



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Céadaoin, 7 Samhain 2018*

*Wednesday, 7 November 2018*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Maria Byrne that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Employment Affairs and Social Protection to extend the child allowance payment to children over the age of 18 in full-time education.

I have also received notice from Senator Máire Devine of the following matter:

The need for the Minister for Health to provide an update on the industrial relations dispute between the Psychiatric Nurses Association, the National Ambulance Service Representative Association and the HSE.

I have also received notice from Senator Tim Lombard of the following matter:

The need for the Minister for Health to extend to a full year basis the services of the regional respite centre in Garretstown, County Cork.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister of State with responsibility for mental health and older people to provide an update on the introduction of legislation relating to the fair deal scheme, particularly with regard to the three year cap on payments based on farm and business assets and how this will be applied.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Education and Skills to review circular 22/2012 where persons who take a leave of absence to undertake further studies are prevented from working part-time.

I have also received notice from Senator Kieran O'Donnell of the following matter:

The need for the Minister for Transport, Tourism and Sport to provide an update on the M20 Limerick to Cork motorway project.

The matters raised by the Senators are suitable for discussion and I have selected Senators Byrne, Devine, Lombard and Gallagher and they will be taken now. The other Senators may give notice on another day of the matters that they wish to raise.

## **Commencement Matters**

### **Child Benefit Eligibility**

**Senator Maria Byrne:** I welcome the Minister of State at the Department of Employment Affairs and Social Protection, Deputy Breen, to the House. He is my colleague from the mid-west and I am delighted he is here.

Many people have come to my office recently who still have children in school at the age of 18. Children start school at a later age now and are usually almost five years of age before they start. This means they are also finishing at a later age. In my time people did their leaving certificate exams at 16 or 17 years of age, but now most people are 18, and in some cases 19 years of age. Parents find that all benefits, including children's allowance, are cut off at 18 years of age, yet the period around leaving certificate in secondary school is a very expensive time for them. I am calling on the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, to look at extending the age limit for children in full-time education because it is something that parents and families are having difficulty with. Children have exams and exam fees, and are also involved in extra-curricular activities. It is quite an expensive time, yet parents find they cannot access any benefits or payments once they reach the age of 18 because their child is considered an adult, even though he or she is still in secondary school full-time.

**Minister of State at the Department of Employment Affairs and Social Protection (Deputy Pat Breen):** I thank Senator Byrne for raising this issue. It is obviously one that is raised regularly in her constituency office in Limerick. Child benefit is a payment to help families with the cost of raising children and plays an important role in helping to tackle child poverty. It does not rely on a means test or social insurance contributions. Child benefit is currently paid to around 628,835 families in respect of over 1.2 million children. Child benefit is paid monthly in respect of qualified children up to the age of 16. The payment continues to be paid in respect of children up to their 18th birthday where they are in full-time education or have a disability. Given the universality of child benefit, significant costs would be incurred in any extension of the scheme. An extension as proposed by the Senator would have very significant costs. No upper age limit is proposed, so it is possible that it could include third level as well as second level students. Even if the proposal were to be restricted to second level education alone the approximate cost could be close to €100 million. Such an extension does not allow for the benefits of adopting a more targeted approach to the use of scarce resources to tackling child poverty. The provisions whereby families on low incomes can avail of a number of provi-

sions to social welfare schemes that support children in full-time education until the age of 22 provide a more targeted approach. The provisions whereby families on low incomes can avail of a number of social welfare schemes to support children in full-time education until the age of 22 represent a more targeted approach. These include the increase for a qualified child with primary social welfare payments, the working family payment, formerly known as the family income supplement or FIS, for low-paid employees with children, and the back to school clothing and footwear allowance for low-income families. Payments under these schemes, all of which were increased in budget 2019, provide targeted assistance which is directly linked with household income and, thereby, support low-income families with older children participating in full-time education. In addition, parents moving from social welfare into employment can avail of the back to work family dividend, which provides financial support to people moving from welfare into employment or self-employment. Qualifying parents are paid the equivalent of any increases for a qualified child being paid on a jobseeker or one-parent family payment up to a maximum of four children for the first year in employment and half that amount in the second year. Clearly, these payments offer financial assistance targeted at those most in need of assistance from the State.

While I understand where the Senator is coming from on this matter, it must be understood that limited resources are available currently. It would cost up to €100 million just to provide for post-primary school and the question arises of what age limit one sets. Does one go to third level? I understand the positive impact of education and it is important to ensure children receive as much education as possible. That is why the other means are there to assist families through the targeted approach I have outlined in respect of the increase for a qualified child, the working family payment and the back to school clothing and footwear allowance.

**Senator Maria Byrne:** While I understand the additional costs involved, which would be significant, it was the case until 2010 that a child in full-time education in secondary school qualified up to the age of 19. In 2010, that was reduced to 18. Allowances have not been made for the fact that children are not starting school now until they are five years of age, which raises the age at which they finish their schooling. People must pay CAO application fees, fees for exams and fees in respect of career guidance. None of that appears to be taken into account. It is a costly experience for parents. I refer to secondary school students and not those at third level. I ask the Minister of State to tell the Minister for Employment Affairs and Social Protection that this is about second-level students and to ask her to extend the qualification age to 19 years. It would be appreciated.

**Deputy Pat Breen:** I thank the Senator for raising this important issue. I can see where she is coming from. Education is key for the future of our workers and for the youth of today who will be the people working in the jobs of tomorrow. That is particularly so given the type of jobs we are attracting to Ireland, which are professional jobs in the IT sector and in various other areas. That is where education is required. I will take the Senator's strong message back to the Minister on the proposal for post-primary schools only. Everything will depend in this area on the State's finances, but I assure the Senator that I will bring it to the Minister.

### **Industrial Disputes**

**Senator Máire Devine:** I welcome the Minister of State to the Seanad. I raise this issue on the day 500 ambulance personnel refuse to work additional shifts. Hopefully, we can ad-

dress the current industrial relations issues between the Psychiatric Nurses Association, PNA, National Ambulance Service Representative Association, NASRA, and the HSE. The situation is escalating with an increasing number of ambulance personnel taking industrial action. They are protesting the continuing refusal of the HSE to engage in negotiations with them when representing their interests or to make payroll deductions for union subscriptions. I was a member and branch secretary of the PNA in 2010 when this commenced. At that time, the union representing ambulance personnel members was SIPTU. In the years of austerity, the idea was to protect core pay with 24-7 workers accepting that shift work, Christmas work, night duty, Easter work and so on would be foregone. They would agree not to fight for that. We marched in 2010 down Parnell Street in what was termed the “24/7 alliance”, which included gardaí, soldiers, nurses, ambulance personnel and firefighters. From that came a request by 500 ambulance and paramedic personnel to join the PNA. While it seemed a bit strange at the time, it has worked well. The ambulance personnel believed the PNA would stand up for them and protect their shifts and allowance instead of only core pay.

The current dispute commenced on 10 October and there was a protest last week outside Dr. Steevens’ Hospital, which is the location of the headquarters of the HSE. The HSE is refusing to recognise this branch, give it powers to negotiate terms and conditions and take union subscriptions directly from members’ pay. Mr. Peter Hughes is the general secretary of NASRA and Ms Sinead McGrath is the national chair. The refusal of the HSE to engage with ambulance personnel or facilitate payroll deduction of union subscriptions amounts to nothing short of an effort to dictate to which union ambulance personnel should belong and to frustrate the continued development of the NASRA branch. There is no law to stop people joining the union of their choice. However, the HSE has put down the blocks and refused to allow the PNA to represent the members of NASRA. I plead with the Minister of State to get involved and to get the HSE to the table to recognise the rights of union members, including the right to negotiate on terms and conditions of employment.

**Minister of State at the Department of Health (Deputy Jim Daly):** I thank the Senator for the opportunity to address this matter. I confirm that the HSE received formal notification, dated 18 September 2018, from the general secretary of the PNA that its ambulance personnel members had voted in favour of taking industrial action. This action began on 10 October 2018. It is important to make it clear to the House that NASRA, which has affiliated with the PNA, is not recognised by the HSE. This means it does not have negotiating rights for ambulance personnel. The PNA, which is a non-ICTU affiliated union, has negotiating rights for nurses working in the psychiatry and intellectual disability sectors. The union recognised by the HSE for ambulance grades is SIPTU.

The industrial action referred to relates to two issues. The first is a dispute over the automated deduction of union subscriptions from members’ pay. The HSE is refusing to facilitate payroll deductions at source of union subscriptions to NASRA as it does not recognise this group. The second issue is a refusal by the HSE to engage in negotiations with the PNA or to recognise it as a union representing ambulance personnel members. The HSE deducts subscriptions at source for those ambulance staff who are members of SIPTU. It should be noted that the facilitation of deductions at source is not a legal right, but is rather a concession granted to recognised unions. While individuals have a right to be members of any trade union, they do not have the right to have such membership facilitated or recognised by their employers.

Phase 1 of the action saw the unions involved use alleged health and safety concerns to advance their industrial action. Phase 1 of the action involved the unions using alleged health and

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safety concerns to advance their industrial action. This included a range of measures, including the standing down of vehicles which fail daily inspections and vehicles not in compliance with health and safety legislation. Under normal circumstances, rather than simply standing these vehicles down, ambulance personnel would be expected to take such action as necessary to ensure that they enter service as soon as possible.

The HSE has received further notification from NASRA members of their intention to escalate this industrial action from today, 7 November. NASRA members have advised that they will not make themselves available for additional shifts outside their rostered hours. This is in addition to the industrial action that is already under way.

I can confirm that the National Ambulance Service is monitoring the situation closely and has put contingency plans in place to mitigate the risk of any potential disruption to service. It is a key priority for me to ensure that there is no disruption to this fundamental front-line service as a result of this dispute.

**Senator Máire Devine:** I thank the Minister of State. If it is not a legal right, is it illegal to join a union of one's choice? It seems this is a dogfight, with SIPTU and the HSE cosily together on one side and, on the other, up to 500 members who have decided that they do not want to belong to that representative body and they have asked other people to represent them. They have represented them hundreds of times in industrial relations processes and grievances. The winter is approaching and we cannot afford 500 members of the paramedic and the ambulance crews to be out of service. We cannot afford it for the people. It is the last thing they want to do.

The real question is where is the freedom of an individual to decide that if a particular section or staff representative is not representing the person adequately and if so they can move to where they feel they will be represented. The figure of 500 is *en masse*. That is a large number of ambulance personnel to move.

**An Cathaoirleach:** I am not sure the Minister of State can solve that one.

**Deputy Jim Daly:** The Senator asked a very direct question on whether, if it is not a legal right, it is illegal to join a union of one's choice. No it is not illegal. There is no corollary between the two. There are many things that do not involve a legal right but that are not illegal. It does not go hand in hand in any sphere and is not specific to what the Senator detailed.

I can only repeat what is the HSE's position, which is already on the record of the House. Anybody is entitled to join any union he or she wants. The area of subscription deduction is a concessionary aspect and is done on the basis of goodwill by the HSE with unions that are recognised. Other than repeating the HSE position, I am afraid I cannot bring any more clarity to the matter.

**An Cathaoirleach:** I thank the Minister of State and Senator Devine. We shall move on to the Commencement matter from Senator Lombard, one of the key people in the Minister of State's constituency.

### **Respite Care Services Provision**

**Senator Tim Lombard:** I welcome the Minister of State. I wish to raise the issue of respite care services, especially those located in my part of the world. I am sure the Minister of State

is very much aware of the matter to which I am about to refer. The lack of respite services is an issue that has dogged our communities and society for a long time. At the beginning of the recession and under another Administration, there was a major cut to respite services. Unfortunately, we have never really restored the services that were lost. In many ways, this is a major issue to which consideration must be given.

I am concerned about the respite care services located in Garrettstown, near Garrylucas. The building in which these services are located is fantastic. It is a massive structure with a great deal of potential. There are more than 20 rooms in the building, which is located at Garrylucas Beach and which looks out on the most scenic part of the world one could ever come across. Currently, it is only open to the general public for four months each year. People come to my constituency office daily and weekly who are seeking respite care services. There is great annoyance that we have such a wonderful building and that it is only open for four months of the year. Families in the area might get access for four nights respite care. The building to which I refer is not open at weekends; it only opens on weeknights. People only have access to the service from Monday through to Thursday. This is a real point of concern. Our community is trying to get this matter onto the agenda. We have a structure with such capacity at Garrettstown Beach which is located in an area in which there is great need. How we can ensure that the service on offer there will be improved? In the longer term, can we move towards the level of service that existed previously? Before the recession and the cuts, the service was open for eight months of the year. As already stated, this has been cut back to four. Even in the winter, it is a lovely location.

This is about a vision for the building. I am sure that the Minister of State is very much aware of the structure to which I refer. It is one of the most wonderful buildings one could ever come across. For it to be closed for two thirds of the year does not make sense. If we could have a coherent plan to tie in the structure, the services, the service provider and the HSE in order to ensure that we can develop what is on offer, then the local community would be a lot better served in the long term. This is a conversation that we need to commence. How can we ensure that structures such as that to which I refer can be developed? In many ways, it is about trying to rejig and work on respite services. The Minister of State might agree that experiencing the dilemma of trying to access services is very stressful for families. The families in question do so much for our community and all they are seeking is a little more help. Four nights of respite care given to a family for one year is really not sufficient when one takes into consideration the great work they do on behalf of the State and the Government.

I put it to the Minister of State that perhaps we might look at developing a long-term plan and that we might work to ensure that the building and the project are included in that plan in order to ensure the extension of respite services and, more importantly, that the building will be utilised during the entire year.

**Deputy Jim Daly:** I thank Senator Lombard for raising this important issue.

The Government is committed to providing services and supports for people with disabilities that will empower them to live independent lives, provide greater independence in accessing the services they choose and enhance their ability to tailor the supports required to meet their needs and plan their lives. We are particularly committed to providing a range of accessible respite care supports to people with disabilities and their families. We have always been acutely aware of the pressure on carers to which looking after people with disabilities gives rise. Such carers are often under tremendous strain to keep going. That is why my colleague, the Minister

of State with responsibility for disability issues, Deputy Finian McGrath, sought and secured an additional €10 million earlier this year for a dedicated national respite programme to specifically enhance respite services for people with disabilities and their families. This additional funding has provided for the equivalent of 12 new houses to be opened in order to enable carers to get a well-deserved break and to maintain their own health and well-being. One of these new respite houses was opened in Kerry on the 30 March. In addition, the HSE, in conjunction with CoAction, will be progressing the development of a respite house in west Cork between now and December. Discussions are ongoing in respect of this development. This respite house will be open to referrals for respite across County Cork.

Garrettstown is a regional respite service run by the Brothers of Charity in Cork in a rural coastal location close to the seafront. The respite service is currently seasonal whereby service users from Cork Kerry Community Healthcare can apply for short breaks during the summer months. The complex at Garrettstown is large and has capacity for large groups to attend simultaneously. As a result, it provides a true holiday experience. Families or service users can be supported in the peripheral facilities. In order to consider an extension of the service outside of the summer months, the service structure would require significant investment of both capital and revenue. Re-registration would be required with HIQA and the current model of service would require review and restructuring to extend services. Heating and insulation would also require significant upgrading. The structure is utilised by the Brothers of Charity to accommodate a small group of service users for respite in the off-season. One wing of the facility is utilised to provide this weekend respite service every six weeks.

Cork Kerry Community Healthcare disability service continues to work with the service providers to advocate for the further enhancement of respite services in the Cork and Kerry area.

**Senator Tim Lombard:** I thank the Minister of State for his response, but I am quite disappointed. I am looking for a vision for the building. Previously, it was open for six to eight months of the year. Now it is being limited to opening during the summer months. We need to work with the structures and buildings that are in place. The Minister of State referred to an issue regarding heating or insulation.

Addressing that would involve only a small capital cost rather than necessitating the construction of a new state-of-the-art building. I had hoped that the HSE would have a vision for it. The Minister of State is involved in this area, he knows the issue and the constituency well. We need to have such vision but from the response to this matter the HSE does not appear to have a vision for it. The Minister of State might talk to the HSE to see if it could have a long-term vision for this premises. The Minister of State has probably been to the premises. It is a large complex with considerable potential. There is great frustration locally that we cannot ensure it stays open more than four months of the year.

**Deputy Jim Daly:** I thank the Senator for his comments. I am familiar with the building. As I outlined in my initial response, it presents a number of challenges. Reregistration with HIQA would be an issue if we were to extend the services there. In addition, some structural works would be required to make the building suitable for delivery of that service all year around.

The HSE is committed to advancing and progressing respite services across Cork county. I have been involved in trying to progress that issue in the constituency. I am glad a respite

house will be opened in my home town of Clonakilty. It will probably open initially in Skibbereen and the facility will move to Clonakilty probably towards the end of 2019. We will have a respite facility for the county of Cork as part of the overall €10 million allocation that was made nationally. I was very glad that some of that allocation was made for respite facilities in west Cork. The HSE currently provides 182,000 respite nights a year. I am glad, as I am sure the Senator will be, that capacity is increasing in the constituency of Cork South-West. We can argue the toss all day every day but at least there is a capacity increase in west Cork. That will be welcomed by the families of all those people who require respite services. That will happen in December 2018 and the facility will move to Clonakilty later in 2019.

The house in Garrettstown will continue to play an integral part in the provision of a respite service run by the Brothers of Charity for four months of the year. There are significant challenges to enhancing it to the provision of a year-round service but it is one we can certainly continue to keep under review.

### **Nursing Homes Support Scheme**

**Senator Robbie Gallagher:** I welcome the Minister of State to the House and I thank him for taking time out of his schedule to come to take this matter. It is very much appreciated. This matter relates to the fair deal scheme on which the Minister of State is doing some work. I refer to the way this issue affects farm families and small businesses in particular. As the Minister of State will be aware, there is a three-year cap on payments based on the assets of residential dwelling houses but unfortunately this cap does not extend to the farm holdings and small businesses. As he comes from a rural part of the country, I am sure the Minister of State can appreciate the hardship this can impose on a farm family in particular and any small business owner where payments based on their assets extend beyond the three-year cap on payments that applies to the owners of residential dwellings.

I have met many families who have found their farms will not be viable in the future because of payments that apply. Livelihoods and lands that may have been in families for generations have been lost in some cases because lands have had to be disposed of to meet the full cost of the nursing home bill.

Many people have contacted the Minister of State on this issue. He has taken this matter on board and he is doing work on it. He might be able to advise where this debate is currently at and when his proposals are likely to see the light of day. It is important this proposed legislation is introduced and that the scheme is adapted to ensure a burden is not placed on small farms and small businesses. It is also important that we look to the future. I have heard the Minister of State say many times that perhaps a fair deal scheme could also be introduced to enable people to stay in their homes and have the backup they would require as not every older person needs to go to a nursing home. If proper supports funded by the State were provided many people would be able to stay at home. I am sure everyone would wish to stay in their own home and live within their communities and family set-up. I look forward to hearing the Minister of State's comments on that matter. I apologise for not being here until the last minute and I look forward to the Minister of State's response.

**Deputy Jim Daly:** I thank the Senator for raising this matter. I assure him that if I had to wait another 20 minutes for him I would have been quite happy to wait because I always appreciate any time somebody draws attention to this particular issue and gives me an opportunity

to provide an update on it. I am in competition with many other Ministers who are trying to get their legislation through the House and their priorities addressed, and we are all fighting for limited resources.

I genuinely very much appreciate the Senator raising this matter and giving me the opportunity to give it some more focus, provide an update and keep it as a priority for both Houses, as the legislation will have to go through both Houses. I will appreciate the Senator's support at that stage when we bring the legislation through the Houses to ensure that we get it through in a timely manner. To answer specifically the Senator's question as to where this is currently at, I said when I took up the job of Minister of State that this was a priority and that I wanted to deal with it. We had to go through a great deal of engagement with various bodies. I acknowledge the representative farm bodies in particular. They kept this on the agenda for many years and highlighted the challenges faced by real farm families in respect of this particular issue.

The Senator has already outlined to the House the terms. As he is aware, there is a 7.5% deduction of assets year on year, capped at three years where it applies to a family home. If it is a farm or business, however, there is no such three-year cap. The deduction further applies to 80% of one's income. In effect, when somebody decides to go to a nursing home, 7.5% of his or her farm or business can be deducted indefinitely. If someone ended up staying in a nursing home for ten years, potentially 75% of the assets would go back to the State. We all know about farm succession and the fact that other family members rely on these assets. As such, we are trying to stop that. One of the key issues and challenges is the fact that many people have lots of other changes they would like to see made to the fair deal scheme. However, I am adamant that if we stick to this one change and support making it happen in a timely and efficient manner, it will be a significant matter for these families. It would avoid too much tinkering with what is a comprehensive Act. The Nursing Homes Support Scheme Act 2009 is an extensive enactment and we have to be very careful when we start to tinker with it.

In July 2018, I sought and received the approval of Cabinet to proceed to draft legislation to apply the three-year cap to farms and businesses. As such, it is official Government policy. The heads of the Bill are being drafted by my officials. A number of legal issues and anomalies have arisen and a number of "what if" scenarios have been brought to our attention. We have to get the legislation right as we do not want it challenged in the courts. We do not want the legislation to be inequitable; we want it to be as fair as it can be. We are working on those challenges behind the scenes but I am hopeful the draft heads will be approved by the Government by the end of the year. As soon as the draft heads are approved and published, we can proceed to legislate in 2019. That is where I will be looking for as much help as I can get to prioritise the Bill on the legislative programme. Of course, many Ministers are trying to get their legislation onto the agenda.

The Senator asked about the home care scheme and I support him in that regard. I have always been a strong proponent of the provision of more options than just home and the nursing home. People need those options but traditionally that is all that has been available to older people. It has been a case of either staying at home or going to a nursing home whereas I have always believed we should have had many more options, including supported housing models. The Minister of State at the Department of Housing, Planning and Local Government, Deputy English, and I will host a conference in Dublin next week to look at initiatives and models of providing supported housing for elderly people which will allow them to continue to live behind their own front doors in a supported way and which may not necessitate them going to nursing homes at all.

**Senator Robbie Gallagher:** I thank the Minister of State for his comprehensive response. I am heartened by it and I hope the Bill will be drafted before the end of the year and enacted speedily. There will be people who have loved ones entering nursing homes today. What will the position be if the legislation is introduced in mid-2019? How will it affect someone who has applied for the fair deal scheme today? I welcome the Minister of State's comments on any model which encourages people, in the phrase he used, to live behind their own front doors. I look forward to the conference and the publication of whatever report emerges from it. It is the way forward. It is a much cheaper and more cost-effective for the Exchequer to keep people in their own homes. I appreciate that sometimes people have no choice but to go to a nursing home and that we are very fortunate to have them. However, where possible, the priority should be to keep people behind their own front doors, in the Minister of State's words.

**Deputy Jim Daly:** The Deputy asks a pertinent and important question as to what a family should do today where a decision is being made in respect of an elderly relative or what a person should decide as to whether he or she should enter a nursing home himself or herself. Are they going to delay a decision because there has been commentary in the news about changes to the scheme such that it will not be as severe or punitive financially? There is no gain for anyone in delaying entering nursing home care as there will be a retrospective aspect to the legislation. At whatever stage in 2019 the legislation is enacted by the Houses and signed by the President, we will apply it retrospectively to anyone who is already in a nursing home. People will have to pay for three years anyway. As such, a person debating about going into a nursing home or waiting for a change, should of course go in. I hope that any older person will make that decision as soon as care is necessitated because he or she will, in any event, have to meet the 7.5% contribution for three years. We can presume with reasonable confidence that this legislation will be well wrapped up within that three years. It will apply then to anyone who has been within the system for three years. While there will be no recoupment for those who have been in there for seven years and we will not be giving any money back, anyone who comes into the system or who is one, two or three years into their phase will see the recoupment stop after three years. As such, there is no financial benefit to anyone in delaying the decision to go into a nursing home.

*Sitting suspended at 11.17 a.m. and resumed at 11.30 a.m.*

### **Order of Business**

**Senator Jerry Buttimer:** The Order of Business is No. 1, Copyright and Other Intellectual Property Law Provisions Bill 2018 - Committee Stage (resumed), to be taken at 12.45 p.m. and to be adjourned no later than 2.30 p.m., if not previously concluded; No. 2, Health and Social Care Professionals (Amendment) Bill 2018 - Committee and Remaining Stages, to be taken at 3 p.m.; No. 3, Health Service Executive (Governance) Bill 2018 - Report and Final Stages, to be taken on the conclusion of No. 2 and to be adjourned no later than 5 p.m., if not previously concluded; and No. 4, Parental Leave Amendment Bill 2018, a Dáil Private Member's Bill - Second Stage, to be taken at 5 p.m. with the time allocated to the debate not to exceed two hours.

**Senator Catherine Ardagh:** I want to speak about Drimnagh in the context of the housing crisis and planning and development in our capital city. Drimnagh lies between Crumlin, Inchicore and the Grand Canal and has a population of approximately 12,000. Ten years ago,

Dublin City Council highlighted the need to ensure the proper development of amenities in this part of the city and to ensure that potential development sites were fully serviced. The council spent €140,000 on the Drimnagh area development plan, which was then shelved. I ask the Minister for Housing, Planning and Local Government to put this area development plan back on the agenda. There are many sites along the canal on Davitt Road and near Crumlin Shopping Centre that could be developed for housing. With proper planning and investment, Drimnagh could be an even better part of our city than it is currently. It could be made even more beautiful, with better utilisation of the canal. Consideration could be given to developing canal walks and to ways of increasing biodiversity. I ask the Minister to urge the council to revisit its plan so that we can maximise the potential of an area that is an integral part of Dublin city.

I also wish to refer to a matter I raised previously regarding school building issues. As we know, two affected schools in Tyrrelstown and another in Lucan have not reopened. The Minister has made various statements regarding how this came to pass. Two weeks ago, I asked whether the Department has its own engineers to inspect new school buildings, which would be the norm with other State projects. I ask the Leader to invite the Minister for Education and Skills to the House to explain what is happening in the context of school closures and the structural defects that may affect up to 42 schools.

The final matter I wish to raise relates to in our emergency departments. The Taoiseach indicated yesterday that doctors and nurses should not take holidays over the Christmas period. That is ironic, particularly in view of the fact that last year he jetted off to Miami to get some winter sun. A ban on Christmas leave is not the solution. We need to see a proper plan to address what we know is coming down the line for our health service. We know that there will be serious problems in our emergency departments with increased patient numbers over the winter months. Glib comments like those made by the Taoiseach yesterday will not help at all. I ask the Leader to comment on that issue.

**Senator Paul Gavan:** As the Leader knows, I have raised the crisis of industrial relations at University Hospital Limerick, UHL, on a number of occasions since May of this year. I highlighted the victimisation of shop stewards, including the case of one man who, eight months on, is still awaiting a resolution. I also highlighted a culture of bullying which is embedded deep in management thinking at the hospital. I referred to the failure to investigate a most vile letter which was sent to a staff member. I have highlighted an incidence of nepotism, whereby an individual related to hospital management landed a senior post at the hospital without even having an interview. Since then the Workplace Relations Commission, WRC, has intervened but this morning I learned that the management of UHL has done something quite remarkable, elevating incompetence to the level of an art form. Despite months of crisis, despite the intervention of the advisory service of the WRC and despite a finding by that body that industrial relations dispute resolution processes were “dysfunctional”, management seems intent on making a bad situation worse. As things stand, we face a four-hour stoppage by hospital porters tomorrow, the second such stoppage in recent weeks. An eight-hour stoppage will be scheduled after tomorrow’s action. This is happening in a hospital with the worst bed and trolley crisis in Ireland.

I have previously written to the Minister for Health and asked him to intervene. In a response that would not be out of place in an episode of “Father Ted”, he wrote back telling me that he had been in contact with the hospital and management had assured him that everything was fine. Everything is not fine. Hospital management continues to move from one blunder to the next. An agreement to hold regular meetings under the auspices of the WRC has been

ignored by hospital management. An agreement with unions to deal with the staffing crisis, signed off in February 2017, still awaits implementation. Chronic shortages of healthcare attendants are as bad today as when that agreement was signed 19 months ago. No recruitment process is in place to deal with this. The handful of hires that have been made are to cover backfill positions. No new interviews are scheduled. Nineteen months on, management constantly breaks its word and has lost the confidence of the entire staff working in UHL. I call for an urgent debate with the Minister on the matter. I call for an intervention by the Minister and not just a letter telling me he has written to the hospital. The people of Limerick are suffering and the staff at UHL are at their wits' end. Hospital management continually fail to deal with industrial relations in a professional way. It has lost the confidence of the entire staffing body. We urgently need action on the issue.

**Senator Aodhán Ó Ríordáin:** I raise the issue of the potential establishment of a transport police. The Leader will be aware of a number of unsavoury incidents on the north side DART line. A recent stabbing incident happened between Killester and Harmonstown stations. Earlier this year a DART service was stalled while a gang of youths tried to spray-paint the outside of the carriage between Bayside and Howth Junction stations. There are ongoing vandalism and other issues at Clongriffin station. The Minister for Transport, Tourism and Sport, Deputy Ross, has said he is open to the idea of having a transport police. I ask the Leader to facilitate a debate on the potential of establishing such a force from within An Garda Síochána to ensure that those who work on, and use, our train services feel safe and secure as they go about their daily business. Those who believe in public transport, as I do, need to feel safe and secure while accessing that service.

This House should react positively to the initiatives taken by Councillor Rebecca Moynihan on Dublin City Council and Councillor Deirdre Kingston on Dún Laoghaire-Rathdown County Council. They have secured funding to roll out pilot schemes to provide free sanitary products in their council areas. An initiative by Councillor Moynihan on Dublin City Council was successful a number of months ago. At last night's Dún Laoghaire-Rathdown County Council budget meeting, Councillor Kingston secured funding for a pilot scheme to provide free sanitary products in libraries. A Plan International Ireland survey has found that more than 50% of girls aged from 12 to 19 are unable to afford sanitary products. We could tackle period poverty if we were to provide free products in our primary and secondary schools. It is not a radical proposal; it has been done in Scotland. We believe it would cost about €5 million. It would be useful to have a debate on period poverty in the House and I call on the Leader to facilitate that.

**Senator Ian Marshall:** I take the opportunity to congratulate BASF on opening its financing platform in Dublin last week. As it is a platform trading more than €10 million globally, it is a significant investment. I especially congratulate Bastian Rietz, head of BASF Ireland financing platform, and Richard Carter, the company cluster head for the UK and Ireland. This is a significant investment and expansion in Ireland, building on the success of its existing business in Cork, supplying products to the agricultural sector and other manufacturing industries. It reinforces the point that Ireland still presents an excellent opportunity for global companies to locate and invest here, and for the economy to benefit from their commitment of provision of high-calibre skilled labour.

It is also significant because BASF is a world leader in research and innovation in a variety of areas such as smart energy, food, agriculture and urban living. BASF touches on areas of business, life and society that one could never imagine. In addition, the Cork site provides solutions for metal recovery through solvent extraction technologies, as well as solutions for ener-

gy-saving, efficient and environmentally friendly recovery of metals from ore such as copper, nickel, uranium and vanadium. The Cork site produces more than half its electricity requirement using combined heating and power plant. It is an efficient use of energy. The resultant steam from the turbine is used in its manufacturing facility.

In a conversation last week, the BASF team suggested that Ireland presented an opportunity to develop and grow in a pragmatic and accommodating fashion. Ireland made the process of relocation happen in a relatively straightforward and seamless fashion. Ireland lent itself to working with international partners. I congratulate all on this significant investment. I have no doubt it will be a successful venture for BASF and the State.

**Senator Anthony Lawlor:** I ask the Leader to invite the Minister for Communications, Climate Action and Environment to the Chamber to discuss the ongoing saga of the non-appearance of the wind turbine guidelines. Those of us from rural areas have been waiting for them since 2015. A number of applications are being held up because the guidelines have not been published. Local authorities are in limbo over what they should do with planning applications. Communities want something they can grasp onto with regard to making objections to the erection of wind turbines. We also need to understand what community benefit can be gained from them. I ask the Leader to arrange a discussion on when the draft proposals of the guidelines will be published. We should get them as soon as possible.

**Senator Diarmuid Wilson:** I propose an amendment to the Order of Business that No. 75, motion 13 be taken before No. 1, without debate.

**Senator Ned O'Sullivan:** I second the amendment proposed by Senator Wilson.

A month ago, the delay in upgrading a leaving certificate examination result caused trouble for a courageous student in Wexford, who, thankfully, was able to secure her college place. It is time for the Minister for Education and Skills to address this debacle. Every year the same crisis seems to develop. We hear there is a shortage of qualified markers for the various subjects. It is not rocket science. It will happen again next summer unless the Minister takes action now. At one stage I was very involved in that business. I was a senior marker or supervisor of English leaving certificate papers. I know how difficult it is and the volume of work involved. The Minister will need to address pay levels for the people who volunteer to do this. It is important to have working teachers doing the marking because retired teachers and others are not *au fait* with the curriculum. To ensure a proper marking system with results out on time for students to avail of the best CAO choices and options available for them, we need to work on it now. I ask the Leader to invite the Minister to discuss the matter in the House so that we can let him know our concerns.

**Senator Tim Lombard:** I raise the issue of bus services and a national policy regarding Bus Éireann and the privatisation of some services. In some areas, fares are extraordinary. For example, one can travel from Ballincollig or Carrigaline to Cork city for €1; it is a fantastic service. The Cathaoirleach knows Skibbereen better than I do. A return trip from Skibbereen to Cork costs €30. A return trip from Bantry to Cork costs €30. A return trip from Dunmanway to Cork costs €24. A return trip from Clonakilty to Cork costs €20. It is unsustainable to have such an expensive bus service, especially given our new vision to become carbon friendly and the negative environmental impact of cars on the road. We must address that lack of joined-up thinking. There are several ways we can deal with it. We could talk to Bus Éireann about reducing these extraordinary bus fares, which are beyond belief. I am sure Members are appalled

that some people pay €30 for a return ticket every day to go to work. It is unsustainable. We must move to a more proactive approach to ensure there is good, cheap public transport, and not have it only in urban areas while rural Ireland is left behind.

We must either examine the price structure or consider privatising some of these services. We have seen them privatised in Dublin and other locations and that has a major impact on the price. There must be a new vision for the price structure. I ask the Leader to invite the Minister for Transport, Tourism and Sport to the House to discuss these fares in rural areas and what his vision is for these important issues outside of Dublin, because it is unsustainable at an environmental level and also on the economic level. If people are to survive in rural Ireland we must provide them with cheap and efficient public transport. Cheap does not mean a fare of €30 to travel from Skibbereen to Cork, which is outrageous.

**An Cathaoirleach:** I take this opportunity to welcome the Georgian Ambassador and his good wife. You are always welcome in this Chamber.

**Senator Gerry Horkan:** I also welcome the Georgian ambassador and his wife to the Chamber. They are regular visitors to Leinster House and are actively involved with matters in our State.

I know of people who managed to travel 7 km, less than 5 miles, in 55 minutes this morning in Dublin. It was raining and there was much surface water, but we must have a debate with the Minister for Transport, Tourism and Sport about traffic in the greater Dublin area, the provision of public transport, BusConnects and other matters. The Minister has been in the Chamber previously but generally he just gives a long speech and does not get enough time to answer the questions raised. The quality of life for people living in the greater Dublin area, people travelling long distances into Dublin and the people who live in Dublin city is greatly affected by the volume of traffic and the lack of connected public transport. It has improved somewhat with the Luas red and green lines, the DART and so forth but much more must be done. Our public transport is not up to the required specification for a growing capital city and the volumes of people using it.

I call on the Leader to invite the Minister, Deputy Ross, to the House. He is the constituency Deputy for the area of Dublin where I live. We must have a proper debate and proper provision because this is affecting everybody who works, lives and studies in the city every day. It is very important. For the people who travel in and out of the city every day and who are not living here, it is important for their quality of life that they are not spending hours in traffic, having the frustration of being late for work, having to get up extra early to ensure they are not late for work and so forth. It is a serious issue and I call on the Leader to invite the Minister, Deputy Ross, to the House with the utmost urgency.

**Senator Jerry Buttimer:** I thank the nine Members of the House for their contributions on the Order of Business. I join you, a Chathaoirligh, in welcoming the Georgian ambassador and his wife to the House.

I am happy to accept the amendment to the Order of Business proposed by Senator Wilson. The motion Senator Wilson referred to concerns Georgia and the illegal decision of the Russian occupation regime in Tskhinvali. All of us must be deeply concerned about the matter being reported and actively pursued. It is unacceptable to have illegal moves being made by the Russian Federation, which I believe is violating the fundamental norms and principles of interna-

tional law and undermining the international system based on the rule of law. It is important. I had the pleasure of being in Georgia two summers ago as part of the Organisation for Security and Co-operation in Europe, OSCE, Parliamentary Assembly, and one of my regrets is that we were unable to go to the frontier, if I can use that expression.

All Members of the Oireachtas, as parliamentarians, must always uphold human and civil rights and the continuation of the Georgian people having self-determination, so I am happy to accept the amendment to the Order of Business. I commend the ambassador on his work and for reaching out to Members of the Oireachtas. It is important that we stand with Georgia not least because, as we said yesterday, it is about not allowing demarcations in the world but having stabilisation, ensuring continued freedom of movement and reducing the amount of conflict that takes place not only in Tskhinvali but also in the rest of Georgia. The international community must stand up against the Russian occupation and support the sovereignty and territorial integrity of Georgia.

Senator Ardagh was going well until she personalised the attack on the Taoiseach, which was unfair. She is right that Drimnagh is an important part of Dublin. Those of us who travel from Cork to the city drive through Davitt Road or the main part of Drimnagh. It reminds me a little of my area of Bishopstown in Cork in that it needs a heart. The Senator is right about the need to have that plan re-established and proper development in the area. I am aware that Senator Ardagh is working hard in the area with the Minister of State, Deputy Catherine Byrne, and there have been a number of meetings about issues in the area. I had the pleasure of going there recently with the Minister of State and I canvassed with a Fine Gael local area representative, Eoghan Howe.

In fairness to Senator Ardagh, she has worked hard at highlighting issues in her area and I am happy to invite the Minister to the House to discuss the matter. The Senator is right that it is an issue we need to address in a modern world. Project 2040 is one part of the plan but Senator Ardagh's point is about the fact that in areas such as Drimnagh it is about marrying the old with the new and the demands that exist. I support her and commend her on raising the matter and for her work in the area.

The issue of the schools is very difficult and sensitive. To be fair to the Minister for Education and Skills, he has not opted for the blame game. To begin with he has tried to ascertain the faults in the schools and to give clarity and certainty to the pupils, teachers, parents and community. There was a meeting this morning in Tyrrelstown regarding an inspection at 9 a.m. I have put a request to the Minister to come to the House to discuss the schools issue.

With regard to the health story yesterday in terms of the Taoiseach's remarks and hospitals, I believe he was trying to say that there is a need at peak demand times to have full service, whether that is in the health sector or the retail sector. For example, in the retail sector nobody is off during the time before Christmas, which is the peak time. People are working and they take their time off when the peak time ends.

In the case of the health system, and I have made my view clear on numerous occasions, it shuts down in some parts at 5 p.m., be it for outpatients or certain types of procedures. We must examine that. To be fair, nobody is advocating that we not allow hard-working members of the health service staff at every tier to take holidays. That is not what was said. The Taoiseach is saying that we must examine how, between 22 December and 3 January, we can keep some of the hospitals, providing front-line and critical services, from being shut down. Nobody is ad-

vocating that we have elective surgery on Christmas Eve, Christmas Day or St. Stephen's Day or that we open outpatient departments on those days.

However, we have to look at how we can address the issue on an ongoing basis. The remarks of President Higgins in his election night speech were to the effect that all of us, whether politicians, the Taoiseach or those in health unions, matter. We should be careful to work to address the situation rather than instilling fear in people. That is what the Taoiseach was trying to say.

An additional €10 million in funding has been allocated to this year's winter plan, as well as an extra €10 million next year. The Government is committed to addressing the inequalities in the health system, and we must not create barriers to tackling waiting times and the trolley crisis. Instead we should create solutions. I would be happy for the Minister for Health to come to the House to discuss that matter.

I do not have the answers to the questions raised by Senator Gavan. I would be very disappointed and dismayed if the allegations he has listed today are not being addressed. Nobody can condone bullying in the workplace. In fact, the opposite is true. I have stated in this House on many occasions that there is a need to have unions representing workers which can engage with management or the heads of sectors in order that disputes can be ironed out and solutions can be found. I hope that the machinery of the State can be employed to address industrial relations and workplace issues. I would be very disappointed to hear that any industrial relations are not being conducted in a professional manner. It is the very least we can do, irrespective of ideology. We need a proper mechanism where people can engage in a respectful manner. Perhaps the Senator would be better served by tabling a Commencement matter on this issue.

*12 o'clock*

**Senator Paul Gavan:** That is the next step.

**Senator Jerry Buttimer:** I genuinely believe it is an important matter.

Senator Ó Ríordáin raised the issue of transport police. It is a very good suggestion and is one I have made myself. We should have a separate transport police to augment the work of An Garda Síochána on the ground. The issues of vandalism and attacks on passengers or personnel working on the Luas or DART services raised by the Senator are a source of concern. It is unacceptable and there is a need to have a real debate about a transport police specific for Dublin which can augment the work of An Garda Síochána. In Cork city recently the Jack Lynch Tunnel and the Lower Glanmire Road were closed and there was gridlock. Rather than using Garda resources to deal with this kind of event, it would be a good idea to have a transport police section to deal with them, which would allow for free movement of traffic and to end some of the commuter heartache referenced by Senator Horkan.

The issue raised by Senator Horkan is one of the challenges we must face as a nation, given that we are back to full employment. There is more traffic on the road, so we should be investing more in public transport, as both Senators Horkan and Lombard have said. I would be happy to have the Minister for Transport, Tourism and Sport, Deputy Ross, come to the House to address the issues the Senator has raised this morning. It is a huge source of concern. The point made by Senator Lombard about the cost of public transport in west Cork is a legitimate concern to be articulating here.

**Senator Gerry Horkan:** We might ask the Minister to address the separate points.

**Senator Jerry Buttimer:** I will certainly try to do that.

I commend the local authorities in Dublin and the two councillors, Rebecca Moynihan and Deirdre Kingston, on their pilot scheme for sanitary products. It is a wonderful idea, and I would be happy to have the Minister come to the House to debate the matter.

I welcome the investment in Ireland made by BASF, as described by Senator Marshall. It is both a huge vote of confidence and a large investment. The Senator pointed out that that company is worth some €10 billion globally. We want to see further growth in that area. The Senator articulated very forcefully the importance and the benefit of the BASF investment.

Senator Lawlor requested that the Minister for Communications, Climate Action and Environment come to the House to discuss wind turbine guidelines. I would be happy to facilitate that.

I thank Senator Wilson for raising the very important matter of Georgia. Senator Wilson deserves to be commended on his work on many different issues around international human rights. He is working across many different frontiers to create a better world for citizens of Ireland but also for people in places such as Georgia and Taiwan. I thank him for that.

I believe we will all welcome changes to the leaving certificate appeals process, as raised by Senator Ned O’Sullivan. We should have a real debate on that, to avoid a repeat of what happened last summer with that unfortunate student. The Senator made the point well and we will have that debate in due course.

I thank Members for their participation and I accept the amendment to the Order of Business.

**An Cathaoirleach:** Before we move on I would like to welcome a long-standing friend of mine, Mr. Martin O’Mahony, and his business colleague, Chris Samuelson, who has diplomatic immunity in west Cork for most of the year. They are very welcome to the Seanad Chamber.

Senator Wilson has proposed an amendment to the Order of Business, “That No. 75, non-Government motion 13, be taken before No. 1.” The Leader has indicated that he is prepared to accept the amendment. Is the amendment agreed? Agreed.

Order of Business, as amended, agreed to.

### **Situation in Georgia: Motion**

**Senator Diarmuid Wilson:** I move:

That Seanad Éireann:

- reaffirms Ireland’s unwavering support for Georgia’s sovereignty and territorial integrity within its internationally recognised borders;

- expresses concern that 10 years after the Russia-Georgia war, the occupation of Georgian regions of Abkhazia and Tskhinvali region/South Ossetia by the Russian Fed-

eration still continues and the security, human rights and humanitarian situation on the ground further deteriorates, people in the occupied territories are deprived of basic rights and freedoms, such as the right to life, the right to residence and property, freedom of movement, education in the native language; and further, that Georgians remaining in the occupied regions are subject to ethnic discrimination and ethnically targeted violence;

- welcomes the adoption of the Tatumashvili-Otkhozoria Sanctions List by the Government of Georgia and calls upon the Irish Government to impose the restrictive measures on the individuals included in the list with the aim to end impunity and prevent further aggravation of the human rights situation in Georgia's occupied regions;

- reaffirms its unwavering support to the EU Monitoring Mission (EUMM) and expresses readiness to further continue Ireland's valuable contribution to the EUMM; and 10 years after launching the Geneva International Discussions reaffirms Ireland's strong support to this important format designed to address the security and humanitarian challenges stemming from the Russia-Georgia conflict;

- underlines the utmost need for tangible results on core issues of negotiations, including the non-use of force, establishment of the international security mechanisms in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia and the safe and dignified return of hundreds of thousands of internally displaced persons (IDPs) and refugees expelled from their homes through the numerous waves of ethnic cleansing, with the aim to achieve lasting peace and security on the ground;

- emphasises the necessity of full implementation of the EU-mediated Ceasefire Agreement by Russia, of 12th August, 2008;

- supports the Incident Prevention and Response Mechanisms (IPRMs) in Gali and Ergneti and encourages the participants to engage in good faith in order to find proper solutions for the safety and humanitarian needs of the conflict-affected population;

- welcomes the policy of the Government of Georgia towards the peaceful conflict resolution based on the fundamental principles of international law, which is directed towards the de-occupation of Georgian regions, on the one hand, and reconciliation and confidence building between divided communities, on the other hand;

- supports Georgia's new peace initiative 'A Step to a Better Future' aimed at improving the humanitarian and socio-economic conditions of people residing in the Georgian regions of Abkhazia and Tskhinvali region/South Ossetia, and at fostering people-to-people contacts, confidence building and reconciliation among the divided communities;

- reconfirms its unwavering support to the non-recognition policy towards the occupied territories of Georgia;

- welcomes the growth of political relations and cooperation in a variety of fields between Ireland and Georgia, including intensifying inter-parliamentary cooperation;

- encourages further development of bilateral trade, economic and investment cooperation between Ireland and Georgia for mutual benefit;

- commends the people and Government of Georgia for their successful reforms in

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recent years towards consolidating democracy, ensuring human rights protection, rule of law, media freedom and good governance as well as strengthening government transparency and judicial independence;

- welcomes Georgia's substantial progress on its EU integration path, including successful implementation of the Association Agreement, and reaffirms its strong support to this process; and notes that the abolition of the visa requirements for Georgian citizens stands out as an important milestone achieved on the EU-Georgia cooperation agenda;

- recommends that Ireland and Georgia should continue close cooperation with the aim to further deepen Georgian-Irish partnership, both in bilateral and multilateral formats, and work together towards an open Europe of unity and solidarity, to contribute to global peace and security.

I thank the Leader and the leaders of the various political groups for unanimously accepting this motion. I was part of a delegation, led by the Cathaoirleach, to Georgia last year, and I was very impressed with the country and its people. Unlike the Leader of the House I did get to witness at first hand the border area. It was heart-wrenching to see families divided by barbed wire. In many instances they can only communicate through that barbed wire. I want to commend everybody on their support. I especially acknowledge the participation of a number of Irish people in the EU permanent representative body that is in the country and monitoring the situation on a daily basis. I commend them on their work and hope this motion will play some small part in reuniting Georgia in the not-too-distant future.

I thank the Leader again, and I thank the group leaders in this House for their support for this motion.

**Senator Jerry Buttimer:** I neglected to include the Cathaoirleach's involvement and participation in the trip to Georgia.

Question put and agreed to.

*Sitting suspended at 12.10 p.m. and resumed at 12.50 p.m.*

## **Copyright and Other Intellectual Property Law Provisions Bill 2018: Committee Stage (Resumed)**

### SECTION 27

Question proposed: "That section 27, as amended, stand part of the Bill."

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Halligan):** On the amendment which was carried, I may make further amendments on Report Stage.

**An Leas-Chathaoirleach:** Perfect. I thank the Minister of State.

Question put and agreed to.

**An Leas-Chathaoirleach:** Amendment No. 3 was discussed with amendment No. 1, but perhaps some Senators wish to say something on the section.

**Senator David Norris:** I move amendment No. 3:

In page 22, to delete lines 12 to 16 and substitute the following:

“(3) Without prejudice to the generality of section 221(1), the brief and limited display of a recording of a performance—

(a) either—

(i) in a prescribed library or prescribed archive or by the librarian or archivist of a prescribed library or prescribed archive, or

(ii) during the course of a public lecture given in an educational institution or in a prescribed library or prescribed archive or given by the librarian or archivist of a prescribed library or prescribed archive,

(b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and

(c) accompanied by a sufficient acknowledgement, shall constitute fair dealing with the work for the purposes of section 50(1).

(4) It is not an infringement of any moral right conferred by Part IV to do anything which by virtue of this section is not an infringement of the rights conferred by this Part.

(5) In this Part, ‘fair dealing’ includes the making use of a performance or recording which has been lawfully made available to the public for a purpose and to an extent which will not unreasonably prejudice the interests of the rightsowner where such use is accompanied by a sufficient acknowledgement.”.”.

First, I will withdraw the amendment. Is that the way it goes? I withdraw the amendment with the-----

**An Leas-Chathaoirleach:** It was discussed with amendment No. 1.

**Senator David Norris:** Yes, but I want to indicate that I will not press it to a vote. I reserve the right to resubmit it on Report Stage.

I thank the Minister of State very much for his helpful suggestion that I meet officials of his Department. I see two of them here today. I believe this was led by Ms Debbie Browne. I was not able to go to the original meeting because I was unwell but Senators Bacik and Warfield did attend and they found it useful. The Department officials made arrangements for me to see them another day and I did go in. I spent an hour with them and it was extremely useful. They gave me a series of precedents and law cases.

As I understand it, the argument from the Government is essentially that, while we are putting something in here about our concern for particular kinds of libraries and research facilities

and so on, this kind of protection is dispersed throughout the Bill. It argues that this exists so our amendments are not necessary. That is the situation as I understand it. The way in which education in libraries and archives is dealt with separately in the Copyright and Related Rights Act 2000 is consistent with EU copyright *acquis*, in which they are also dealt with separately to ensure clarity as to the exceptions and limitations for each area. We are largely following the principles and ethos of the European Union again.

If a library based in an educational institutional provides a public lecture, it may rely on the exceptions provided for libraries and archives under section 18 in respect of the use of works that are copyright protected, and section 31 in respect of the use of recordings of performances that are copyright protected. If that same library was providing an internal lecture for students, it would rely on the exceptions for education under section 14 in respect of the use of works that are copyright protected, and section 28 in respect of the use of recordings of performances that are copyright protected. These areas are covered in our amendment, but I understand the Government's argument is that these are covered in different parts of the Bill anyway so our amendment is redundant. That is my understanding but it is a rather technical Bill and I am not particularly good at technical things. I have to feel my way around. One can give me any kind of numbered diagram about how to put in a plug or how to change the wiring in one, but I cannot do it. My mind just freezes. If, however, one shows me how to rewire a plug, I can do it quite easily.

I will leave it at that because we have a number of large, long and detailed amendments to come to. Perhaps I should say a little bit more. Section 18 provides for a new section 69A in the Copyright and Related Rights Act, which would allow libraries and archives to display works in their permanent collections or through dedicated terminals. They would not be inhibited in mounting exhibitions of material. That kind of public viewing is not seen as an infringement of copyright. That is, of course, just plain common sense and a very good thing.

At this stage, I will make brief reference to a number of cases that were drawn to my attention. They were referred to by the senior civil servants to whom I spoke. I said that I had no idea what they were and asked to have some details sent on to me. The first one was *Padawan SL v. SGAE*, C-467/08. The 2010 ruling in this case enshrined that a fair balance must be maintained between right holders and users of protected subject matter and that the concept of fair compensation must be regarded as recompense for the harm suffered by the author or right holder through a private copy being made. That ruling also clarified that a private copying levy must be linked to the act of private copying specifically, so there is a resultant need to carve out a levy being placed on business media and equipment. That seems to go towards a situation in which it is the individual copyright holder who is being targeted. It says that a private copying levy must be linked to the act of private copying. When one says, "the act of private copying", it suggests an individual in his or her room with a machine making this copy.

There were a number of other rulings but I will come on to them later because they seem to fall principally into the area of fair compensation and fair dealing, which relates to amendments Nos. 6 to 8, inclusive. I will leave it at that but will the Minister of State confirm my view that the intentions of the amendment we tabled are met in disparate parts of the Bill? This follows the protocol of the European Union, but I would like confirmation that the issues we raised and the concerns we had have been met in the Bill, meaning that our amendment, to that extent, is redundant. I may have completely misunderstood the Minister of State but, on the other hand, I may have got on to something fairly logical.

**An Leas-Chathaoirleach:** Before I call the Minister of State, we will hear from Senator Bacik. He may then deal with the two contributions.

**Senator Ivana Bacik:** I welcome the Minister of State to the House. I believe we are still on amendments Nos. 1 to 3, inclusive, and 5. Is that right?

**Senator David Norris:** We are on the section, so we are talking about it.

**An Leas-Chathaoirleach:** We are on amendment No. 3, which Senator Norris has indicated he will withdraw. He may move it again in another form on Report Stage.

**Senator Ivana Bacik:** There was a grouping. Amendments Nos. 1 to 3, inclusive, and 5 were being debated together.

**An Leas-Chathaoirleach:** They were discussed with amendment No. 1.

**Senator Ivana Bacik:** Yes, we have discussed them.

**An Leas-Chathaoirleach:** We are on amendment No. 3.

**Senator Ivana Bacik:** I just wish to reiterate what Senator Norris has said and thank the Minister of State for setting up an engagement with his officials. It was useful for us all to meet. Senator Norris met the officials separately but Senator Warfield and myself have certainly met with them since the previous day on which Committee Stage was taken in this House. It was certainly very helpful to discuss the amendments with them.

We have discussed the first group of amendments extensively so I will not say any more on that. It was certainly helpful to hear of the context for their drafting and of the issues with EU law and with the *acquis* in particular. I will, however, reserve more substantive comments to make on amendment Nos. 6 to 8, inclusive, which are the amendments about which we spent most time deliberating with officials. It was helpful to do so, but we would all still want to make the particular points we have made about those particular amendments, which are more substantive. I will reserve my more detailed comments for those.

**Deputy John Halligan:** I thank the Senators for agreeing to meet my officials. I know it is a complicated Bill. Even trying to read it now, I find it complicated. Regarding education in libraries, I believe the intentions of the Senators' amendments have been met in other parts of the Bill. If the Senators read the Bill in its entirety, it makes the amendments redundant.

*I o'clock* Although I acknowledge it is a complicated Bill for everyone, my officials are always available to meet any Member on any issue in the Bill with which they have some difficulty or on which he or she has a genuine misunderstanding. If any Member feels over the next week or two that he or she still needs to speak with my officials, they will be there to meet him or her.

What is proposed in the amendments has been substantially met in other parts of the Bill.

Amendment, by leave, withdrawn.

**Senator David Norris:** I move amendment No. 4:

In page 22, line 12, to delete "means" and substitute "includes".

I will not press the amendment to a vote.

7 November 2018

Amendment, by leave, withdrawn.

Section 28 agreed to.

Sections 29 to 36, inclusive, agreed to.

#### NEW SECTION

**Senator David Norris:** I move amendment No. 5:

In page 29, between lines 2 and 3, to insert the following:

#### **“Fair dealing**

**37. (1)** Section 50 of the Principal Act is amended, in subsection (4), by substituting “includes” for “means”.

(2) Section 329 of the Principal Act is amended, in subsection (2), by substituting “includes” for “means”.

This is a fairly small amendment. It refines and sharpens the focus of the wording.

**An Leas-Chathaoirleach:** Is the amendment being withdrawn?

**Senator David Norris:** I will withdraw it and reserve the right to resubmit on Report Stage.

**An Leas-Chathaoirleach:** I call Senator Warfield.

**Senator David Norris:** Does Senator Warfield want to press the amendment to a vote?

**Senator Fintan Warfield:** I thought we were on amendment No. 6.

**An Leas-Chathaoirleach:** We are on amendment No. 5 to section 37, which proposes the insertion of a new section. I take it the amendment is being withdrawn.

Amendment, by leave, withdrawn.

Section 37 agreed to.

Sections 38 to 44, inclusive, agreed to.

#### NEW SECTION

**An Leas-Chathaoirleach:** Amendments Nos. 6 to 8, inclusive, are related and amendment No. 7 forms part of a composite proposal with amendment No. 8. Therefore, amendments, Nos. 6 to 8, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

**Senator David Norris:** I move amendment No. 6:

In page 32, between lines 20 and 21, to insert the following:

#### **“CHAPTER 5**

*Miscellaneous amendments of Principal Act in relation to user rights*

#### **Fair dealing**

45. (1) Section 49 of the Principal Act is amended by inserting the following subsection after subsection (1):

“(2) In this Part, ‘lawful user’ means a person who, whether under a licence to undertake any act restricted by the copyright in the work or otherwise, has a right to use the work, and ‘lawful use’ shall be construed accordingly.”.

(2) Section 50 of the Principal Act is amended, in subsection (4), by substituting “includes” for “means”.

(3) The Principal Act is amended by inserting the following section after section 50:

**“Fair dealing - public lectures in educational establishments**

**50A.**(1) Without prejudice to the generality of section 50(1), the brief and limited display of a copy of a work—

(a) during the course of a public lecture given in an educational establishment,

(b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and

(c) accompanied by a sufficient acknowledgement, shall constitute fair dealing with the work for the purposes of section 50(1).

(2) It is not an infringement of any moral right conferred by Part IV to do anything which by virtue of this section is not an infringement of the rights conferred by this Part.”.

(4) The Principal Act is amended by inserting the following sections after section 106:

**“Fair dealing - format-shifting for private use**

**106A.**(1) Without prejudice to the generality of section 50(1), it shall constitute fair dealing with a work for the purposes of section 50(1) if—

(a) the owner or lawful user of the work makes or causes to be made a reproduction of that work in a different format,

(b) he or she owns or is a lawful user of the medium or device on which the reproduction is reproduced,

(c) the reproduction is made for his or her private and domestic use,

and

(d) the reproduction is made for purposes that are neither directly nor indirectly commercial.

(2) Subsection (1) shall not apply if—

(a) the work being reproduced is an infringing copy, and

(b) the person making the reproduction did not have reasonable grounds to believe that the work was not an infringing copy.

(3) Where a reproduction which would otherwise be an infringing copy is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an infringing copy for those purposes and for all subsequent purposes.

(4) For the avoidance of doubt, subsection (3) does not apply to a loan of the reproduction by the lender to a member of the lender's family or household for the member's private and domestic use.

(5) Subsection (1) does not apply if the owner or lawful user of the work from which the reproduction was made disposes of, gives away, rents, or sells that work to another person without first destroying all reproductions of that work which he or she has made under that subsection.

(6) Without prejudice to section 2, for the purposes of subsection (1)(a), 'work'—

(a) includes a work which has been purchased, obtained by way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)), and

(b) does not include a work which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the work.

(7) It is not an infringement of any moral right conferred by Chapter 7 of Part II to do anything which by virtue of this section is not an infringement of an infringement of the rights conferred by this Part.

### **Fair dealing - back-up copies**

**106B.(1)(a)** Without prejudice to the generality of section 50(1), it shall constitute fair dealing with a work for the purposes of section 50(1) if the owner or lawful user of the work makes or causes to be made a reproduction of the work as a back-up copy of it which it is necessary for him or her to have for the purposes of his or her lawful use.

(b) In particular, it is not an infringement if the reproduction is made as a back-up copy in case the work is lost, damaged or otherwise rendered unusable.

(2) Subsection (1) shall apply only if the owner or lawful user of the work being reproduced owns or is authorised to use the medium or device on which the reproduction is reproduced.

(3) Subsection (1) shall not apply if—

(a) the work being reproduced is an infringing copy, and

(b) the person making the reproduction did not have reasonable grounds to believe that the work was not an infringing copy.

(4) If the work is lost, damaged or otherwise rendered unusable, then a reproduction made under subsection (1) shall be treated as the work.

(5) Where a reproduction which would otherwise be an infringing copy is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an infringing copy for those purposes and for all subsequent purposes.

(6) For the avoidance of doubt, subsection (5) does not apply to a loan of the reproduction by the lender to a member of the lender's family or household for the member's private and domestic use.

(7) Subsection (1) does not apply if the owner or lawful user of the work from which the reproduction was made disposes of, gives away, rents, or sells that work to another person without first destroying all reproductions of that work which he or she has made under that subsection.

(8) Without prejudice to section 2, for the purposes of subsection (1) (a), 'work'—

(a) includes a work which has been purchased, obtained by way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)), and

(b) does not include a work which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the work.

(9) It is not an infringement of any moral right conferred by Chapter 7 of Part II to do anything which by virtue of this section is not an infringement of the rights conferred by this Part.”

(5) Section 220 of the Principal Act is amended—

(a) by designating the existing section as subsection (1), and

(b) by adding the following subsection:

“(2) In this Part, 'lawful user' means a person who, whether under a licence to undertake any act restricted by recording rights in relation to

a performance or otherwise, has a right to use the recording of a performance, and ‘lawful use’ shall be construed accordingly.”.

(6) The Principal Act is amended by inserting the following section after section 221:

**“Fair dealing - public lectures in educational establishments, libraries and archives**

**221A.(1)**Without prejudice to the generality of section 221(1), the brief and limited display of a recording of a performance—

(a) during the course of a public lecture given in an educational establishment,

(b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and

(c) accompanied by a sufficient acknowledgement, shall constitute fair dealing with the work for the purposes of section 221(1).

(2) Without prejudice to the generality of section 221(1), the brief and limited display of a recording of a performance—

(a) either—

(i) in a prescribed library or prescribed archive or by the librarian or archivist of a prescribed library or prescribed archive, or

(ii) during the course of a public lecture given in a prescribed library or prescribed archive or given by the librarian or archivist of a prescribed library or prescribed archive,

(b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and

(c) accompanied by a sufficient acknowledgement, shall constitute fair dealing with the work for the purposes of section 50(1).

(3) It is not an infringement of any moral right conferred by Part IV to do anything which by virtue of this section is not an infringement of the rights conferred by this Part.”.

(7) The Principal Act is amended by inserting the following sections after section 254:

**“Fair dealing - format-shifting for private use**

**254A.(1)**Without prejudice to the generality of section 221(1), it shall constitute fair dealing with a recording of a performance for the purposes

of section 221(1) if—

(a) the owner or lawful user of the recording makes or causes to be made a reproduction of that recording in a different format,

(b) he or she owns or is a lawful user of the medium or device on which the reproduction is reproduced,

(c) the reproduction is made for his or her private and domestic use, and

(d) the reproduction is made for purposes that are neither directly nor indirectly commercial.

(2) Subsection (1) shall not apply if—

(a) the recording being reproduced is an infringement of the rights conferred by this Part, and

(b) the person making the reproduction or causing it to be made did not have reasonable grounds to believe that the recording was not such an infringement.

(3) Where a reproduction which would otherwise be an illicit recording is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an illicit recording for those purposes and for all subsequent purposes.

(4) For the avoidance of doubt, subsection (3) does not apply to a loan of the reproduction by the lender to a member of the lender's family or household for the member's private and domestic use.

(5) Subsection (1) does not apply if the owner or lawful user of the recording of a performance from which the reproduction was made disposes of, gives away, rents, or sells that work to another person without first destroying all reproductions of that work which he or she has made under that subsection.

(6) Without prejudice to sections 2 and 202, for the purposes of subsection (1)(a), 'recording of a performance'—

(a) includes a recording which has been purchased, obtained by way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)), and

(b) does not include a recording which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the work.

(7) It is not an infringement of any moral right conferred by Part IV to do anything which by virtue of this section is not an infringement of the

rights conferred by this Part.

### **Fair dealing - back-up copies**

**254B.**(1)(a) Without prejudice to the generality of sections 221(1) and 242, it shall constitute fair dealing with a recording of a performance for the purposes of section 221(1) if the owner or lawful user of the recording makes or causes to be made a reproduction of that recording as a back-up copy of it which it is necessary for him or her to have for the purposes of his or her lawful use.

(b) In particular, it shall constitute fair dealing for the purposes of section 221(1) if the reproduction is made as a back-up copy in case the recording is lost, damaged or otherwise rendered unusable.

(2) Subsection (1) shall apply only if the owner or lawful user of the recording being reproduced owns or is authorised to use the medium or device on which the reproduction is reproduced.

(3) Subsection (1) shall not apply if—

(a) the recording being reproduced is an infringement of the rights conferred by this Part, and

(b) the person making the reproduction or causing it to be made did not have reasonable grounds to believe that the recording was not such an infringement.

(4) If the recording is lost, damaged or otherwise rendered unusable, then a reproduction made under subsection (1) shall be treated as the recording.

(5) Where a reproduction which would otherwise be an illicit recording is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an illicit recording for those purposes and for all subsequent purposes.

(6) For the avoidance of doubt, subsection (5) does not apply to a loan of the reproduction by the lender to a member of the lender's family or household for the member's private and domestic use.

(7) Subsection (1) does not apply if the owner or lawful user of the recording from which the reproduction was made disposes of, gives away, rents, or sells that recording to another person without first destroying all reproductions of that work which he or she has made under that subsection.

(8) Without prejudice to sections 2 and 202, for the purposes of subsection (1)(a), 'recording of a performance'—

(a) includes a recording which has been purchased, obtained by

way of a gift, or acquired by means of a download resulting from a purchase or a gift (other than a download of a kind mentioned in paragraph (b)), and

(b) does not include a recording which has been borrowed, rented, broadcast or streamed, or a copy which has been obtained by means of a download enabling no more than temporary access to the work.

(9) It is not an infringement of any moral right conferred by Part IV to do anything which by virtue of this section is not an infringement of the rights conferred by this Part.”.

(8) Section 329 of the Principal Act is amended, in subsection (2), by substituting “includes” for “means”.”.

It will take some time to deal with these amendments because the three being taken together extend to ten or 12 pages. They form the core of the Bill.

Subsection (1) of the proposed new section deals with fair dealing and defines a lawful user. In other words, the person who has the right to use material and copy it. The concept of fair dealing is fairly universal. Even in the fairly restrictive area of print copyright, there is the concept of fair usage, that one can, for example, for scholarly purposes quote a certain section of a work but that section is limited by common sense and one can go to court for a ruling. One cannot quote an entire novel to illustrate a point in a lecture but one can quote a few sentences from it. There is that exception. It is rather different. Fair dealing in literary works really means the amount that one can quote. Subsection (1) states, “In this part, ‘a lawful user’ means a person who, whether under a licence to undertake any act restricted by the copyright in the work or otherwise, has a right to use the work, and ‘lawful use’ shall be construed accordingly.”

Subsection (3) deals with fair dealing in terms of public lectures in educational establishments. We had some discussion on that in dealing with amendment No. 3, which covered the situation in libraries. Subsection (3) states, “Without prejudice ... the brief and limited display of a ... work .. during the course of a public lecture given in an educational establishment ...”. For example, a lecture could be given in which slides of a work of art that may be under copyright, slides of literary manuscripts or slides of the history of fashion could be shown but in a limited way. That comes under the idea of fair usage. During a public lecture in an educational establishment if a slide is shown, for example, that is relevant to the lecture, that is not an infringement. Subsection (3) also states that the display of a copy of a work has to be “undertaken for the sole purpose of education, teaching, research or private study ... accompanied by a sufficient acknowledgement [and] shall constitute fair dealing with the work for the purposes of section 50 ...”.

Subsection (4) deals with format-shifting, which is a type of downloading, and this is downloading for private use. The subsection states:

... Without prejudice to the generality of section 50(1), it shall constitute dealing with a work for the purposes of section 50(1) if-

(a) The owner or lawful user of the work makes or causes to be made a reproduction of that work in a different format ...

In other words, he or she already owns the material in a particular format and he or she is just changing the format, presumably electronically. That seems to be pretty reasonable. If one already owns a copy of the material, why should one not make a copy of it as long as it is for private use and not for sale and there is no commercial advantage involved in it? The phrase “he or she owns or is a lawful user of the medium or device on which the reproduction is reproduced [limitations are included] ... the reproduction is made for his or her private and domestic use ...” is also used in the subsection. That is a severe limitation. That rules out any kind of pirating or unlawful reproduction. The subsection further states: “the reproduction is made for purposes that are neither directly nor indirectly commercial.” In other words, there should be no profit or financial gain from this process of copying. The subsection further states:

(2) Subsection (1) shall not apply if-

(a) the work being reproduced in an infringing copy [it gets rather technical here about what is or is not an infringing copy] ...

(3) Where a reproduction which would otherwise be an infringing copy is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an infringing copy ...

In other words, all the descendants of an infringing copy are also infringing copies. That is intended to limit access to an illegal market, a black market, in, for example, CDs, tapes or videos that were manufactured on a large scale by commercial enterprises.

Subsection (4) also deals with fair dealing in terms of back-up copies. The creation of such copies in this context is obvious because material can often be damaged. Material can be lost on computer. I do not use computers. I do not understand anything about them and I do not want to but I know people frequently suffer a loss of material from their computers due to an electrical surge, or their computer is stolen, or somebody fiddles with the keys and suddenly memory is wiped off the computer and one is left with nothing. In those circumstances not only should it be lawful but it should be required that copies are kept in order that valuable material is not lost. The subsection further states, “In particular, it is not an infringement if the reproduction is made as a back-up copy in case the work is lost, damaged or otherwise rendered ... [inaccessible]”. I cannot see any argument against that. We are dependent on having access to these kinds of copies.

Subsection (6) deals with fair dealing – public lectures in educational establishments, libraries and archives, which relates to the subject of amendment No. 3. It states:

(1) Without prejudice to the generality of section 221(1), the brief and limited display of a recording of a performance—

(a) during the course of a public lecture given in an educational establishment,

(b) undertaken for the sole purpose of education, teaching, research or private study where such purpose is neither directly nor indirectly commercial, and

(c) accompanied by a sufficient acknowledgement, shall constitute fair dealing with the work for the purposes of section 221(1).

That is perfect common sense and I do not see how anyone could object to it. Perhaps the

Minister of State will come up with an objection or he will say it is already covered in another section. It is a perfectly sensible amendment and it continues:

Without prejudice to the generality of section 221(1), the brief and limited display of a recording of a performance—

(a) either—

(i) in a prescribed library or prescribed archive or by the librarian or archivist of a prescribed library or prescribed archive,

The words “in a prescribed library” are important and mean that it becomes lawful in that particular space. It is then extended by the reference to the archivist. As I understand it, this means that the archivist can take the material to a town hall, a civic group or a community group and it does not have to be physically in the particular library. He or she can give the same lecture and show the same slides or reproduce the same music without infringing copyright. The right to use the material resides not just in a location but in the personnel also. It has, of course, to be taken for the sole purpose of education.

The amendment also deals with fair dealing and format-shifting for private use and states:

Without prejudice to the generality of section 50(1), it shall constitute fair dealing with a work for the purposes of section 50(1) if—

(a) the owner or lawful user of the work makes or causes to be made a reproduction of that work in a different format,

This also seems to be reasonable as one is just changing the format. I am not terribly well acquainted with matters of this nature but I assume it means taking something one has on one’s telephone and transferring it to one’s computer. It is moving from one medium, or one electronic device, to another if the person owns or is the lawful user of the medium or the device on which the reproduction is produced. It has to be the owner of the recording and the owner of the device on which the reproduction is made. It requires that the reproduction is made for his or her private or domestic use and that the reproduction is made for purposes that are neither directly or indirectly commercial. That also is very clear. Subsection (3) states:

Where a reproduction which would otherwise be an illicit recording is made under this section, but is subsequently sold, rented or lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be treated as an illicit recording for those purposes and for all subsequent purposes.

This appears to be directed at pirating. In other words, if a person has an illicit recording and makes a further recording from the illegal copy, those copies are also illegal and cannot be commercially distributed or sold. That is also perfectly reasonable.

The next area is fair dealing and back-up copies. I have already said what I need to say about that. It is very important to have back-up copies because they are an insurance against the loss of intellectually valuable material.

Amendments Nos. 7 and 8 deal with the right to fair compensation. Amendment No. 7 states, “The owners of rights conferred by this Part are entitled to receive fair compensation from manufacturers and importers of blank recording media to compensate the said rightsown-

ers fairly for harm done to them by the use made of their works pursuant to sections 106A and 106B.” I find this interesting and the Minister might comment on the question of putting a levy on blank copies before there has been any re-recording of the material. The company involved pays a levy on 25,000 blank CDs or tapes and the money is given to the people whose work is used. It also states, “The right to fair compensation conferred by this section shall not be waived by the rightsowner, and such a rightsowner shall not assign the right to fair compensation except to a collecting society for the purpose of enabling the collecting society to exercise that right on behalf of the rightsowner.” I would have thought the creators of music, song, verse and so on would be interested in getting fair compensation but the impression I have got from discussions with them, and in this House, is that the artists are not pushing for this. Perhaps the Minister can give a reason for what is proposed because I am rather surprised by it. The amendment also states that they have the right to pass on their proprietary rights to this material in a will. I would be grateful if the Minister would talk about a blank recording medium.

The next subsection reads:

(3) No levy shall be payable pursuant to subsection (1) where—

(a) it is a term of the sale of the blank recording medium that the medium is to be exported from the State, and it is exported from State,

That is fairly obvious. If it is only in transit through the State and there is no possibility of a recording being made of the material, there is no reason why a levy should be paid. It continues:

(b) the manufacturer or importer of a blank recording medium sells it either to a designated body as defined in section 104(3) or to a purchaser who is purchasing it in the course of a business.

There is then a requirement for the collecting agencies to keep accounts properly and to make them available. The next proposed new section deals with levies to fund the right to fair compensation.

Amendment No. 8 refers to the register of copyright collecting societies. If we are going to have people collecting money on behalf of artists, we need to know who they are. They need to be officially established and registered so this is very important. It also deals with the notification of levies, the validity of certificates and the obligation of collecting societies to register. Chapter 8A deals with the registration of collecting societies for performers’ property rights.

I want to mention a couple of cases from Europe which I think are helpful for the purposes of understanding the debate. I am relying on a note I received from the advisers to the Minister. The first is *Hewlett-Packard Belgium SPRL v. Repobel SCRL*, case C-572/13. This was litigation between the enormous computing company, Hewlett-Packard, and a Belgian collective management rights association that was operating on behalf of the artist, called Repobel. In 2004, Repobel informed Hewlett-Packard that the sale of multifunction devices, which allowed copying, entailed payment of a levy and that this payment should apply retrospectively. Subsequent party-to-party discussions did not lead to an agreement and both parties filed legal proceedings before the Brussels Court of First Instance. Repobel claimed that payment of the remuneration was due pursuant to the royal decree while Hewlett-Packard argued that this remuneration was not due at all, one of the reasons being that the amount Hewlett-Packard had already paid corresponded to the fair compensation owed, pursuant to the Belgian legislation

interpreted in light of the InfoSoc directive.

Following a number of claims, counterclaims and issues of compatibility involving Belgian and EU law, the Court of Appeal in Brussels decided to stay the proceedings in order to seek guidance from the European Court of Justice, which it did. The latter gave a ruling on 23 October. The 9th Chamber of the Brussels Court of Appeal referred four questions to the European Court of Justice, one being on the conformity with EU law of the 50:50 author-publisher distribution split, taking into account that the publisher is under no obligation to pay back, even indirectly, a part of the remuneration so received to the author. Another question was to seek guidance on the notion of fair compensation, which is what we are dealing with directly. It pertains to Articles 5.2(a) and 5.2(b) of the 2001/29 directive, querying whether the notion could be interpreted in a different way depending on whether the reproduction on paper is made by “a natural person for personal use, or by any person in general”. I take “any person in general” to mean somebody with a commercial interest in the material who is intent on pirating the material. There was a question on the Belgian dual reprography remuneration scheme, including an equipment levy based exclusively on the copying speed of the device having no other link with the possible harm suffered by right holders. Again, it is contentious that one would charge somebody simply on the basis that he or she has the potential to reproduce material at a particularly high speed. He or she may never do it. I am just curious about that.

The most important part of the judgment is that “fair compensation is intended to compensate actual harm caused to right holders, resulting from the reproduction of their work without their authorisation, and must therefore be calculated proportionately to that harm.”

There is just one other case I want to mention. The British introduced, in 2014, a copying exemption without a levy. This allowed people to make private copies of legally acquired content. It would have allowed consumers to transfer the content of their own CDs to an MP3 player, for example, but would not have allowed people to make copies and give them to others. The judgment covered three issues. Should the Copyright and Rights in Performances (Personal Copies for Private Use) Regulations 2014 be quashed? The court ruled that the UK private copying exception was quashed. The legislation that was passed allowing the exemptions without a levy was quashed by the European court. Should there be a reference to the European court? As the legislation was quashed, it was decided there was not to be one. We, therefore, have an interesting case of a neighbouring government introducing in very recent years an exemption for private use that was quashed by the European court. These are the limits within which the tailoring of Irish law has to take place.

As a result of the discussions I had, which were helpful, it became clear that this was not a case of Ireland acting in isolation. We had relations with, and obligations to, other countries. We had treaties and legal arrangements with other countries. Overall, we had the European Union and its courts of justice and so on. Therefore, we were not tailoring a Bill in isolation. It was not as if we had a blank page and could do for Ireland whatever we wanted. There are constraints imposed by our entanglements with other states.

I am afraid I was rather long-winded. The three amendments cover approximately 14 or 15 pages so I hope I will be excused on that score. I hope I have not been too rambling.

**Senator Ivana Bacik:** Senator Norris has eloquently put the case for amendments Nos. 6 to 8, inclusive. I will follow up briefly because we had also proposed these amendments. I thank Professor Eoin O’Dell in Trinity College for his input.

**Senator David Norris:** For writing them.

**Senator Ivana Bacik:** For writing them and for his immense help in explaining them to us. I thank the officials for meeting us to go through the substance of these amendments. Both Senator Warfield and I were very impressed by their expertise and depth of knowledge in what is, as Senator Norris and others have said, such a technical area.

Amendments Nos. 6 to 8, inclusive, essentially deal with the substantial issues of fair dealing and fair compensation and, in addition, seek to cover specifically public lectures in educational establishments. Let me deal with public lectures in educational establishments first. We are told this is not something that is specifically covered elsewhere, yet it is clearly an area in which an exception should be made. I realise the issue is implied. We discussed this earlier. The Minister of State will probably respond by saying this is covered elsewhere. Section 18, which inserts a new section 69A into the Principal Act, provides for public lectures given in prescribed libraries or archives, “undertaken for the sole purpose of education, teaching, research or private study”. It may be that educational establishments are implied in that but we believe it should be made explicit. I referred on the previous occasion to an amendment to section 18(2)(a)(ii) to include “or an educational institution” where a prescribed library or prescribed archive is currently provided. That might be a way of dealing with it. When we canvassed on this at the briefing with the officials, we were told educational institutions are dealt with separately. It does not seem, however, that they are explicitly covered. Amendments Nos. 6 to 8, inclusive, deal specifically with public lectures in educational establishments. That is one discrete issue.

The other more substantial issue is a fair dealing exemption. I refer to user rights. These and fair compensation were dealt with in the report on modernising copyright to which we have referred. This report, which was published in 2013, provided specifically for exceptions to normal copyright law to enable user rights on the basis that consumers now commonly assume that if they buy content for personal use, they should be able to access it in different formats and on multiple devices, and they should be able to back it up. Many consumers routinely copy content and make backups believing it is legally permitted. Currently, it is an infringement of copyright to shift formats or make backups. It would be assumed, therefore, that any reforming copyright law would change that to ensure fair use by consumers is not a breach of copyright law. These are well-established practices. Failure to acknowledge this reality, as Professor O’Dell has suggested, would diminish respect for the system of copyright and undermine the credibility of copyright legislation. We certainly discussed this at the briefing with officials. It does not seem to me to be good law to reform copyright without acknowledging the reality of use by consumers in a non-commercial environment, which should not amount to a breach of copyright law. The European directive enables us to create the exceptions that our amendments propose. I refer specifically to amendment No. 6. We are proposing that private copying exceptions to enable format shifting and backing up should be introduced, subject, of course, to a system of levies for fair compensation, as the EU directive requires.

I understand these recommendations, which were in the 2013 report, were not included in the Bill due to a political decision taken not to proceed with the exceptions for user rights. It may well be that rights holders were not looking for a levy system, that it was not something raised with the Minister by stakeholders, and that it, therefore, appeared there was a lack of demand for the sorts of exceptions we are seeking to provide in our amendments. I anticipate that the Minister of State will say there is concern that the cost of creating the exceptions together with the levy scheme we are seeking in amendment No. 7 might be passed on to consumers. However, we are entitled to say there would be other ways of paying for the levy scheme. I am

grateful to those who briefed us and who told us that 22 EU jurisdictions have a levy system in place to allow for the sorts of user exceptions we are talking about for fair dealing. While each levy system is different, significant costs are not always passed on to the consumer. It certainly seemed to us, and also Senator Warfield, that it might be possible to create a scheme whereby the cost would be borne by device manufacturers, as it is by photocopier manufacturers, for example. Thus, manufacturers of devices, such as Apple, would be able to absorb any costs from a minimal levy scheme to ensure a private user exemption would be built in, thus allowing good law whereby people who deal fairly as consumers by backing up legally purchased material would no longer infringe the law. It may be that the prospects of any enforcement of the law are minimal. That is something I anticipate the Minister of State might say but it is not good law. It undermines respect for law if we continue on the assumption that nobody will be prosecuted or no proceedings will be taken against people in civil courts for doing something that is in fact an infringement of copyright, even though nobody knows it is and everyone assumes it is not. It seems strange that we are debating a law that is supposed to be reforming, updating and modernising copyright law without taking account of the reality that, however minimal the possibility, people might well be subject to legal proceedings because they are in fact breaching copyright through doing something in good faith and that we all do all the time. It seems particularly bizarre that we are doing that when in fact there are levy schemes in place in other jurisdictions and they are legally possible under the directive.

The UK scheme was quashed but we have been told there are other ways of providing for levy schemes. It may be that improvements could be made to our amendments but the point we are making is that in principle there should be exemptions for fair dealing by consumers coupled with a fair compensation scheme. That is the substance of what we are seeking to do in amendments Nos. 6, 7 and 8, where we provide for a registered copyright collecting society. Amendments Nos. 6 and 7 are the crucial amendments. I look forward to hearing the Minister of State's response to this. There is a matter of principle here that, whatever stakeholders, copyright management organisations and others may have sought, may not have been a priority for them. We are trying to represent as the views of the ordinary consumer who should be entitled to carry out good-faith practices of copying, backup and format shifting without being subject to any legal consequence. That is the crux of what we are seeking to do in these amendments. That is also what the Modernising Copyright report sought to do in 2013. We are trying to take on board its recommendations and put them into law. That is the purpose of these amendments.

**Deputy John Halligan:** I thank the Senators for their close analysis of a very complicated Bill. I will do my best to go through it as much as I can. The private copying exception contained in section 45, alongside the proposed sections 46 and 47 are a set of far-reaching proposals, the subject of which has already been considered in depth by the Department and rejected by Government. The Copyright Review Committee's, CRC, report in 2013 recommended the introduction of a private copying exception which would be framed for private and domestic uses and would cover reproduction on paper for private use, format shifting and reproductions for backup copies.

The amendments put forward by the Senators, to sections 45, 46 and 47, reflecting this proposed exception, proceed to include an accompanying proposal to introduce copyright levies, and in addition seek to establish copyright collecting societies to collect and redistribute these levies to rights holders. These three proposals are necessarily linked and I cannot accept any of them. The Department is of the view that levies are essentially a tax on consumers and that their introduction would impose unnecessary additional costs on consumers. While the proposed

amendment as drafted would place the burden on businesses to pay levies, it is inevitable that these costs would be passed on to consumers, including business consumers, when they purchase material for the purpose of copying or facilitating copying, regardless of the use for which it is intended. This view is supported by the Controller of Patents, Designs and Trade Marks. The view of the Copyright Review Committee in 2013 which is precisely aligned with that of the UK was “that such levies are a blunt instrument that would amount to a tax on innovation”. While the way the proposed amendments are drafted would place the burden on businesses to pay levies it is inevitable that these costs would be passed on to consumers, including business consumers, when they purchase material for the purpose of copying or facilitating copying, regardless of the use for which it is intended. In addition, my Department has not received a significant number of submissions from right holders calling for the introduction of levies, either during our engagement with them since the publication of the CRC report in 2013 or since publication of the Bill earlier this year, that is, from the very people who it is purported will benefit the most from these amendments.

Furthermore, evidence from other member states indicates that there would likely be very little additional revenue and that, due to the increased administrative burden placed on collecting societies, this could potentially result in right holders receiving less remuneration and possibly a net loss to collecting societies which must be compensated for through their remuneration pool. We have also not received any engagement from stakeholders on this matter providing evidence of the harm caused to right holders by private copying to justify increasing costs to Irish consumers. Further to this, there has been no analysis of what goods would have levies added to them, or how much these levies should cost. While the proposal refers to a “blank recording medium” which emphasises the copying of a “recording”, the open-ended use of the term “work” in the proposed section 106A included in this amendment would make this insufficient.

There are also concerns that the term “blank recording media”, contained in the proposed text, is ambiguous when read in context with the “works” that can be copied. This term would need to be expanded to include all means of copying of works to ensure that Ireland complies with its EU obligations. This would have the effect of levies being placed not only on blank CDs, but potentially also on other devices capable of copying, for example, phones, laptops, electronic notebooks, photocopiers etc. That is important. Therefore, these levies would have an impact on everyone from the ordinary person to schools, small and large businesses and so on. Furthermore, this also imposes a cost on all users of blank recording media where the exception to allow copying is limited to “private and domestic use”. With regard to the proposed introduction of a private copying exception, I would like to assure the Senators that the Department considered this recommendation carefully and undertook the requisite scrutiny in its analysis of the recommendations of the Copyright Review Committee. Ultimately it was decided not to progress this recommendation and that decision was endorsed by the Government when it approved the draft heads of this Bill. As part of its analysis, the Department examined the amendment to the UK’s copyright law that took place in 2014.

**Senator David Norris:** Is the Minister of State going to give us the reasons the Government rejected it?

**Deputy John Halligan:** I am coming to that.

At that time the UK introduced a private copying exception without imposing levies. The UK provision was successfully judicially reviewed in 2015, with the court stating that, without

sufficient evidence showing the lack of harm caused to right holders, a private copying exception would require a compensation scheme to be established. That is a very reasonable answer to some of the questions the Senators have asked.

There is also a wealth of EU law, particularly under the 2001 information society directive and EU case law, including the Padawan and Reprobel cases, which impacted on that decision. Given that the exception proposed by the Copyright Review Committee for implementation in Ireland was similar to the failed UK exception, and our expectation that it would almost certainly be legally challenged and struck down, it was decided not to progress the committee's recommendation in this area. It was decided not to progress the committee's recommendation in this particular area. This view was taken in conjunction with the legal advice the Department received on the issue. As already mentioned, that was included in the memorandum to Government seeking approval for the draft Bill.

To go back to the Padawan case to which the Senator referred, the EU found that private copying levies cannot be imposed on commercial users. Most commercial users are either copying their own material or copying copyright material under the terms of licence paid to collecting societies and creators. The little evidence that is available shows that many manufacturers pass on levies on consumer goods such as mobile phones and iPads, which can be significant and which are payable directly by consumers.

The Department has been given legal direction on this. We also spoke to the Controller of Patents, Designs and Trade Marks and the copyright review committee in 2013. We see the levies as a tax on consumers. The proposed amendment refers to a "blank recording medium" which is too vague in the context of the advances that have been made in media storage in recent years.

The Bill is very complicated but I have done my best to deal with amendment No. 6 and to address the issue of the levies and the copyright exception. As I have said, the UK's copyright law was amended in 2014 to introduce a private copying exception without a levy. While I thank Senators for their contributions, based on the detailed information collected by the Department, I cannot accept the amendments.

**Senator David Norris:** I thank the Minister of State for his helpful reply. I propose, in consultation with my colleagues, to withdraw the amendment and reserve the right to resubmit it on Report Stage.

In the meantime, the Minister of State referred to legal advice. I know that the advice of the Attorney General is usually not made available but reference was made to a "legal decision". I ask the Minister of State to make available as many legal documents, directives, legal decisions, court case documents and so on as possible for our consideration.

I am a little concerned about the issue of blank tapes or discs because it seems to me that they might be used for completely different purposes. They need not necessarily be used for infringing copyright but can be used for totally different purposes. Imposing a levy on them all seems, as the Minister of State indicated, something of a blunt instrument. I would like to look at that again and may contact Professor O'Dell to ask for his view on it.

Having taken into account the helpful comments of the Minister of State, we will withdraw the amendment with the intention of possibly resubmitting an amended version on Report Stage.

**Deputy John Halligan:** As the Senator knows, Departments are very reluctant to release legal advice. However, we can give the Senator a detailed note on EU and UK case law, which might prove useful. Again, without being patronising, I wish to compliment the Senators on their efforts in submitting amendments on what is a very complicated Bill. That they would do so is great for democracy. My advisers are suggesting that we could have a further meeting following today's discussion. Would the Senator be amenable to that?

**Senator David Norris:** Yes, I am sure that would be very helpful. Perhaps the three of us should attend.

**Deputy John Halligan:** Based on what I have said regarding the information available and the further information which I will make available, I ask the Senators to postpone any decision on this until they have met my advisers.

**Senator Ivana Bacik:** I wish to respond on behalf of my colleagues. We would be delighted to have a further meeting because the earlier meetings we had were very constructive. We are seeking to be constructive as the Minister of State knows. We seek to improve the legislation and the scheme therein. We are agreed that we will withdraw the amendments at this point and reserve the right to reintroduce them on Report Stage.

The Minister of State has indicated that he is not accepting the amendments on principle and we can certainly look at issues concerning blank tapes and so on. However, I expect that would not change on Report Stage. The Minister of State also said that the Department engaged in extensive consultation with stakeholders but that a scheme for fair dealing exceptions and fair compensation that we are proposing was not a priority for them. Our point is that the stakeholders to whom we are referring are not those who are collectively organised or from whom one would expect to get submissions, that is, the broad spectrum of members of the public, consumers, those who are using, copying, backing up and format-shifting all of the time. That is who we are trying to represent here. We are not talking about stakeholders who might be expected to engage in a collective way with the Department and that is the difficulty. We are not hearing from the people who will be the most affected, ultimately. That is what we are trying to address with our amendments.

**Senator David Norris:** The Minister of State said that the Department had not received a sufficient number of approaches, which implies that it did receive some. Could the Minister of State give us some more details on that because at another point he said that the Department was not lobbied at all.

**Deputy John Halligan:** To clarify, I stated that my Department had not received a sufficient number of submissions from rights holders calling for the introduction of levies, either during-----

**Senator David Norris:** That implies that the Department did receive some submissions.

**Deputy John Halligan:** Actually, my officials tell me that there was no lobbying at all.

**Senator David Norris:** That is interesting. The Department did not simply get an insufficient number of submissions; it did not get any.

**Deputy John Halligan:** Yes, according to the note, we did not get any at all, which is very interesting.

**An Leas-Chathaoirleach:** It has been agreed that a further meeting will be held with officials. It has been further agreed that amendment No. 6 is being withdrawn. Is that correct?

**Senator David Norris:** Yes.

Amendment, by leave, withdrawn.

Amendments Nos. 7 and 8 not moved.

Sections 45 to 105, inclusive, agreed to.

#### SECTION 106

Question proposed: "That section 106 stand part of the Bill."

**Senator Fintan Warfield:** This relates to amendment No. 2, which was passed in the Dáil. Since then, there have been ongoing discussions with the Department based on how we can create a legal digital deposit scheme and how the Department can commit to doing that in the most legally prudent way that ensures the scheme is robust into the future. I will withdraw that amendment and reserve the right to return to it on Report Stage because those discussions are ongoing.

Question put and agreed to.

#### SCHEDULE 1

Question proposed: "That Schedule 1 be Schedule 1 to the Bill."

**Deputy John Halligan:** My Department may wish to submit certain amendments on Report Stage that relate to the educational provisions contained in the Bill. In addition, I refer to section 14, which was agreed without much discussion. Following engagement with interested stakeholders, my Department is currently considering whether it is necessary to introduce amendments to this section to avoid any unintended consequences. Following this analysis, I am advised that there may be the need to table amendments to the section and related technical amendments by inserting a new section in the Bill amending section 173 of the Copyright and Related Rights Act 2000 on Report Stage.

Question put and agreed to.

Schedules 2 to 4, inclusive, agreed to.

Title agreed to.

Bill reported with amendment.

**An Leas-Chathaoirleach:** When is it proposed to take Report Stage?

**Senator John O'Mahony:** Next Tuesday, 13 November 2018.

Report Stage ordered for Tuesday, 13 November 2018.

*Sitting suspended at 1.55 p.m. and resumed at 3 p.m.*

7 November 2018

## **Health and Social Care Professionals (Amendment) Bill 2018: Committee and Remaining Stages**

**Acting Chairman (Senator Gerry Horkan):** I welcome the Minister of State, Deputy Finian McGrath.

Sections 1 to 5, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister of State at the Department of Health (Deputy Finian McGrath):** I wish to say a few words in respect of the Bill. As the House is aware, this is a short technical Bill that contains only five sections. It will amend the Health and Social Care Professionals Act 2005 to provide that all non-Irish professional qualifications which have been recognised by the Minister and by bodies acting on behalf of the State prior to the introduction of statutory registration for a health and social care professional will continue to be recognised for the purpose of registration under the Act. This will allow holders of such qualifications to be statutorily registered and to practise their professions. The existing legislation does not allow for the registration of non-EU persons or persons with non-EEA qualifications whose qualifications had previously been recognised in Ireland. The Bill addresses the lacuna in this regard.

I thank all the Senators for their valuable contributions on Second Stage. I trust that the Bill can now proceed to the Dáil with a view to enactment and the commencement of its provisions by the end of the year. The sooner the provisions are commenced, the sooner appropriately qualified health and social care professionals can register with the registration board, CORU, and practise their professions. This is very important for social care professionals and I warmly welcome it.

**Senator Colm Burke:** I thank the Minister of State for bringing forward this legislation. It is technical in nature and covers a wide range of areas. It is important that we have proper regulation and that there is proper accountability. The Bill will give rise to both. All of the additional professions will be brought within its ambit. It is extremely important that we put in place the necessary regulation.

Question put and agreed to.

## **Health Service Executive (Governance) Bill 2018: Report and Final Stages**

**Acting Chairman (Senator Gerry Horkan):** Before we commence, I remind the House that a Senator may speak only once on Report Stage, except the proposer of an amendment who may reply to discussion on the amendment. Each amendment on Report Stage must be seconded.

Bill recommitted in respect of amendment No. 1.

Government amendment No. 1:

In page 7, to delete line 17 and substitute “(c) 8 ordinary members.”

**Acting Chairman (Senator Gerry Horkan):** For the information of Members, by agreeing to the motion to recommit the House allows a Committee Stage-style discussion on the amendments only. In other words, Members may speak more than once on each amendment. Amendments Nos. 1, 6 and 14 to 16, inclusive, are related and may be discussed together by agreement.

**Minister of State at the Department of Health (Deputy Finian McGrath):** I propose to speak on amendments Nos. 1, 6 and 14 to 16, inclusive, as they are concerned with increasing the size of the new HSE board and with related consequential amendments. The Committee on the Future of Healthcare concluded that an independent board for the HSE needs to be put in place in order to strengthen and improve governance, leadership and accountability within the organisation. This Bill translates that policy directly into legislation.

As the House will be aware, a chairperson-designate, Mr. Ciarán Devane, of the board has been selected and the Public Appointments Service is currently undertaking a process to identify other potential board members. The board will help to drive accountability and transformation. I cannot underline more strongly how important it is to get the right calibre of people with the appropriate mix of experience to serve as members of the board. Given the nature of the role, the associated time commitment envisaged and the range and breadth of competencies required, the Minister for Health has carefully considered the overall size of the HSE board. He has taken into account the fact that the HSE is our biggest State agency, with a budget of €17 billion in 2019, and a significant workforce. An agency of this size generates a huge volume of work - often complex - for its governing body. As a result, it is important to ensure that the board is of an appropriate size, with overlapping skills and competencies, and that collective decision-making is supported and strengthened.

The Bill, as published, provides for a nine-person board. With these amendments, the Minister proposes to increase the overall size of the HSE board from nine members to ten. Amendment No. 1 increases the number of ordinary members from seven to eight. The other two board members are the chairperson and the deputy chairperson. The other amendments are consequential and relate to the quorum for meetings moving from four members to five and to the minimum number of board members required to call a meeting moving from five members to six.

I hope Senators will support these amendments and acknowledge that it is not just about the important work that this new ten-member HSE board must undertake, it is also about reiterating our commitment as public representatives to supporting the new board in its work.

**Senator Colm Burke:** I agree with and welcome the proposed amendments. I had the privilege of sitting on a State board, the board of the Port of Cork, as the nominee from Cork City Council for ten years. The board had great responsibility at the time. The Minister is right. This board will have a budget of €17 billion in real terms. It is important that we get the right people in there and that they are able to do the job of managing. We must remember that over 111,000 people work in the HSE between the hospitals and all of the support services that are provided by the health service. It is important that not only do we have a very good chairperson and deputy chairperson, but that we also have very good board members who can manage

and help to roll out a very competent health service into the future. I welcome the proposed changes.

**Senator Anthony Lawlor:** I, too, welcome the proposed changes. I am glad that the Minister was here for the Second Stage debate. He took on board the suggestion of having two members as patient advocates. I thank Senator Ruane for tabling an amendment to the same end. It is important that suggestions that arise during Second Stage debates are taken on board. In fairness, I have noticed that, in this and the Lower House, Ministers take on board positive suggestions.

Amendment agreed to.

Bill reported with amendment.

Government amendment No. 2:

In page 7, line 18, to delete “(2) The chairperson,” and substitute “(2)(a) Subject to paragraph (b), the chairperson,”.

**Acting Chairman (Senator Gerry Horkan):** Amendments Nos. 2 to 5, inclusive, and 7 to 12, are related and may be discussed together by agreement. Amendment No. 4 is a logical alternative to No. 3.

**Deputy Finian McGrath:** Again, I thank colleagues for their comments. I appreciate their support. The Minister, Deputy Harris, specifically asked me to start by thanking all of the Senators for giving him the time to reflect on this important issue and to bring forward these amendments in order to ensure that at least two members of the new HSE board will have experience and expertise in advocacy in the context of matters affecting patients. From the outset, he has clearly stated the Government’s commitment to implementing the recommendations of the Scally scoping inquiry in full. On behalf of the Government, I thank Dr. Scally for such a careful, compassionate and considered report. In his report, Dr. Scally asks the Minister to consider seriously the appointment of two patient advocates to the proposed new board for the HSE. This is what the Minister has done.

The Public Appointments Service has a robust process for the selection of candidates for membership of the new HSE board. This process will see candidates being appointed to the board based on the skills and experience they bring to the board and their ability to engage in collective complex decision-making. From the outset, patient advocacy was identified as a core skill and expertise needed in board members. It was always the intention of the Minister for Health to ensure that this experience and expertise would be found in the board. However, he has listened carefully to the concerns expressed in previous debates and believes that we should meet Dr. Scally’s recommendation by amending the Bill and providing for a requirement for all future Ministers for Health to ensure that there is patient advocacy experience and expertise on the board of the HSE. On his behalf, I am proposing to amend the Bill to provide that at least two members of the HSE board have patient advocacy experience or expertise. This is done in amendment No. 3.

The other amendments are consequential. Amendment No. 7 relates to the term of office of the members of the first board and is intended to ensure there are always members with advocacy experience or expertise on the board. The remaining amendments in this group are technical drafting amendments. I hope the Senators can support them.

**Senator Lynn Ruane:** The Government's amendment arises on foot of the amendment I tabled - on the basis of the Scally report - on Committee Stage. I thank the Minister and his officials for taking on board the essence of the debate on Committee Stage. I wish to make a few observations. Obviously, I will accept the amendment and not press mine. However, it is important to put on record what a patient advocate is and should look like. It is not something additional but the priority of the role. I have had some conversations over recent days with the Irish Platform for Patient Organisations, Science and Industry, IPPOSI, and the organisations under it that do a great deal of work on patient advocacy. They have been in contact with the Department so, hopefully, some of their recommendations can be taken on board.

I will outline some of their concerns and some of the values and roles they believe a patient advocate should have. They say in their communication that the text of the vacancy notice would preclude many patient advocates from applying. Candidates should have a career history at a sufficiently senior level in a complex organisation of scale or equivalent experience, board level experience, a proven track record of organisational management and organisational improvement, experience in transformational change and reconfiguration in complex environments and a track record in implementing major system wide reform. They feel it is unlikely that patients, their families, carers or their representatives who have been involved in patient advocacy would be able to apply under the high-level criteria in the vacancy notice. Perhaps with regard to the two patient advocates we should consider broadening some of those terms so we truly get to the essence of what a patient advocacy role would look like.

The text of the proposed amendment referring to the opinion of the Minister concerns them. They indicate that recruitment for State boards that is ongoing could be directed, overridden or vetoed by a ministerial appointment because in the Minister's opinion the person has worked in different sectors for a long time, perhaps has been involved with the HSE and has somehow displayed patient advocacy throughout that time, even though it has not necessarily been a central part of the person's profession. They are worried about what the phrase "in the opinion of the Minister" means. The Ministers of the day change and so do opinions, so it is important to come to an understanding of what a patient advocate is so the opinion does not change from Minister to Minister and we end up with something that does not resemble a patient advocate at all. Given the context they believe that of the eight members due to be recruited from the applications following the recent vacancy notice two positions should be reserved for genuine patient advocates so the patient's voice can be heard meaningfully at the board. In identifying these two individuals, real patient advocacy experience should be prioritised over the vacancy notice requirements which call for senior management board level experience, organisational change record and so forth.

I will outline the values the group believes should be central to the role. As a patient umbrella group, it believes that public and, more particularly, patient confidence in the HSE is of paramount importance. It maintains that patients are priority partners and that trust is best achieved through working together in partnership. In the group's experience meaningful patient partnerships should be initiated as early as possible in the design stage of the proposed initiative, and in this regard it has reached out to the Department on these matters. Its members believe that one of the primary functions of the HSE board should be to promote the development of a more patient centric health service and that current HSE patient involvement mechanisms are not fit for purpose. They must be replaced by a modern, representative and active patient involvement infrastructure. The group believes the board should be tasked to oversee the development and implementation of a national patient involvement policy and that the policy

should call on national directors, clinical leads, regional directors, hospital group CEOs and community healthcare organisation chief officers to strengthen patient involvement across the HSE at all levels.

Some of the issues the group has identified regarding patient advocates relate to the shared purpose. It says the HSE should facilitate discussions between stakeholders to identify each other's values, expectations and objectives and to identify how patient advocates can influence the direction of the HSE. The group refers to respect and accessibility. It recognises that the patient advocate role often can be difficult and a lone voice among professionals. It asks that all board members, particularly the chairman, receive training on patient centricity so all members can act as patient advocates in the broadest sense of the term. With regard to representativeness and diversity, the group underlines that patient advocates at the oversight level must be able to speak on behalf of the broader patient community, rather than from their condition-specific perspective. It recommends that patient advocates have extensive personal or professional experience of representing, communicating for and defending Irish patients. In the interests of giving a voice to patients who are seldom heard in healthcare prioritisation the group feels that consideration must also be given to the gender, age, ethnicity and socioeconomic background of patient advocates. Regarding the responsibility of that role, the group maintains that the patient advocate role on the HSE board must have clearly agreed and, ideally, co-created responsibilities which will be established upfront and in writing and will be revisited regularly.

On the capacity and capability for engagement, the group believes that the level of knowledge and resources that patient advocates have access to as part of their role will determine the meaningfulness of the engagement. The IPPOSI is happy to offer its extensive experience in this area to help build the capacity of new patient advocates. It also supports the fair remuneration of patient advocates for time and expenses. On transparency, communication and documentation, the IPPOSI recommends that steps be taken to open the HSE board meetings to the public. It suggests that, at a minimum, meeting schedules, agendas, minutes and accompanying documents should be published in a clear and timely manner on an easily accessible section of the HSE website.

In the context of continuity and sustainability, the group states that at least two advocates should be appointed to the role, as will be the case. In addition, alternative patient advocates must be identified to ensure representation during times of absence or illness. It correctly points out that where a vacancy arises due to personal circumstances or death it should always be filled within three months so the patient advocate role is consistent and sustained and has continuity. I felt it was important because our latest discussion on Committee Stage was on what a patient advocate looks like, what their role should be and what the essence of their responsibilities are in order that it is not caught up in the higher level running of the board and that it is truly representative of patients. It was important to put some of these points on the record as these are the organisations that are working on building the capacity of patient advocates. I am happy to resend any of that information on to the Department.

**Acting Chairman (Senator Catherine Noone):** I thank Senator Ruane and will allow other Senators to come in now before I bring the Minister of State back in. I call Senator Burke.

I remind Members that we are dealing with amendments Nos. 2 to 5, and 7 to 12, inclusive.

**Senator Colm Burke:** I agree with my colleague on the importance of patient advocates. It is also important to realise that this board will manage a budget of €17 billion. Many of these

boards often rely greatly on advice from management, particularly from the chief executive. A board member needs to have the capacity to challenge and to make sure that the information that he or she is getting from the management team is correct and accurate. It is important that people have those skills.

Some of those decisions can be difficult because if one decides to progress one area, one might have to make a decision not to progress another area. It is important that one has people who have the skills to help everyone to work together. One of the problems that we currently have with the HSE is that everyone is defending their own part of the system and people are not working together. Whoever we put on a board should be able to work with, and challenge, management to ensure the correct decisions are being made.

While I have no difficulty in holding certain aspects of meetings in public, I am concerned about having all meetings in public, in particular, when decisions are being made that may not be what the public may want to hear. When one is managing a system like this, difficult decisions have to be made that people will not like. They have to be made, however, in the best interests of developing the proper and best level of healthcare that can be provided in this country. I am not satisfied.

We have reached a budget of €17 billion, which has increased substantially over the past three to four years. I stated this morning on the radio that we have an extra 12,000 people working now in the HSE compared with December 2014. That is greater than the entire workforce of the Army, but I am not clear that there was an overarching strategy by the HSE over the past four years regarding the key areas to deploy people.

A board, likewise, will have to make policy decision on the areas that need to be prioritised when bringing in new skills and how to help to co-ordinate management in ensuring that decisions are made in a timely manner. This is not the position now. I find that I go from A to B to C to D to try and get a decision. Some 18 months later, I find no decision has been made.

I had an interesting meeting in the past week concerning a facility, Cuan Mhuire, which cost €2.1 million in 2007. This brand new facility was purchased to provide a service and 18 beds are available in a house that was refurbished and fully equipped. For eight years, it has been lying idle because the HSE cannot make up its mind. There has been a failure to reach agreement about how we go forward. This is exactly what we are talking about. A sum of €2.1 million has been tied up since 2007, without anyone benefiting from that expenditure. That is exactly why a new board is so important to making decisions in a timely manner and ensuring that everyone down the line also makes decisions. It is not a case of passing from one section to another. We need to get into the entire health service to ensure that we can deliver the type of care that we require in this country.

**Senator Máire Devine:** We welcome the Bill which we have discussed at length in this House on different occasions and it is about time that changes take place in the HSE. The two patient advocates is a great idea but I take on board Senator Ruane's point about whether the high standard of professionalism omits and disqualifies others from being a member of that board. It is prudent and best practice to have these advocates with their core skills and expertise in knowing what it is to be and to represent patients at the core of what we do within the health service.

It is a pity to have to state that the HSE did not respect the wishes of Seanad Éireann when

we wanted to put patient advocates on their steering, policy and decision-making boards. This will modernise our health service and it will happen. It is inevitable so why not just do it now? Is the Minister of State in thrall or are his hands tied by the HSE's adamant, stubborn decision not to allow patient voices at this and different tables throughout the tiers of the executive where they are much needed and where confidence in the HSE is at rock bottom? If there is any at all, it has been severely dented. It has cost the HSE its credibility and cost women their lives in the recent scandals that have affected us.

We will support the Bill, as Sinn Féin believes it is timely and much-needed. We will continue also to push for a voice for the ordinary, wonderful HSE workers at the coalface who know what they face and have practical experience on a day-to-day level and who liaise closely and are advocates for their patients as well. We will push that aspect on Committee Stage in the Dáil but, overall, we welcome the Bill as it is.

**Senator Diarmuid Wilson:** Fianna Fáil also supports this Bill and believes that it should be enacted as a matter of priority.

On Senators Ruane and Devine's comments regarding the patient advocacy, I would be interested in knowing what process would be used in selecting these two patient advocates. Like Senator Ruane, I would like a "patient advocate" to be clearly defined because, as she correctly pointed out, that is open to interpretation. This would be helpful and I am in total agreement with her on this point.

**Deputy Finian McGrath:** I thank the Senators for their contributions on this issue. I fully understand the points raised and I give a commitment that proper consideration will be given to all of the issues raised. The documentation Senator Ruane raised will be gone through by the Minister for Health, Deputy Harris, and the Department of Health as there are some constructive proposals in it. The Government has proposed an amendment in this regard.

The other point raised by Senator Burke regarding the capacity and skills issue at board level is very important as well. The Government amendment will ensure that at least two members of the new HSE will have experience or expertise in advocacy in respect of matters affecting patients. This is in line with the Scally report. I hope the Senators will understand why we are taking this approach.

On the broader issue of patient advocacy, important points were made about carers and high-level criteria and as the debate was proceeding I was thinking about something I did before the summer. We have a group in my disabilities portfolio called the national platform for self-advocates. These are people with intellectual disabilities and I took them on over the summer as consultants on the disability sector. They are a valuable group because they are outside the professional ranks. They are people with disabilities themselves and they have fantastic contributions to make. The debate about genuine patient advocates is very important. Important issues were touched on relating to trust and the patient partnership. Regarding Senator Devine's comment, I am not in thrall to anybody in the HSE and I will push the reform agenda.

In reply to Senator Wilson, the chairman designate, Mr. Ciarán Devane, has been selected and the Public Appointments Service is undertaking a public process to identify the other members of the board. The board will drive accountability and transformation and I cannot underline more strongly how important it is for us to get the right calibre of people and the right mix of experience among board members. Given the nature of the role, the associated time commit-

ment envisaged and the range and breadth of the issues, the Minister for Health has carefully considered the overall size of the HSE board.

The key issue is to ensure we have two people at board level who are voices for patients as well as being competent board members.

Amendment agreed to.

Government amendment No. 3:

In page 7, between lines 23 and 24, to insert the following:

“(b) At least 2 of the persons appointed under paragraph (a) shall be persons who, in the opinion of the Minister, have experience of, or expertise in, advocacy in relation to matters affecting patients.”.

Amendment agreed to.

**Acting Chairman (Senator Gerry Horkan):** Amendment No. 4 cannot be moved because amendment No. 3 was passed.

Amendment No. 4 not moved.

Government amendment No. 5:

In page 8, line 1, to delete “(selected in accordance with subsection (8))”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 6.

Government amendment No. 6:

In page 8, line 4, to delete “3 members” and substitute “4 members”.

Amendment agreed to.

Bill reported with amendment.

Government amendment No. 7:

In page 8, to delete lines 6 to 11.

Amendment agreed to.

Government amendment No. 8:

In page 8, line 12, to delete “(9) Subject to subsection (10)” and substitute “(8) Subject to subsection (9)”.

Amendment agreed to.

Government amendment No. 9:

In page 8, line 15, to delete “(10) A person” and substitute “(9) A person”.

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Amendment agreed to.

Government amendment No. 10:

In page 8, line 16, to delete “subsection (9)” and substitute “subsection (8)”.

Amendment agreed to.

Government amendment No. 11:

In page 8, line 18, to delete “(11) A member” and substitute “(10) A member”.

Amendment agreed to.

Government amendment No. 12:

In page 8, line 22, to delete “(12) The Minister” and substitute “(11) The Minister”.

Amendment agreed to.

Amendment No. 13 not moved.

Bill recommitted in respect of amendments Nos. 14 to 16, inclusive.

Government amendment No. 14:

In page 28, line 3, to delete “Any 5” and substitute “Any 6”.

Amendment agreed to.

Government amendment No. 15:

In page 28, line 6, to delete “5 members” and substitute “6 members”.

Amendment agreed to.

Government amendment No. 16:

In page 28, line 12, to delete “4 ordinary members” and substitute “5 ordinary members”.

Amendment agreed to.

Bill reported with amendments.

Bill, as amended, received for final consideration and passed.

*Sitting suspended at 3.35 p.m. and resumed at 5 p.m.*

### **Parental Leave (Amendment) Bill 2017: Second Stage**

**Senator Catherine Ardagh:** I move: “That the Bill be now read a Second Time.”

This Bill was introduced as a Private Members’ Bill by the Social Democrats in April 2017

and has passed all Stages in the Dáil. We are taking the opportunity to bring this Bill to the Seanad in our Private Members' time with cross-party and Independent support and hope it will continue through this House in the Private Members' time of others or that of our own, if there is a chance to do that before Christmas.

This Bill seeks to extend parental leave in two ways by increasing the length of leave from 18 weeks to 26 weeks and by allowing parents take the leave until the child is 12 years old rather than eight years old as is the current state of play. The idea of parental leave was first introduced by Fianna Fáil in 1998. Much of the legislation in this area is governed by European directive. The Government has indicated its support for the Bill, predictably because this Bill will not cost anything. The leave is unpaid and consequently can be taken only by those who can afford to live on one salary. Parental leave has been in Ireland since 1998 yet the uptake amongst men remains as low as 5%. This statistic has to change. There is a predictable pattern of parental leave being taken overwhelmingly by women as men traditionally are the bigger wage earners. This is due in part to the Government's continuing failure to address the 14% gender pay gap. Many of my colleagues have spoken on this issue and legislation has been brought to the House on it. Many families simply cannot afford to forgo the man's salary. The introduction of paternity leave, which allows two weeks' benefit at €235 per week for fathers, was a welcome recognition that many men want to spend time with their newborn children. However, it does not go far enough.

The cost of childcare is rising and puts new families under a lot of financial pressure. Whereas the Organisation for Economic Co-operation and Development, OECD, average for childcare represents about 12.6% of net family income, in Ireland the figure stands at about 27.4%. The issue of childcare costs is another example of the squeeze on middle-income families. On top of this there is a chronic shortage of places on the early childhood care and education programme, ECCE, particularly in parts of Dublin, Cork, Galway, Kildare and Meath. Fianna Fáil welcomes this Bill but the Government must be willing to put its money where its mouth is, if it is truly committed to supporting women, in the home and at work, fathers who want to stay at home and a greater work-life balance for families.

There are five small technical changes we would like to make on Committee Stage. They will not change the substantive matter of the Bill. I thank Deputy Shortall and the Social Democrats for introducing this Bill. It has received a lot of support in our party and others. I have received many queries from people wanting to know when they can take this parental leave, when it will start and will it come in before the Christmas recess. There should be some urgency about getting it enacted because its sentiment is fantastic and many people are relying on the fact that it will be enacted. The Bill applies to those who have already exhausted their existing leave. Someone who has already taken 18 weeks will be allowed to take the extra eight weeks.

Parental leave can be taken by either parent until the child's eighth birthday, or until the age of 16 in the case of a child with a disability or long-term illness. Both parents have an equal and separate entitlement to parental leave. An applicant must be working for an employer for at least one year before he or she can apply for parental leave. An employer cannot refuse an application for parental leave and can postpone it for only a six-month period and only twice. Currently, a parent can take up to 18 working weeks per child. Where an employee has more than one child, parental leave is limited to 18 weeks in a 12-month period. The employee is not paid nor is he or she entitled to any social welfare payment. Pay related social insurance, PRSI, records are preserved for employees who take parental leave. The employee loses pension contributions for the period he or she is on leave. Time spent on parental leave can be used

to accumulate annual leave entitlement.

On Report Stage in the Dáil, the Government sought to extend the number of parental leave weeks incrementally, rather than increase it from 18 weeks to 26 weeks. It proposed to increase it to 20 weeks in 2019; 22 weeks in 2020; 24 weeks in 2021 and 26 weeks in 2022. Also on Report Stage in the Dáil the Government sought to delete the sections that provide for an extra eight weeks' parental leave to be taken by parents who have a qualifying child but who have already taken the maximum 18 weeks' leave as currently applies. Both of these amendments were unsuccessful.

Most OECD countries provide payments that replace over 50% of earnings, with 12 countries offering a mother on average earnings full compensation throughout the leave. These include Spain, Portugal, Norway, Netherlands, Luxembourg, Germany, Belgium, Poland and Lithuania. According to a 2017 OECD report "payment rates are lowest in Ireland and the United Kingdom, where only one third of gross average earnings are replaced by the maternity benefit".

On 1 September 2016, Ireland introduced two weeks of paid paternity leave which I have already mentioned. The uptake has been slow. On average, OECD countries offer eight weeks of paid father-specific leave. Certain companies, such as Facebook, offer three months' paid paternal leave to their employees. The attitudes towards parental leave and maternity leave are changing in the Western world and we need to start catching up with them. This Bill is a small step. It is not perfect because the leave is unpaid but I think it is a good first step. I urge the Government to support the Bill.

**Senator Lorraine Clifford-Lee:** I echo Senator Ardagh's comments. I thank the Social Democrats for bringing this Bill to the Dáil. It is a very simple Bill. It will not cost the State anything but it will mean much to hundreds of thousands of families around the country. It is imperative that the Government runs with this and enacts the legislation as soon as possible because so many people depend on it. Like Senator Ardagh, I have been contacted by numerous people who are begging for this lifeline. It will mean that childcare costs will be reduced for families. Ireland has the highest childcare costs in the OECD. They are scandalous. They are forcing women out of the workforce. As a result, Irish companies and the State are poorer because we are not retaining talent and encouraging it to stay within the workforce and we do not have blended work teams. This is having a negative impact on the gender pay gap and it is becoming a vicious circle. This is one step towards correcting that but, of course, it does not correct the gender pay gap. I would like the Minister of State to give a commitment to this House that he will run with Senator Bacik's Bill on the gender pay gap and wage reporting in the Dáil. The Bill received cross-party support here. Rather than introduce its own Bill, I would like the Government to run with and amend the Senator's Bill in order that it can be introduced as soon as possible because the women of Ireland are waiting for this and are not willing to sit back any longer and allow this unfair gender pay gap to continue.

I refer back to this Bill and the work-life balance it will allow many people to achieve. Only 5% have taken up parental leave. We need a cultural shift. There is an enthusiastic response to this. If we extend it the way this Bill suggests, more people will think about how they can work around it and perhaps forgo a salary for a period to look after and bond with their families and cut down on childcare costs while continuing with their careers instead of being cut out of the workforce in its entirety. I look forward to the Minister of State's support for this Bill.

**Senator Paudie Coffey:** I welcome the opportunity to contribute to the debate and welcome the Minister of State to the House. I am also interested in hearing his reply to the debate. The legislation been debated in the Lower House and passed all Stages earlier this year. I acknowledge the Bill was sponsored by the Social Democrats and the work that has gone into it. I may have some qualifications. I am the father of three children born between 2003 and 2009. There was no paternity leave during those years. I welcome the fact that we have progressed in this country to a point where the Government introduced two weeks paid paternity leave to give fathers that extra opportunity to bond along with the mother during those vital two weeks when a baby is born. That is important.

Almost 500 fathers in Waterford participated in the paternity leave scheme this year, which shows it is needed, there is a demand for it and young fathers are taking it up. This, along with additional childcare supports, shows that things are far better nowadays than they were ten or 15 years ago. I encourage the Government to continue to increase supports to allow parents to spend more time with their families, particularly in the early years. The Minister of State can correct me if I am wrong but I note that the Government is not opposing this Bill because we support the principle that families with young children need additional support. That is reflected in the budget and various policies that are being brought forward regarding childcare and paternity leave.

However, there are some concerns about the Bill and the Government is reserving the right to propose amendments on the next Stage. The Government's preference is for paid paternity leave as it is seen as a better mechanism to support families. If we look at affordability, while the intention in this Bill might be very good in terms of equality and allowing people to spend time with their families, we could create an inequality in the workplace where families that can afford it take longer parental leave while other families that might wish to take the same parental leave may not be in a position to take unpaid leave. This can bring its own pressures and stresses and create an inequality that might not have been intended.

Employers are generally supportive of their employees. They must be supportive because their employees are their best asset. We must take into account the fact that SMEs are the backbone of the country in terms of employment. If we introduce legislation without consulting them - and consultation with employers regarding this Bill might not have been as wide and extensive as it should have been - that would be a mistake. We need to engage with employers. We will find that they are generally supportive of parental leave but we need to hear their voice on the matter and we have not had an understanding of that to date with this Bill. I would caution that we need to bring forward legislation that is sustainable for families first and foremost but also for employers that give those families employment. By working together on a partnership basis, we will bring about better legislation and a better understanding of the needs of our society.

**Senator Maria Byrne:** I welcome the Minister of State to the House. I know it is about quality of life. Every report shows that the early weeks and years are the most important in the development and growth of a baby. Many people have contacted my office to ask about when this Bill will come into force or how far off it is. I welcome its sentiments and the fact that in principle, the Government will support this Bill.

However, I would also like to put on record one or two precautionary issues that have been brought to my attention. A number of employers have contacted me to ask about who will pay the bill for the people they must bring in to replace the employees on leave. This issue needs

to be looked at. It is wonderful that parents are being given the opportunity to spend the earlier weeks with their baby. It is a precious time for the child and the mother. Most people here are anxious for it to happen as soon as possible but we must look at all aspects of it. The two weeks paid leave for fathers that is currently available is important. An additional eight weeks unpaid leave have been proposed, which is fine for a family that can afford to take it but there is a cost to the employer and some families may not be in a position to take that unpaid leave. All aspects must be examined as it is important that we make sure proper legislation goes through. It is all about supporting quality of life, including family life.

**Senator Niall Ó Donnghaile:** Cuirim fáilte roimh an Aire Stáit agus gabhaim buíochas leis as a bheith linn don phlé. Mar atá ráite ag mo chomhghleacaithe cheana, is plé thar a bheith tábhachtach é a téann go mór i bhfeidhm ar shaol tuismitheoirí fud fad na Sé Contae is Fiche. The Minister of State is welcome to the Seanad to deal with the important first step, certainly in the Seanad, with regard to the Parental Leave (Amendment) Bill. As indicated in the other House, Sinn Féin will support the Bill's passage through the Seanad for many positive reasons, none of which I need to rehearse, and the tangible benefits for child development, social sustainability and educational development and attainment. What the Bill seeks to do seems very simple but, nevertheless, its broader repercussions will be positive and long lasting in terms of their beneficial impact on our economy, society, communities and families.

The provisions in the Bill extend parental leave from 18 weeks of unpaid leave per child up to the age of eight to 26 weeks, or six months. A period of 18 weeks is required by EU legislation. As has been said previously, it is time that the provision here was revisited and expanded. The actual weeks of leave proposed in the Bill would be of enormous benefit to parents. It would be particularly helpful for many parents on occasions such as changed school holidays, or parents wishing to spend more time with their children or their child in his or her formative years. Certainly my party has stated for some time that we must go much further on this issue and we have proposed that and included additional measures in our alternative budgets in the past. In this State the combined maternal and paternal leave is 60 weeks. In the European Union, the average is 97.8 weeks. It is clear that there is a substantial disparity that needs to be bridged and certainly this proposed legislation goes some way to doing that.

I have more to say but to be fair it has been covered already by previous speakers. There is a general sense of unanimity and support for the Bill because we all acknowledge and know the benefits. I ask my colleague, Senator Coffey, for the figure in Waterford.

**Senator Paudie Coffey:** Some 500.

**Senator Niall Ó Donnghaile:** That figure is telling, if one takes that figure as one example. In the immediacy of the benefits in terms of children's development in their formative years, the case makes itself, but I think there is a strong case that if we invest in freeing up parents and giving parents the ability to invest in their children at this early stage, come the future, come the development and the contribution of these children in later life, we will start to see real societal and economic benefits.

**Acting Chairman (Senator Diarmuid Wilson):** Senator Black has eight minutes.

**Senator Frances Black:** May I share my time with my colleague, as I wish to give Senator Ruane two minutes?

**Acting Chairman (Senator Diarmuid Wilson):** Is that agreed? Agreed.

**Senator Frances Black:** I welcome the Minister of State and I am really delighted to speak in support of the Bill. I commend Deputies Shortall and Catherine Murphy on their great work in bringing the Bill to this point. We all know that getting Private Members' legislation passed into law is not easy but it is an excellent example of how Opposition Members can push through real meaningful changes when we work on a cross-party basis. There was significant support for this Bill in the Dáil and I hope it receives the same level of support in the Seanad. The Seanad Civil Engagement group strongly supports the Bill being afforded time for debate and I am so glad to see that it is being facilitated today. I commend Senator Ardagh and the Fianna Fáil group on their work on this.

The change proposed in the Bill is relatively modest. We are talking about extending the amount of unpaid leave available to parents from 18 weeks to 26 weeks. This extra eight weeks can be taken up until the child is 12 years old, which means there is a good deal of flexibility too. This is really positive. It is not just about the initial weeks after a child is born but also giving parents the option of taking leave during a period in the child's life when it might be badly needed.

Similarly from my reading of the legislation and following on from the Dáil debates, parents will also have flexibility in how these days are taken. For example, it could suit someone to take Fridays off to be with his or her child and that the extra time available could be spread out on a one day a week basis or something similar.

When this Bill is passed, and I truly hope it will be passed quickly, it will be important for the Department to clarify to parents exactly how their entitlements work as there is already a lack of knowledge on this point. Since the Bill was first tabled in the Dáil many people have called my office to ask about it, which is a testament to the level of interest. Many of them are parents of young children and one can hear the excitement and what it will mean to them to have the extra time with their children. Those early years in particular are so precious and are so important in a child's development. Parents want to be there as much as possible when their children are growing up and as a Parliament we should be ensuring that the State helps to facilitate that.

In general this is also about the broader social change and what we want our society to look like. As productivity increases, we need to make sure that this means people have the chance to work less and spend more time with their families and on the things that they love. It is a broader point but a crucial one, that gains in productivity can mean greater profits but they can also mean a better work-life balance and a fairer society. Things such as a shorter working week and better parental leave are central to that. The State has a key role to play. The role of the State cannot be forgotten.

The issue of real paid parental leave was raised many times in the Dáil and it is still vitally important. Obviously Opposition Members are limited in terms of the changes they can propose in Private Members' Bills because of the cost to the Exchequer, so it means that this Bill can only go so far. It is a very positive step but still a limited one. We must be clear that unpaid leave is not a substitute for paid parental leave. The Deputies sponsoring the Bill have been very clear on this point. They are right. Ultimately many people simply cannot afford to take unpaid leave as much as they would love to spend more time with their children. It is so difficult for people to get by on two incomes, let alone one and people are under so much pressure to meet rising costs. Childcare is still incredibly expensive and it often means that people are better off not returning to work as it is simply not affordable if one does not have family mem-

bers to help out. There is a socio-economic element to this that cannot be forgotten. I know the Government is committed to working on the issue and I remind it of that commitment and ask it to progress it as a matter of urgency.

I commend the Bill to the House. I am delighted to give it my full support.

**Senator Lynn Ruane:** I welcome the Bill. I thank the Social Democrats for bringing it forward. I thank the Fianna Fáil Party and Senator Ardagh for taking on a Private Members' Bill from the Dáil that has had wide support. I hope the Government will consider giving some time to it so that we can progress it.

Let us note that the only reason that the proposal is for unpaid leave is due to the Standing Orders of the Dáil in terms of cost to the Exchequer. I do not see any objection in this House to the Fine Gael Party bringing forward an amendment that would change the provision for unpaid leave to paid leave, which can be done in this House. I think that would be welcomed.

This is not only an important Bill in terms of the make-up of families and families being able to spend time with their children when they need them most. It will also help to shift some of the culture within business and employment sectors. Right now no matter how much we talk about equality among parents and the role of fathers, not only in terms of a woman's career and a woman being able to get back to work, the father having equal access to leave and being supported by the employer to do that, it does not really exist. I have found that whether a child is sick or has had a small operation where a parent needs some days at home, employers are less likely to allow a father that time off than a mother. A mother is automatically expected to leave her workplace if a child has to be taken out of school or has to stay at home. That culture does not exist for men and men are told they cannot go home from work. The more legislation we introduce that will force employers to give equal standing to men and women in the workplace in terms of their responsibilities within the home the better.

I support this Bill. Senator Higgins who had hoped to be here today has worked on this issue for a number of years in the National Women's Council and I know she wants to lend her support to the legislation and she hopes to be able to contribute on the next Stage.

**Acting Chairman (Senator Diarmuid Wilson):** Senator Ó Ríordáin has eight minutes.

**Senator Aodhán Ó Ríordáin:** I welcome the Minister of State to the House. I join with others in congratulating the Social Democrats on bringing forward this Bill. As Senator Ruane has said, the provision in the Bill is for unpaid leave because introducing paid parental leave would create a cost on the Exchequer. I also congratulate the Fianna Fáil group on taking on the mantle and bringing it to the House during its Private Members' time.

It is a little disquieting that some of the Government representatives in this House speak to the concerns of the employers first and foremost

**Senator Paudie Coffey:** That is the reality.

**Senator Aodhán Ó Ríordáin:** The reality from my perspective if I am to get a grip is that the balance of conversation in this House never seems to go to the worker. It is the stress and strain on workers and the young parent who is at work which is the motivation behind this Bill. I understand that the employer has to make money but a worker is trying to raise a family.

Acting Chairman, there is a conversation happening to my left.

**Acting Chairman (Senator Diarmuid Wilson):** Colleagues, I ask Members to please pay attention to the speaker.

**Senator Rónán Mullen:** Are we disturbing the Senator?

**Acting Chairman (Senator Diarmuid Wilson):** All Senators are entitled to be heard and I ask Members to show them the courtesy of listening to what they have to say.

**Senator Rónán Mullen:** Senator McDowell is very interesting, as Members will be aware.

**Acting Chairman (Senator Diarmuid Wilson):** Senator Ó Ríordáin, without interruption. Sidebar conversations can take place in the ante-room.

**Senator Aodhán Ó Ríordáin:** The point I am trying to make is that the balance of conversation on this issue is always lopsided in favour of the employer. Scandinavian democracies such as Sweden, Iceland and Finland place a great emphasis on gender equality. I believe Iceland makes an entire year of parental leave available to parents. The aim of this is to ensure becoming a parent does not automatically lead to many stressful conversations among couples about who will take time off, or whether they can afford to have the child. If we fully believe that bringing a child into the world is one of the most wonderful experiences a family can have, such conversations would not happen.

This type of legislation should be welcomed by employers on the basis that an employee who is happy at home and feels that he or she is making a contribution to family life will be happy in the workplace as well. This approach works. Many employers' organisations have finally embraced the idea of gender equality in workplaces. Workers work best in that environment. Employers are ensuring they have LGBT-friendly workplaces because they know LGBT workers work better in that kind of environment. It is clear to those with a cold and calculated capitalist mindset that workers are more productive if they are happier.

Employers should embrace the idea that when their younger employees become parents, the worry and stress associated with trying to balance work and life will probably make them less productive in the workplace. When one becomes a parent, it should not be a time of stress about money or one's work-life balance. One should be supported by the State in any way it can. In Iceland, paid parental leave can be shared between both parents, both partners or whoever is at home over the course of a year. We should have this type of vision for the first year of a child's life. Both parents - or whichever one of them is in a position to raise the child - should not be burdened by this kind of worry or stress. It is inevitable that the mentality of the child is affected by what is going on. All the research that has been conducted around the world proves that being in a stressed environment affects a child's mindset from a young age. We should be mindful of the ability of children to feel the anxiety of others.

I welcome this legislation. It is great to have this conversation. It is to be welcomed that the debate in this House has been facilitated by the Social Democrats and Fianna Fáil. When I held the position currently held by the Minister of State, Deputy Stanton, I worked hard to secure two weeks of paid paternity leave. It was a good move. A wider vision is needed. I reiterate that there needs to be a focus on what is good for workers and families. Employers should embrace that conversation and be part of it. They need to realise that happy people are happier and more productive workers.

**Senator Rónán Mullen:** I apologise to my colleague, Senator Ó Ríordáin, for distracting

him while he was speaking. He will understand that Senator McDowell is always stimulating. I would never like to prevent Senator Ó Ríordáin from hearing himself think. I have often felt that if he could hear himself think more often, he might not say some of the things he says. Having said that, I like much of what he has just said on this issue.

**Acting Chairman (Senator Diarmuid Wilson):** I remind Senator Mullen that every bold child blames somebody else.

**Senator Rónán Mullen:** Indeed. I have apologised.

**Acting Chairman (Senator Diarmuid Wilson):** I ask the Senator to leave Senator McDowell out of this.

**Senator Rónán Mullen:** I have to take my share of the blame.

I am glad to have an opportunity to contribute to the debate and to address the important issue of parental leave. This Bill proposes to expand the parental leave entitlement from 18 to 26 weeks, which is welcome. I am broadly supportive of the Bill. The Minister for Employment Affairs and Social Protection recently announced that she plans to provide in the 2019 budget for an additional two weeks of paid leave for each parent of a newborn child in that child's first year of life. We should support any legislative measure that allows parents to spend more time with their children without causing them financial disadvantage or having a negative impact on their careers outside the home. We have to acknowledge the importance of parental contact in a child's life, particularly in the early stages. It is a clear social good. The State should always work to put the best framework in place to allow families to have the space to make these kinds of decisions for themselves. Proposals involving childcare and related issues are too often treated as matters for social engineering. Several proposals we have heard from the Minister, Deputy Zappone, in recent years are examples of this. I will not deviate into that now. I note that Government and Opposition parties are fond of saying that families come in many shapes and sizes. They do this to the exclusion of a proper consideration of what is in the best interests of children. We all need to recognise that it is up to families, particularly parents, to regulate how best to structure childcare arrangements.

While I support this Bill, we need to take it a step further. I would like to propose a small but valuable amendment to this proposal to that end. The key thread that needs to run through all legislation and policy in areas such as parental leave and childcare is that it should be up to parents and families to decide how best to arrange family life. For that reason, we need to consider amending the Parental Leave Act 1998 to give parents the option of dividing and assigning their paid and unpaid parental leave weeks between them as they see fit. At present, parents are entitled to separate untransferable leave only. It is interesting - I do not know whether it can be attributed to gender theory or to the wilder reaches of feminism - that there is a belief these days that there is no difference between men and women, or that the differences between men and women are socially constructed. It seems contradictory that there is an insistence that men and women must take parental leave. Rather than relying on some of the meanderings of gender theory or the wilder reaches of feminism, I prefer to rely on what I consider to be a common sense approach. It is a matter for families, having regard to their particular circumstances, to make informed decisions on what works for them, depending on their aptitudes, their relative income power or whatever the issue is.

It is interesting that if both the mother and father of a child work for the same employer, with

the consent of that employer, one of them may transfer up to 14 of the 18 weeks of parental leave to the other. Is this about facilitating the needs of employers? I wonder whether it emerged when these issues were examined through the lens of what the employer wants, as opposed to what the family needs. We need to extend the limited transferability provision to make the transfer of leave entitlements more widely available. By providing for a system of transferable leave for all parents, we would give parents the flexibility to structure their parenting schedules in a way that is most convenient to them. As I have said, decisions on the division of parental leave should be made by families because they are best placed to make such decisions. There is no one-size-fits-all solution. Parents know what is best for their personal circumstances. I ask the sponsors of the Bill, or the Government, to consider proposing an amendment to it that would amend the Parental Leave Act 1998 to allow parents to have the choice I have outlined.

Mar fhocal scoir, we spoke some months ago about the proposal to remove the constitutional provision relating to women's place in the home. That proposal has been shunted off to the sidelines. It was interesting to hear rhetoric from the Government that sought to denigrate those who framed our Constitution on the basis of some kind of misogynistic intent. That is a really ahistorical view. A more historical understanding of the times which led to that provision would appreciate that families were under significant economic pressure at the time and that this would have been a positive provision if it had been properly fleshed out in social measures. Rather than taking the easy luxury of engaging in virtue signalling by referring to such provisions as misogynistic, it is harder to work to change that amendment to recognise that men and women, through their lives within the home, including the upbringing of children, do the State an important service. That former view has gained some traction and it has led to the initial simplistic rhetoric from the Government about this being a misogynistic provision. At least we have had some pause by virtue of some people saying that this might not be so straightforward. It also leads into the other issues around caring in the home, of which we are all aware. It is not just parenting and the role of parents within the home which we need to value, but also the roles of people who provide unpaid care in the home. I speak with some knowledge of this myself. Those people provide a huge service to the State, and indeed to our common humanity.

I hope that we can move towards a more fleshed out, nuanced debate about the common good in that area, and I would be grateful if people would take on board the suggestions made today around allowing parents and families more flexibility to determine what is in their own best interests.

**Senator Maura Hopkins:** It is great to have the Minister of State, Deputy Stanton, with us this evening. I welcome the introduction of this Bill into the Upper House. The Bill is focused on supporting families and allowing parents to spend more time with their children. It is very positive. It is important that we ensure that there are a number of options available to families in terms of spending time with their children and easing the burden of the cost of childcare. This Bill seeks to extend the entitlement to unpaid leave from 18 to 26 weeks. During the course of my involvement in politics I have spoken to many parents who have thought about or who have given up their jobs entirely to care for their children. This is an option for some people, but is not an option for everybody. An array of options to support families is important, because every family situation will be different.

The Government's primary focus is on the extension of paid parental leave, and I know the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, has made initial steps towards achieving this goal with the introduction of a further two weeks of paid parental leave for each parent in budget 2019 which will come into effect in November next year.

Senator Coffey has mentioned paid paternity benefit, which has proven effective and seeks to support fathers. In Roscommon, my own region, 213 fathers benefited from paternity benefit this year, along with 1,133 fathers in Galway. Those measures are important. Furthermore, Ireland is a member of the Council of Europe and I am aware that work is being undertaken at the moment on the work-life balance directive. Those discussions are ongoing. Reference has been made to other countries and how they conduct their business in terms of supporting families. A large amount of work is being done. The core aim of this is to ensure that we have a suite of options to support families. I am pleased that this Bill will proceed to Committee Stage. We have to ensure that we can provide appropriate measures to allow parents to spend as much time as possible with their children, especially during those important early years. We know how vital those early years are in terms of the development of the child, so it is important that parents are allowed to spend that time with their children in a financially viable way.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):**

I am pleased to be here again to participate in the debate on the Parental Leave (Amendment) Bill 2017. Today is an opportunity for Members of this House to put their views on the record and I am pleased to contribute to this discussion. I am also glad of the opportunity to update this House on the work that is under way in Government on supporting families and children, which is something we all agree is a priority.

As initially published and later amended by Dáil Éireann, the Parental Leave (Amendment) Bill provides for the extension of the existing entitlement to parental leave from 18 weeks to 26 weeks for both parents, and creates a further entitlement to an additional eight weeks parental leave for those parents who have already used their 18 weeks. There is also provision for increasing the age of the child for which parental leave is available from eight to 12 years. Although the Government has some reservations about the Bill, which I will outline shortly, the general principle is to be commended, and as we have previously stated in the Lower House, and now to reiterate here, the Government is generally in favour of it.

Parents want choice, flexibility and the opportunity to spend more time with their children, and the Bill will help to facilitate this. I believe that the provision of family-related leave is important in creating a balance between family and working life, and it is for this reason that I am supportive of the Bill. We have to help to support families, and the Government is committed to doing so. Under budget 2019, for instance, my colleague, the Minister for Children and Youth Affairs, Deputy Zappone, announced an €89 million increase in funding for childcare. This means that in 2019, Government investment in childcare will amount to €576 million. This increased investment will provide access to high-quality, affordable childcare for over 175,000 children and improved subsidies for 40,000 others. Furthermore, as the House will also be aware, free pre-school provided under the early childhood care and education, ECCE, programme has been extended and as of this autumn, all children will be eligible for two full years of free pre-school education before transitioning to primary school. This delivers on a commitment in the programme for Government.

In addition, the Government has committed an extra €10 million through our access and inclusion model, AIM, to ensure that children with disabilities can participate in and benefit from the ECCE programme. In total, in 2019 the Government will provide somewhere in the region of €127 million to help support parents and children in respect of childcare and education programmes through the work of the Department of Children and Youth Affairs alone. My Department has also been instrumental in recent years in improving available supports to parents. I would remind the House that it was the then Minister for Justice, Equality and Defence, Alan

Shatter, who extended parental leave from 14 to 18 weeks, demonstrating the commitment of successive Fine Gael led Governments to improving the entitlements offered to parents.

In September 2016, I was happy to bring paternity leave legislation through the House which provides two weeks' paid paternity leave for fathers on the birth of their baby. In the first full year of the programme, 2017, almost 27,000 new fathers availed of the leave and benefit, and figures released this week by the Department of Employment Affairs and Social Protection show that a total of 51,409 fathers have now applied to the scheme since its introduction. This increase in take-up of paternity leave is a very positive development for this country, as research shows that when fathers take a more significant and meaningful share in the parenting of their children, the family unit and wider society benefit.

In 2017, my Department introduced legislation that provided for the extension of maternity leave and maternity benefit in cases of premature births. Furthermore, as part of budget 2019, the Government announced the introduction of a new paid parental leave scheme which will commence in late 2019. I hope to be in a position to bring that legislation before the Houses at some point next year. This new scheme will initially provide for two weeks of paid, non-transferable leave per parent, with a view to expanding the scheme in future years. As Members of both Houses know, the background to the new paid parental leave scheme is the commitment in A Programme for a Partnership Government to increase paid parental leave during the first year of a child's life, and I am happy to say that the new scheme delivers on this commitment.

I think it is important in the context of the debate here this evening to explain why the Government focus is on paid parental leave as opposed to unpaid parental leave. The introduction of paid parental leave supports the Government's broader gender equality policy as it is expected that fathers, as well as mothers, will be encouraged to take time off work to care for their children if they are in receipt of benefits while doing so. For too long, the majority of caring responsibilities have been undertaken by women. It is time to put policies in place that encourage fathers to share more of that caring role. Children do best when both parents are facilitated to take an active role in their parenting so this approach makes sense in terms of child welfare. Equally, it makes sense in gender equality terms. Women have been held back in terms of career advancement because of their caring roles. As a result, they will not have the same opportunities, or pay, as men. Paid parental leave will help to offset the career and economic disadvantage experienced by women as a result of their default position as the parent who traditionally takes family leave. Lastly on this point, the Government is concentrating its efforts on the introduction of paid leave as it is expected that this will result in overall, lower childcare costs for parents of younger children, which as we are all aware are quite significant.

With its focus on the expansion of unpaid leave, the Bill fails to consider these wider and more complex factors. It is very likely that extending an unpaid family leave entitlement would mean that the lower paid of the two parents, which is very often the mother, would take the available leave with consequent impacts for these mothers in terms of pay and pension entitlements. This, in turn, will continue to perpetuate the tendency of employers to view caring roles as the responsibility of mothers rather than fathers, as highlighted by some Senators here. This aspect has negative implications in terms of gender equality and the opportunities potentially available to women within the workforce. I feel very strongly that fathers should be facilitated to undertake a caring role for their children and the Deputies' Bill does nothing to encourage men to participate more in parenting duties. Equally, only parents on higher incomes may have the resources needed to avail of the leave.

Furthermore, the Bill while laudable does not take into account the policy approach put forward by the European Commission in its proposal for a new work-life balance directive. That directive is currently under discussion in trilogues between the European Parliament, the European Commission and the Council Presidency. The directive's key proposal is that parental leave should be made available to parents on a paid basis. The directive is part of a package of EU measures aimed at addressing the under-representation of women in employment and supporting women's career progression by creating improved conditions whereby they can reconcile their working responsibilities and family commitments.

Senators will recall that on Second Stage in the Dáil, I indicated that pre-legislative scrutiny should take place on the Bill. Unfortunately, the Joint Committee on Justice and Equality decided against undertaking such scrutiny. As a result, the Bill's provisions have not been subject to a formal consultation process with employers or other stakeholders. There can be little doubt, however, that the proposed extension of parental leave has the potential to bring about significant costs on businesses relating to recruitment, replacement and training to fill temporary vacancies. Given this point, the Government may again seek to mitigate the impact of these provisions on public and private sector employers by proposing amendments aimed at phasing in the additional leave. I have listened to what Senators have said about this matter this evening and I am really interested in hearing comments from them on this particular point.

In conclusion, we all share the objective of wanting to support families. As I mentioned in my opening remarks, the Government and, from what I have heard, every Member of the Oireachtas are committed to providing the utmost support to parents and families in the State. For reasons I have already outlined, the Government's key initiative in this policy area is the introduction of paid parental leave. Nonetheless, it is generally supportive of the Bill and recognises that the Bill expands parents' choices and facilitates increased family time. Therefore, the Government will not oppose the progress of the Bill. We may seek to bring forward amendments at either Committee or Report Stage, not to hinder the Bill but complement its provisions and ensure that it can work in parallel with the Government's own intentions in relation to paid parental leave.

**Senator Catherine Ardagh:** I thank the Minister of State for his contribution. I wish to note that the early childhood care and education, ECCE, scheme was introduced by Fianna Fáil and we welcome the extra funding. However, we have heard anecdotal stories about owners of crèches feeling that they are not being supported properly and find it difficult to retain and recruit staff, which has a knock-on effect for families trying to avail of the scheme. Also, the scheme lasts a few hours each day and many crèches require people to sign up for full-time hours before they will agree to take on children. We need to address the pitfalls in the scheme and give practical support to the owners of crèches in terms of rates and similar items thus supporting families.

As for the sentiments the Minister of State has expressed about this Bill, we are happy the Government will support it and allow it to progress to the next Stage. We hope the Government will support it on Committee and Remaining Stages. The Minister of State has stated that introducing paid parental leave is the ideal, with which we agree. We ask him to table an amendment on Committee Stage to amend this Bill in order that paid leave would be allowed at a rate akin to what is available for maternity leave at present.

As I stated at the outset, I thank Deputies Shortall and Catherine Murphy. Deputy Shortall has five technical amendments that she would like to be discussed and debated on Committee

Stage. As her amendments are technical in nature they will not affect the substantive matter or ultimate objectives of the Bill. I look forward to debating this matter on Committee and Remaining Stages. I also look forward to getting the support of the rest of this House to ensure that my Bill passes expediently.

Question put and agreed to.

**Acting Chairman (Senator Diarmuid Wilson):** When is it proposed to take Committee Stage?

**Senator Catherine Ardagh:** Next Tuesday.

Committee Stage ordered for Tuesday, 13 November 2018.

**Acting Chairman (Senator Diarmuid Wilson):** When is it proposed to sit again?

**Senator Maria Byrne:** Tomorrow at 10.30 a.m.

**Acting Chairman (Senator Diarmuid Wilson):** Is that agreed? Agreed.

The Seanad adjourned at 5.55 p.m. until 10.30 a.m. on Thursday, 8 November 2018.