one have had a commitment to education, which has been very important in allowing Educate Together to maintain a differing viewpoint. In that regard, I note that I see my very good friend, Councillor Brendan Weld, in the Gallery. I welcome him and pay tribute to him for his work in VECs and ETBs in the past. It is critical that we recognise in the context of the Bill also the role the Catholic Church and the Church of Ireland have played in education. We must also recognise Gaelscoileanna and the growth of the Gaelscoil movement and its ability to change the mindset around the education of our young people through the medium of Irish.

I welcome the amendments the Minister made in the Dáil on ending the baptismal barrier. He was right when he told the Dáil that it was a very unfair practice. Those of us who were

baptised and reared as Catholics recognise the importance of that, but it is bizarre to have children being baptised by parents who feel they must do it. That is no longer the case. I might be in a minority of one in that regard, but I believe it should be changed. The Government is also proposing that oversubscribed schools, which are Catholic in the main, will no longer be able to favour prospective pupils on the grounds of religious adherence, which is right. It is important to look after the minority faiths, in particular that of the Church of Ireland. I speak as someone who recognises the contribution of Church of Ireland schools in Cork where they have a fundamental and clear role.

I welcome the Minister's commitment to consider, following representations, the appropriate time period for phasing out school waiting lists. It is a good move on the Minister's part to have a grace period. I welcome the fact that admissions fees will be banned and that schools will only be allowed to set aside a maximum of 25% of places for past pupils. That is important too. It is clear that the Minister has given this considerable consideration, building on the work of the Oireachtas committee. I commend the Minister on his stewardship of the Bill, which has been a long time in gestation. There was a very good debate on Committee Stage and in the Dáil generally. I commend the Bill to the House.

Business of Seanad

Senator Jerry Buttimer: I propose that the motion regarding the appointment of a member of the Garda Síochána Ombudsman Commission, GSOC, shall not be taken today. I apologise. I sent an email to group leaders and Whips. There is a ministerial diary clash and the Dáil ran over time. The matter will be taken tomorrow afternoon. The postponement is due to a scheduling conflict with Dáil Éireann. I apologise to the House. As soon as I became aware of the issue, I advised Members of the House, group leaders and the Whips of it by email. I thank the House for its co-operation.

Acting Chairman (Senator Diarmuid Wilson): Is that agreed? Agreed.

Education (Admission to Schools) Bill 2016: Second Stage (Resumed)

Senator Alice-Mary Higgins: I thank the Minister for bringing the Bill to the House. I look forward to debating it and progressing it as expeditiously as possible because, as other Members have stated, it has been a long time in the making and undertaken a significant journey to get to this point.

There is much to welcome in the Bill. I particularly welcome the recognition of the importance of access for all to education and to schools in terms of the provision of special needs classrooms and supports and the fact that the State may make orders in that regard, although I will not speak on it to the same length as Senator Kelleher, who has a strong background in that area. My one concern on that section regards the question of resourcing, which has been very clearly highlighted. Provision has been made in terms of fair dialogue in respect of the resources that may be needed in terms of property but, as was described, there are other resources

and resource needs that come with an order. Those resources should be strengthened and there should be a commitment to their provision, although it may not be necessary to stipulate that in the Bill. The Bill currently refers to additional provision as the Minister deems necessary but more dialogue may be needed in that regard.

For me, a fundamental and important part of the Bill regards finally beginning to bring our education and school system in line with the true spirit of the Equal Status Act 2000. People were greatly concerned about that omission at the time of that Act's enactment. Bringing our education system closer to the spirit of the Equal Status Act is crucial in terms of religion and also sends a stronger message of equality in respect of the other categories listed and which must be outlined in admission statements, including sexual orientation, disability, membership of the Traveller community and race. Although provision had previously been made in that regard, those categories being very clearly set out in admission statements sends a strong message of equality and invitation to the entire community, as should be done by every school.

I slightly disagree with Senator Ó Domhnaill in regard to the baptism barrier. We have been told that it is not often used. I attended the Joint Committee on Education and Skills although I am not a member of it while this issue was being debated because I have a strong interest in it. While it is interesting that the baptism barrier is only sometimes used, it was made very clear at the committee that in many cases it is not a measure to protect the ethos of a school but, rather, to discriminate or discern or indicate preferences. The fact that it was not uniformly applied reinforces that message somewhat.

I very much welcome the removal of the baptism requirement and slightly disagree with Senator Ó Domhnaill who stated that, as a result of certain students no longer being denied a place due to the baptism barrier, other students would lose out. He stated that no one student will be better off. I would argue that students are better off, as are schools as a whole, because the removal of the baptism barrier signals a clear ethos of equality in schools and also ensures that schools, including those in which there is pressure on resources and places, will accurately reflect the diversity of the community in which they are located and the children in that community. Part of the function of schools is to play a key role in bringing the children of our communities and the next generation of communities in contact and into engagement with each other.

In that regard, other Members have highlighted that there are areas on which the Bill could be stronger. I concur with some of the exemptions provided for, such as in regard to gender. There are potential concerns in respect of provision for minority religions. I believe that diversity within our schools is a positive thing. I recognise that the Minister has brought forward what he believes can now be put into effect.

I urge that the removal of the baptism barrier and clarity on equality within admission statements not be seen as a substitute for the shift in patronage which is required in our schools system. Perhaps the Minister will assure us that none of the urgency in regard to changes in patronage will be lost as a result of the enactment of the Bill.

A seven-year waiting list for an Educate Together school was referred to. The campaign for an Educate Together school in Galway began when I was about five years of age and the primary school finally opened while I was finishing college. I am now 43 and they are still campaigning for a secondary school, so there has been a long battle. There is a very clear impetus and there has been too much delay. The Minister is aware of the key concern in regard to scaling up within Educate Together schools, for example.

On Gaelscoileanna, which have been mentioned, I am very happy to work with the Minister on how he wishes to bring that forward and ensure the right to attend a Gaelscoil is addressed. It is a right of choice. Some people wish to have their child educated through Irish in a multi-denominational school and that overlap must be considered.

I thank the Minister and look forward to the next Stage of the Bill.

Acting Chairman (Senator Diarmuid Wilson): I call the Minister. I do not wish to put him under pressure but the House is due to finish at 7 p.m.

Minister for Education and Skills (Deputy Richard Bruton): At 7 p.m. Three minutes is very little time to do this debate justice.

Acting Chairman (Senator Diarmuid Wilson): I have no doubt that the Minister can do so.

Deputy Richard Bruton: I ask the Acting Chairman to tell me when my time has elapsed.

Senator Ó Domhnaill and other Senators raised the issue of the religion barrier being related to a shortage of schools and stated that other children will lose out. I refer them to Senator Higgins's comments in that regard. It is important that we have a fair system of access to whatever places are available but I strongly dispute that the religion barrier relates to a shortage of places. There will always be popular schools which many wish to attend and we must have fair rules for access to such schools. I can bring Senator Ó Domhnaill to a number of schools in my constituency that many students want to attend. There must be a rule governing access to such schools but that cannot be based on the religion of the child. It is unacceptable for a child living many miles from a school to be given priority over one living near the school. We will never be able to provide enough schools such that everyone gets their first preference. That is the reality. Some schools will have to make decisions on admissions. The important thing is that that is done in a fair way. I welcome the support for many other aspects of the Bill and recognise the contribution that Senator Ó Domhnaill's party made to some of those elements.

I do not agree with Senator Mullen that this is about resources and that the opening of autism spectrum disorder, ASD, units is an unfair imposition on schools. In most such cases we provide state-of-the-art facilities and a pupil-teacher ratio of 6:1 in addition to two special needs assistants, SNAs. We also provide favourable access to having a "walking principal", one who does not have teaching duties. Our new resource teaching model is putting more resources into schools which are taking on special education provision, so I do not think it fair to portray this as an issue of resources. We increased resources for special needs children by 42% right through the crash. It is remarkable that we have stuck with that and it is fair to have done so.

On the issue of abusive parents, we are developing a parents' and students' charter which will detail rights and responsibilities. I recognise that parents may overstep the mark and we must try to manage that at local level through a charter. I hope to publish legislation in that regard in the coming weeks.

Senator Byrne rightly stated that improvements are needed in regard to section 29 appeals. A quicker and easier process is required and I think we are making the right changes in that regard.

The Gaelscoil issue will always be there and it is tricky because, as I said in my open-

ing remarks, while we want to ensure a child of a family in which Irish is the normal spoken word has access to a Gaelscoil and a Gaelcholáiste, we cannot create something that is seen as another form of discrimination. Someone who is of immigrant parents, a broken home or a non-traditional home is discriminated by the provision, and we cannot do that. I hope we will be able to accommodate the aim.

I welcome the support of Senator Warfield on behalf of his party. I note that Senator Warfield said he would prefer not to see religion in State schools. To be honest, parents are the primary educators under our Constitution and the State has an obligation to recognise what parents want. What I am trying to do is recognise that the views of parents are changing, but some parents still want a religious ethos for their children. I do not think it is right that we should seek to impose uniformity. This Bill represents diversity and having different denominations. We do not have enough diversity but I do not think we should go to the other extreme and suggest that the system should be non-religious or a one-size view or approach. I do not agree with Senator Warfield in that regard.

Senators Higgins and Richmond referred to patronage and diversification. We need to accelerate the process. We are introducing a new approach that is currently under way. Each of the education and training boards is now picking one area and surveying parents. We *7 o'clock* are hoping to move to a system that would accelerate patronage. As Senator Mullen has said, there is a great deal of support from the church for this but it is a matter of creating the reality as opposed to simply the support. I hope it will work.

I do not agree with Senator Richmond's view that we should prescribe it and that every one of the 42 schools should be something. It is right to have a parental role. However, I have enshrined that the new patron must add to the diversity of offering within the area. It is rare but not impossible for a Catholic school to be successful. At second level one such school was successful. Of 61 new schools, one was Catholic. Anyway, I do not believe we should exclude the possibility of a religious denomination emerging as preferred.

I hear what Senator Ó Ríordáin has said about a citizens' assembly. I would be interested to debate the matter. There is no doubt that we are changing. What I am trying to do is move with the change. The Senator says he does not want gender or religion in schools. I respect the views of parents on this. We have to balance some ivory tower view of what is right versus what parents want, and that is what I am trying to do. I believe it is right that children of parents should have a certain quota. We are introducing a cap on that, but school communities are welcome and where there is a tradition of parents having gone to a school and sending their children there, that is to be welcomed. Many schools do that.

I will leave it at that. I have over-stepped the mark. I thank Senators for their contributions, which were, as always, very thoughtful and well-articulated. I look forward to the Committee Stage debate.

Acting Chairman (Senator Diarmuid Wilson): Thank you, Minister. You got in a good deal in a few minutes.

Question put and agreed to.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to take Committee Stage?

Senator Gabrielle McFadden: Next Tuesday.

Committee Stage ordered for Tuesday, 19 June 2018.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to sit again?

Senator Gabrielle McFadden: Maidin amárach ar 10.30.

The Seanad adjourned at 7.05 p.m. until 10.30 a.m. on Thursday, 14 June 2018.