



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 21 Bealtaine 2019

Tuesday, 21 May 2019

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for Education and Skills to provide an update on the provision of the new school building at Moville community college, County Donegal.

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

The need for the Minister for Education and Skills to make a statement on the processes in place to ensure the provision of sufficient places for students with special needs.

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

The need for the Minister for Education and Skills to provide an update on the status of remedial works and the completion of external precautionary measures identified for Ardgillan community college, Balbriggan, County Dublin.

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

Nithe i dtosach suíonna - Commencement Matters

Schools Building Projects Status

An Cathaoirleach: I welcome the Minister, Deputy McHugh, to the House.

Senator Pádraig Mac Lochlainn: The Minister is familiar with Moville community col-

lege, having visited it a number of times over the years. Last night, there was a large attendance of teachers, parents and students and there was great anger in the room at the delays that have been ongoing for years in delivering the new school buildings. The Minister will be aware that the existing prefab buildings are completely unacceptable. There are dilapidated conditions on the outside and leaks in the home economics room, for example. Facilities have been completely inadequate for a long time. Young people are crowded in together. The physical education, PE, facilities are utterly unacceptable by modern standards. There is no storage space. They can only avail of two of the approximately 18 options on the PE curriculum because of the limited capacity. The existing school building has substantial cracking throughout. I visited recently and could literally see from one room into the next through a horizontal crack going the whole way along the middle of the wall. They have an excuse for canteen facilities. They have to have caterers come in from outside to provide food on a bench. Toilets are closed. Kids are literally sitting down on the floor eating their food. This has been going on for years. The teachers and students and the principal have acted in good faith and have waited for these plans to proceed to construction phase. The prefabs in which they are teaching are Third World facilities. It was said last night that they provide a First World education in the school with fantastic teachers but that they have Third World facilities. This needs to come to an end. The Minister is a Donegal man and I hope and trust that he feels as strongly as I do. The anger in that room last night was palpable. We need to send a message from this Chamber today that the bureaucracy is coming to an end and that we will fast-track this project to planning and construction. We must end the period of the prefabs. We also need to give assurances that the serious structural issues within the existing building are going to be resolved and made safe as soon as possible.

Minister for Education and Skills (Deputy Joe McHugh): I thank the Senator for raising this issue. I was briefed on the meeting last night and I want to put on record my apologies to the staff and students for not being in a position to go as I had a prior engagement that was arranged last October.

I thank the Senator for raising this matter as it gives me the opportunity to provide an update to the House on the current position regarding Moville community college, a building project that is critical in providing for the needs of the local community. Under the Project Ireland 2040 plan, Moville community college will be provided with 4,500 sq. m of new space through a stand-alone extension. This will allow for the expansion of the college to accommodate 550 pupils. The new extension will include 13 new classrooms, science labs, engineering and technology rooms, a new library, a general purpose room and dining facilities, as well as a PE hall with ancillary space and a 550 sq. m special needs base.

Delivery of the project to which this matter relates has been devolved to Donegal Education and Training Board, DETB, under a service level agreement finalised in January 2017. While it has taken longer than expected to reach the current stage of development, I assure the House that DETB has been progressing the project as effectively and efficiently as possible and has been liaising with officials in the Department of Education and Skills, as appropriate. This was one of the first items discussed at the initial meeting with the building unit when I was appointed as Minister

The House may wish to know that, in accordance with its terms of engagement, DETB has served a notice of termination on the existing architect. No new appointment will be made until the notice of termination takes effect. In the meantime, work is continuing on the project with the remaining members of the design team. The project is currently at stage 2a - pre-

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planning design. DETB and its design team met my officials on 12 February in respect of that matter. A number of design issues were raised at said meeting and in correspondence with the DETB since. These are being addressed. I am satisfied that DETB will progress the project as quickly as possible with its new architect, once appointed. Once the issues to which I refer are addressed and a new architect is in place, approval will be given to DETB to lodge a planning application for the new extension. It is expected that a planning application will be lodged with Donegal County Council for the project in September or October. Subject to any issues arising during the planning process, the project can then be expected to proceed to tender.

Separately and independently as a stand-alone project, I am aware that a number of issues with the existing building have been brought to the attention of officials in the Department of Education and Skills by DETB officials. I am conscious that this is a cause of concern for the students, staff and parents of the school. However, I can assure the House that officials from the Department of Education and Skills have been in regular contact with DETB, which is working diligently to address these issues. In that regard, the Department has recently received two detailed reports on the matter from DETB. On foot of these, it has approved the completion of a number of surveys and some essential works to be carried out over the course of this summer. The outcome of those surveys will determine the further action required to address these issues.

In addition, DETB has been liaising with Departmental officials in respect of disability access issues, as well as the condition of the current prefab block of accommodation on site. On the latter, I am conscious that the existing prefab accommodation requires refurbishment. I am pleased to be able to inform the House that approval has recently been given for that refurbishment to take place to ensure that it provides for the needs of the school until the stand-alone extension is completed. The works on the existing building and the prefabs will take place under one contract during the summer, and delivery of these works is also devolved to DETB. I am aware from last night's meeting that there is a fear that this refurbishment work will not go far enough. I have asked my officials to provide me with photographic evidence of examples of where this work has been carried out before. I am happy to send those images on to the Senator, and he can share them with his contacts. I do not want to force a decision that the school is not going to accept. It has to buy into the project, and we should try to provide evidence of how good this work is. I am conscious that if we go for new prefabs, they will require planning permission and the project will be delayed even further, possibly until the following summer. I do not feel that is good enough. I have been in the school and in that home economics classroom. I share the concerns of the Senator. This is, and will remain, a priority for me.

Senator Pádraig Mac Lochlainn: As a former teacher, the Minister will be aware that the teachers in the school were very reluctant to move to the point of holding a public meeting. They have been patient and acted in good faith. They waited and waited before drawing public attention to the issues at the school. However, they ran out of patience and have lost much of their trust in the process. It is critical that the timeframe set out by the Minister is met. There was a lot of resistance to the idea of further refurbishment of the prefabs. Teachers had anticipated that there would be a replacement of the prefabs. If Department officials are insisting on that path, perhaps they would liaise with the teachers on the action committee to address the safety concerns they have about the prefabs in order to make matters as workable as possible while they await the new school building. The latter should be as practical as possible in order that the gaps identified by the teachers last night might be addressed.

Deputy Joe McHugh: That is absolutely no problem. I agree with everything the Senator said. It is important to reassure members of the public in Inishowen, in particular in Moville,

and the student body, that we will work together on this. I put in timeframes that I want to see met. I do not want to delve too much into the termination of the contract of the architect because it is not finalised yet but once that happens we will appoint a new architect. In the meantime the design team is still in place. It will continue its work and we will have a submission ready for planning. I am happy to keep the Senator posted at every stage.

I acknowledge the input of Mr. Paddy Kelly from the education and training board, ETB, whose expertise will be critical in ensuring we move forward on this. I also acknowledge the input of the local county councillors who have been working very hard on this issue, and I will keep them in the loop as well.

I acknowledge the frustration of the teachers in the staff room. I met them and we considered potential options. We discussed potentially replacing the prefabs and considered what would be the best option. The advice I got back is that in order to do an effective job in a tighter timeframe, what is required is not simply replacing a roof, rather the electrics will need to be done and a full refurbishment to ensure there are a proper safety standards in place in these prefabs for the students and the teachers.

Special Educational Needs Service Provision

Senator Tim Lombard: I welcome the Minister to the Chamber. I put down this Commencement matter asking the Minister to provide an update on the process as to how it can forward plan the provision of sufficient places for students with special needs. I have raised this issue with him on several occasions. We need to ensure we have enough special needs places for students with special needs.

Currently the pathway to such access is slightly unclear so the Minister might clarify that. Students go into an early intervention setting, which is provided by the HSE. They might spend two or three years in that setting and then go into a school setting. They would seek a special needs place in a school. I have been informed by parents that the process involves them applying to multiple schools for such a place for their child. That does not make sense in a rural setting, or even in an urban one. Parents have to apply to four, five or six schools. There may be six such places per school and they have to wait until August to find out the school to which their child has got access.

There must be a way of forward planning such provision. Given that the HSE is involved at the early intervention stage, which is two or three years prior to a child going into the school setting, a forward planning network could be put in place to provide a place for the child in their nearest school. Currently, children are being driven in taxis to and from schools that are a distance of 20 or 30 miles from their homes. That does not make sense. I hope a plan can be put in place to ensure parents can get access to the special education services their child needs.

Parents seek clarity. They want to ensure they can get a special needs place for their child and to ensure that when their child is assessed at the age of one or two that in three years' time they will have a special needs place in a school. Such a link does not appear to be in place. The Minister might clarify that. It might be in place and simply needs to be worked on. Such a link would provide an understanding of the system and would work to ensure parents have a school place for their child. A school place, in particular in their local school, is one of main the issues they want addressed. Many schools in my area have six special needs places attached to them,

although some schools do not. If there is such a need in a locality, that needs to be provided for at least two years in advance of a child entering the school setting.

Deputy Joe McHugh: I thank the Senator for raising this issue on which we are intensively working. We have a budget of more than €1.9 billion for special needs and a Department budget of €11 billion, which represents quite a substantial injection of money. We have 1,500 SNAs. We got an additional 950 this year. Special classes have increased from fewer than 500 to approximately 1,500 since 2011. There has been enormous progress. However, I agree with what Senator Lombard said. The piece of work we are doing at the moment is how we can do better at pre-planning and forward planning and how we can improve communication channels with parents. It is not right that parents have to go around to schools or be given a list. That is something I have brought up with the National Council for Special Education, NCSE, when I had a meeting with it last week. I will continue to meet with it on that. Timing is another issue in terms of when enrolment for special needs purposes happens. I am happy to keep the Senator up to date in that regard.

The NCSE has a statutory function to plan and co-ordinate the provision of education and support services to children with special educational needs and consultation with the relevant education partners and the Health Service Executive. This includes the establishment of special classes and special school placements in various geographical areas where there is an identified need. In deciding where to establish a special class in an area, the NCSE takes account of the current and projected demand and available school accommodation both current and planned. The council ensures that schools in an area can between them cater for all children who have been identified as needing special class placements. As I outlined, they have increased from 548 in 2011 to 1,459 this year. Provision in special schools has increased from 6,848 placements in 2011 to 7,872 this year. When the NCSE sanctions a special class in a school, the school can apply to the Department for capital funding to reconfigure existing spaces or to construct additional accommodation. Similarly, special schools can apply to the Department for capital funding to accommodate additional placements.

Notwithstanding the extent of the investment, issues remain. In some parts of the country increases in population and other issues have led to shortages in capacity in the school system. I assure Senator Lombard that this issue is being taken very seriously. The NCSE formally advised the Minister for Education and Skills that there is insufficient special school and special class capacity in Dublin 15 and in Kildare. The formal notification was sent to me in recent weeks. The letter is a formal activation of a process under the admissions legislation under which ultimately a ministerial direction can be made requiring a school to make additional special education provision available. The NCSE and the Department are actively engaging with education service providers in order to encourage them to address the shortage of places. I am encouraged that, to date, those efforts have resolved the issue in Kildare and resulted in progress in Dublin 15.

Engagement with schools, patron bodies, parents and others is continuing in Dublin 15 to bring the required additional special class and special school placements on-stream. The NCSE will keep in regular contact with the parents of the children concerned to advise them of progress and to identify placements as they become available. The NCSE and officials from the Department of Education and Skills hosted a briefing session for Oireachtas Members in Leinster House on Tuesday last to advise Members on the approach being taken.

I again thank Senator Lombard because we have embarked on a very ambitious journey for

special education inclusion and ensuring that special education is at the heart of the education system, but like any journey it is an ongoing and evolving one and I am happy to work with him along the way.

Senator Tim Lombard: I thank the Minister for his comprehensive reply regarding the issue. It is about trying to find a pathway so that when parents have a diagnosis they can access early intervention and are ensured of a place in two years' time. That is probably the body of work that is required. The HSE has the information and I am concerned that it would provide the information to the Department of Education and Skills in order that we can provide what is required, namely, access to a local school. We have a school bus system and many other systems. As the Minister correctly said, the education model is built on inclusivity and ensuring children can access education in the community and parish.

Deputy Joe McHugh: We have been working on a school inclusion pilot project for Kildare and Wicklow and parts of south Dublin that will involve 75 schools and preschools. That understanding of need at an early stage is critical. Regardless of whatever resources are needed in the aftermath, it has to be done in a comprehensive way whether it involves speech and language therapy, occupational therapy, complex medical need, behavioural support or whatever.

This pilot will start in September. It has a budget €4.75 million. We will look at the pilot as a potential forerunner of a national roll-out. We are looking at integration involving the Departments of Children and Youth Affairs, Health and Education and Skills in order to identify how we can more effectively work on the issue of inclusion raised by the Senator. I acknowledge the officials in the respective Departments. I know that officials can get a lot of negative attention when things go wrong but in politics, it is important to acknowledge creativity. There is a creative approach to this school inclusion model that I believe will be very positive in the years ahead.

School Accommodation

Senator Lorraine Clifford-Lee: I welcome the Minister and thank him for taking the time to answer this very important question on Ardgillan community college. The latter is located in the town of Balbriggan in north County Dublin. It not only serves Balbriggan but also surrounding villages such as Balrothery and the Naul. Along with the rest of Fingal, Balbriggan is in the fastest-growing part of the country and has the youngest population in the State. As a result, school provision is very important in Balbriggan.

The school in question is under the patronage of the Dublin and Dún Laoghaire Education and Training Board. Phase 1 of the school opened in 2009 and phase 2 was opened in 2015, with the school population increasing to 1,000 as a result. It is an excellent school that has excelled academically and in sports, music and the arts. The school has very high standards and, because it is very popular, there are long waiting lists for entry every year.

Last October, significant structural defects in phase 1, which is the 18-classroom first section of the school, were discovered. This discovery prompted urgent structural assessment of 30 schools built by Western Building Systems that included schools in Greystones, Tyrrelstown and Mullingar. The students in the phase 1 building in Ardgillan community college are now being housed in the nearby Castlelands community centre but this is far from ideal. It leads to the school lacking structure and being disjointed. I do not think anybody is happy with the

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current situation. They accepted it was a temporary situation.

The school has requested the provision of temporary Portakabin accommodation but has received no information from the Department of Education and Skills on the provision of these Portakabins. Could the Minister tell me whether this request will be granted, whether the Portakabins be on site and when they will be on site? When will phase 1 be reopened? This is very important. Now that we are coming into the summer months, it is vital that as much work as possible be done in Ardgillan community college in order to bring it up to scratch for September.

3 o'clock The situation is very difficult for all the students concerned, their parents and the teaching staff despite the best efforts of the school principal, Michael O'Leary, and all the staff. People in Balbriggan, Balrothery and the Naul are very concerned about the school. I have been out canvassing with Niall Keady in Balbriggan and this issue comes up very regularly on the doorsteps. It is a very real topic now that we are coming into the local elections. People are asking Mr. Keady and me about what is happening, which is why I have raised it here today. What is happening? Many parents with children in St. Molaga's national school, who have been studying in really bad 19-year-old prefabs, are very dismayed at the thought that their children will now go into Ardgillan community college despite it being an excellent school because they must contend with temporary and insecure accommodation for their secondary education so it is a really important issue and we need answers and, more importantly, action.

Visit of UK Delegation

An Cathaoirleach: Before I call on the Minister to speak, I am sure Members will wish to join with me in welcoming the Right Honourable Sir Alan Duncan, MP, Minister of State for Europe and the Americas at the Foreign and Commonwealth Office. On my behalf and on behalf of all my colleagues in Seanad Éireann, I extend a very warm welcome to him and good wishes for a very successful visit to Ireland.

Unfortunately, the Chamber is rather quiet on this occasion. On Friday, there are local and European elections and a referendum and many Members who would normally be here are knocking at doors, etc. Leaving that aside, he is most welcome. I hope he enjoys his visit.

Nithe i dtosach suíonna (Atógáil) - Commencement Matters (Resumed)

School Accommodation

Minister for Education and Skills (Deputy Joe McHugh): I thank the Senator for raising this matter as it gives me the opportunity to provide an update to the House on the current position regarding the external precautionary remediation works of Ardgillan community college, part of which is closed since last October, following the identification of significant structural issues.

No doubt the House will be aware that, in October and November last, my Department carried out initial assessments of 42 schools that were built by a contractor using the design and build programme of delivery and which includes part of Ardgillan community college. The House will also be aware that of those schools, 22 required precautionary measures to enable continued safe occupation.

Ardgillan community college is different from the schools with precautionary measures in place in that the nature and extent of the issues there are such that the building assessed was required to close. The school remains operational in another building on site. The safety of pupils and staff has been and remains our first priority.

Following on from the initial assessments, which were based on sample opening-up works, my Department initiated a second phase of detailed investigations for the schools on 18 January last. This next phase of the programme focused initially on the 22 schools that have precautionary measures in place and at Ardgillan.

The purpose of these investigations was to determine the nature and scope of any permanent remediation measures required in each individual school and, from the technical information gathered by the appointed structural engineers, to design permanent remediation solutions where these are needed.

In line with the update published in January, detailed structural investigations have now been completed in all the 22 schools with precautionary measures in place and at Ardgillan community college.

In tandem with the investigations, significant work has been undertaken by my Department, supported by the National Development Finance Agency and an appointed multi-disciplinary team, to design and plan permanent engineered remediation solutions for each of these schools. An individual work plan for each school will flow from this body of work. These plans will feed into an overall time-tabled programme of remediation works for the schools which will commence during the summer months. All efforts remain on track to achieve this objective.

When the works programme is available, the details will be first shared at meetings with the patrons and the schools involved. Arrangements are being put in place for such meetings with the patrons and the school authorities of the 22 schools, including Ardgillan, to be scheduled in June.

In parallel with this work during the summer months, detailed structural investigations in 17 schools built by the same contractor without precautionary measures in place will also proceed. A schedule for those detailed investigations issued to the 17 schools involved and their patrons last week. The intention is that any remediation works that may be necessary in these schools will be carried out from 2020 onwards.

I again acknowledge and thank the principals, staff, parents and pupils for their patience and co-operation as my Department works its way through this complex process.

Specifically, regarding Ardgillan community college, I thank its leadership - Mr. Michael O'Leary, who has shown excellent leadership throughout this process, and his team - and also the students. The scheduled detailed investigation phase has been undertaken and a programme of works to remediate the building is being put in place for implementation. This is an education and training board school. Pending the delivery of the remediation work, my Department

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will ensure, in continued consultation with the ETB, that any interim accommodation needs at the school are met. In this regard, two additional temporary classrooms, a woodwork room and preparation area together with a disabled access toilet have been approved for September 2019.

Senator Lorraine Clifford-Lee: I thank the Minister for his reply.

I welcome the provision of the additional temporary classrooms. I appreciate the update in that regard and the update in relation to the remediation works that are due to commence in the summer. I wonder if the Minister could tell me if that time-tabled work shows the completion of these work by September.

Deputy Joe McHugh: I would be hoping that we are in a position to have the vast majority of those 22 schools completed by September. Given the significant impact on Ardgillan community college - it was the only school where they had to decamp on a permanent basis - I certainly will ensure that it will be prioritised and ready for September, if possible. Some works in the 22 schools may continue into October but everybody will be back in school. Nobody will be decanted. I hope that we will have a solution ready for September for Ardgillan.

Senator Lorraine Clifford-Lee: I appreciate that the Minister is keeping Balbriggan and Ardgillan community college at the top of his priority list. I will correspond with the Minister about it as the summer progresses.

Sitting suspended at 3.05 p.m. and resumed at 3.30 p.m.

An tOrd Gnó - Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, motion re Sectoral Employment Order (Electrical Contracting Sector) 2019, to be taken without debate at the conclusion of the Order of Business; No. 2, Judicial Appointments Commission Bill 2017 - Committee Stage (resumed), to be taken at 4.45 p.m. and adjourned at 7 p.m., if not previously concluded; No. 3, Residential Tenancies (Amendment) (No. 2) Bill 2018 - Report and Final Stages to be taken at 7 p.m.; and No. 3a, motion re earlier signature of the Residential Tenancies (Amendment) (No. 2) Bill 2018, to be taken without debate on the conclusion of No. 3.

Senator Catherine Ardagh: I extend my party's sympathies to the family and friends of the legendary Dublin footballer, Anton O'Toole. He was also known as the "Blue Panther" and he passed away aged 68. I send my sympathies and those of the Fianna Fáil group to his family and friends. He won four all-Ireland senior football medals and transformed Gaelic football for the capital. Ar dheis Dé go raibh a h-anam dílis.

In the context of the comments of the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, on co-living accommodation, it is extraordinary that he thinks co-living in small spaces should be celebrated by young people. We only have to look on *daft.ie* to see the tiny squats, apartments or bedsits that are now available at astronomical prices. I do not know what planet the Minister lives on to think this should be celebrated. It is a retrograde step and will give rise to the creation of the slums of the future. The Minister has announced many policies. If he implemented even one, I would say it would be fantastic. The cost-rental model in Inchicore seems to have been abandoned or delayed so I would welcome any com-

ments on where that stands. We have not seen a master plan but if he stuck to one project at a time and finished it, he could be commended. He has announced these co-living squats and it is not right. This is an insult to people.

I will also mention the early childcare scheme. I stated last week that there is a crisis because there are no places for babies and baby rooms in crèches have been abandoned because of the success of the early childcare scheme. At the weekend, we saw how this has become a national crisis. We also learned of a €50 million deficit relating to the early childcare scheme. I ask the Leader to schedule a debate on the subject as many young mothers simply cannot return to work because there are no spaces in crèches for their babies.

Senator Victor Boyhan: I will focus on one issue. I commend the Taoiseach and those involved with the national Famine commemoration in Sligo yesterday. It was a fitting and meaningful event. The Taoiseach stated, “The best way we can honour those who suffered and died during the Great Famine is by showing empathy with those who are suffering today.” He said this in the context of the 1 million Irish people who were ultimately made refugees, having been forced from their homeland because of famine. I could not get to Sligo, although I was invited and had intended to go. Reading his words, I was reminded of the great issues by which we are challenged today and what we are doing about them. I will bounce around a few ideas in that regard.

In the context of the Taoiseach’s words and in our knowledge of the great many people who left for Ellis Island and all the other places, forced from their homeland in need and who sought shelter, we, as legislators, must consider what we are doing. Many of the people to whom I refer were rejected, cursed, damned and given no opportunities. Others got such opportunities in the great places of America, Canada, New Zealand, Australia and elsewhere. The challenge for us must be to follow through on what the Taoiseach said. What are we doing about direct provision and the segregation of families? How are we enabling, supporting and establishing new homes and safe communities? How are we addressing migrant integration, particularly in the context of migrant children? What are we doing to provide job opportunities, education and social care? What are we doing to respect language, faith and difference? What are we doing to address hate crimes and racism? Why do we not celebrate more the arts, rich music, tradition and culinary aspects that come with the diverse cultures of our people? We are talking about a real republic with a capital “R”. As legislators, we in these Houses must challenge ourselves and ask what we are doing and how we can empower migrant civil society to ensure that it can participate in the democratic process and governance. I say that mindful of the elections coming up in the next few days or those that will take place in the future. I will finish on this point. I think we need to tap in and create a new coalition of willing people who want to address this issue. We need a debate in the House on the importance of migration flows.

The Leader is a member of the Organization for Security and Co-operation in Europe - Parliamentary Assembly, OSCE-PA, as I am, and we were furnished with a book at our last conference in Vienna entitled *Local Authorities Migrant Integration Guide*. I circulated it to every local authority. We need to visit this and see how we as representatives of local, national and European governments can address the issue of extending a real warm welcome to migrants. We must remember our past and our experience as migrant people. I would like the Taoiseach to acknowledge that he has tapped into something really strong and powerful. Let us take it to the next stage and debate those issues in this House and have meaningful engagement to discuss and address them.

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Senator Rose Conway-Walsh: I commend the O'Neill pipe band from Clontibret, County Monaghan, who made history by performing here earlier today at the invitation of Deputy Ó Caoláin, Chairman of the Oireachtas Committee on Justice and Equality. It was a fantastic event and I commend Ms Lorna Sherry, the pipe major, and Peadar Morgan, the founder of the pipe band. Their performance of the Flying Pickets song "Only You" was absolutely tremendous. The message around Irish Sign Language is that it is a language for everybody and that people are not disabled just because they are deaf. They are a community of people with an unique language and that language is for everybody. I commend them.

Last week, I spoke about pyrite. Many representatives from counties Mayo, Donegal and other areas welcomed the recent announcement on the pyrite remediation scheme. Concern has been expressed, however, about the cost of the proposed testing, as detailed in the protocol. The issue of the defective building materials has been live for many years and I would expect the Government has at least laid the groundwork for the scheme to begin immediately. I have some questions. In the absence of the Minister responsible, may I ask the Leader to pass on the following questions? Will every house have to carry out the testing? Who will pay for the testing and for the engineer's report? The cost of the test, depending on the number of cores, may be more than €8,000. Based on the number of attendees that were at a recent course, are there enough engineers available to carry out the surveys that are required? If one house in an estate that was supplied with the same building materials is deemed to have pyrite, will all of the houses have to be surveyed and tested in detail or would it be enough to know from the characteristics of the other houses that they also are affected by pyrite? Are there sufficient laboratories available to carry out the required suite of testing that is needed? Is there any official register of the complaints to date from counties Mayo and Donegal and who will establish such a register? When will the procedure be available for the applicants and who will certify the payment of that? What role will local authorities have and what input will they have into the schemes? Will contractors be approved for such remedial works that may be required? Will priority be given to the most seriously affected houses? We need an urgent debate on the issue of pyrite because people are really fearful for their houses. We welcome the announcement of the funding but we need to know that the can will not be kicked down the road again. People are desperate for answers to these questions. I ask the Leader to put these questions to the Minister and relay the response to the House.

Senator Lynn Ruane: I acknowledge the recent publication which seems to conflate drug decriminalisation and the legalisation of cannabis, which are two very different debates. The working group on drug decriminalisation has now given the Minister its report and this must be made public. There are various media articles that have taken pieces of that report and reported on them in an ambiguous way. I have seen the report. It has laid out three options, two of which are for variations of adult caution. One of these is a watered down version of decriminalisation and I believe civil society groups and I could work with the Minister of State, Deputy Catherine Byrne, on this. It is not fair that the media appears to get snippets of the report prior to it being laid before the Houses of the Oireachtas when we can engage in a meaningful way. I read today that the chairman of the working group, retired judge Mr. Justice Garrett Sheehan, is seeking to bring forward a minority report that comes out against the three options in the report which are not even around drug decriminalisation. I stand to be corrected but I believe that Mr. Justice Sheehan is looking for harsher penalties for a person who is caught in possession of drugs in his or her pocket for personal use. I am appalled to think that a judge who has been in the system this long, and who has seen vulnerable people who came in front his court ending up in prison with worse drug addictions than they had before they entered the courtroom, would even sug-

gest harsher penalties for people in addiction. I would like the Leader to ask the Minister of State, Deputy Catherine Byrne, to come to the House to have a debate on the report and to get the report published so that Members can have a real conversation about it.

Senator Kevin Humphreys: Last week the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, explained that the Government had conflicting priorities around the business of this House. To facilitate the Minister, I propose an amendment to the Order of Business that Report Stage of the Residential Tenancies (Amendment) (No. 2) Bill 2018 be taken immediately after the Order of Business, and that once the business is concluded on the Bill the House would adjourn until tomorrow.

Senator Michelle Mulherin: I ask the Leader to invite the Minister for Health, Deputy Harris, or the Minister of State, Deputy Finian McGrath, to the House to clarify for the more than 3,000 service users of Rehab in the State who are very concerned their service will be cut or affected in some way if Rehab is to pull out of providing essential services to people who have a disability. From my area of County Mayo I am aware of the quality and calibre of service that Rehab staff offer. It makes a real difference in the lives of people who have a disability and their families whose lives in many ways would be absolutely transformed for the worse if there is a reduction or change in the service provided. There is a lot of fear out there on this issue. I am aware that the Minister of State and the Minister for Health in particular - because he has spoken on it - are intent on trying to find a resolution with Rehab, but people and the service users need to know where they stand. I truly hope that this resolution can be forthcoming very soon to put everybody's mind at ease and so the staff in Rehab can continue to provide the top-class service they do. I ask that the Minister and the Minister of State are invited to the House to provide that clarification. Other than that, as we all know, the State will be left carrying the can and trying to provide the service, which would be no small feat given the number of service users.

Senator Jennifer Murnane O'Connor: I was very disappointed to hear over the weekend that a 12 year old girl from Carlow was not allowed to compete in the National Stadium for her second Irish boxing title, having already won at local provincial and national level. She had trained hard and worked long hours with her coaches in Tullow. This great fighter was refused entry to the competition by the Irish Amateur Boxing Association when it cited a rule that boxers cannot compete as a boxer while being a member of any other contact sport. This sportswoman had previously won a silver medal at the Muay Thai World Youth Championships in Thailand. There has been outrage locally and nationally at this refusal. I have been onto the office of the Minister for Transport, Tourism and Sport about this. At a time when we promote mental and physical health, this is unacceptable. I know the Leader will bring this to the Minister for me.

I agree with the previous speaker on Rehab and its services. I have just left a meeting with Rehab where we heard about its serious concerns about the 3,000 people with disabilities who use its service. There are 1,500 staff. This is a crucial service. I live near a Rehab service in Carlow town and it is absolutely excellent. There is a meeting today at 5 p.m. with the Minister for Health and I ask that the families would not be concerned or worried. They are tormented with worry about whether the service will be closed. Rehab is telling them if it does not get €2 million by 2020, this service will cease to exist. That is unacceptable. I ask the Leader to make sure this does not happen.

I wish all the Fianna Fáil councillors all the best in the elections. It is very important that

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people come out to vote. Every one of us has a vote and people should get out and use their votes. I think there have been some issues about who registered-----

Senator Jerry Buttimer: We will be here tomorrow.

Senator Jennifer Murnane O'Connor: -----that is something we need to examine. I wish everybody the best in the local and European elections.

An Cathaoirleach: I feel there is thunder in the air.

Senator Gerard P. Craughwell: It will be Independents' day on Saturday.

An Cathaoirleach: The weather might be breaking.

Senator Billy Lawless: I would like to second everything my colleague, Senator Boyhan, has said. I was honoured to attend the National Famine Commemoration last Sunday in Sligo and I would like to commend the County Sligo Famine commemoration committee on a superb event. I was so deeply moved by the booklet produced for Sunday's event, that I have requested a copy for every Member of the Oireachtas. It is vital that we read it and remember our past. I would like to read this short recollection of the Famine from a Mrs. McDermott of Templeboy, Sligo:

A man named Doherty lived with his wife and six children in Grangemore. During the Famine they were starving. His wife and six children died from hunger, and he carried them in a sack, and buried them in a hole in Shaw's field. Some time afterwards, he died by the roadside and when he was found, grass and other green vegetables were found in and around his mouth.

People died along the roadside and in the fields. A man named Healy, who lived in Lugdun, was one morning going to the well for water, when he fell on the roadside and died. He was buried in a box in his own garden. Fourteen families, left Cartron and Lugdun for the Emigrant Ship in one day.

This is from *The Sligo Champion* of January 1847:

Although 35 persons in fever were sent from the Workhouse to the Hospital, they are still lying three in a bed, in the former institution! Good God! Think of three fever patients crowded together, upon the one narrow bed! Fever sheds are being erected as speedily as possible, and when they are completed the poor sufferers will, of course be better treated, and have a greater chance of recovery.

Ireland is now a prosperous and global nation but these recollections show us we must never forget this terrible blight on our history.

Senator Gabrielle McFadden: On my travels over the weekend, I met a gentleman who has a tumour. He is attending University Hospital Galway for scheduled treatment. Every month when he goes for this treatment, there is no bed for him. He was advised to go in through the accident and emergency department. He does that and waits for up to 24 hours for a bed and has his treatment. He was at pains to tell me that the doctors and nurses are exceptional and that once he gets in there, the treatment is excellent. There is something seriously wrong when someone with scheduled treatment has to sit for 24 hours in the accident and emergency department.

I am based in the midlands and we are advised to go east or west to centres of excellence for treatment. We should not have to go through the accident and emergency department for scheduled treatment. It is obvious that there are management issues. The beds are available eventually and the money is there. The service and exceptional staff are there. I ask the Leader to use his good offices to ask the Minister to come before the House in order that we might discuss this issue in a constructive manner.

Senator Aodhán Ó Ríordáin: I echo the comments of Senator Ruane regarding the debate on the decriminalisation of drug use. Notwithstanding the emotion Senator Lawless has about those who died at the roadside in Ireland 150 years ago - and while I agree with his sentiments - there are people dying at the roadside throughout Ireland and in its capital city every day as a result of drug overdoses. We seem to have a romantic view of what happened 150 years ago yet we have a victim-blaming attitude to those who die in toilets, parks, stairwells of flat complexes and alleyways as a result of overdoses. We have the third highest overdose rate in Europe. The discussion on decriminalisation, which is at a sensitive point, purely aims to help somebody who has an addiction, not through the criminal justice system but through the health system. It is just as radical as that.

There was a disgraceful letter in *The Irish Times* yesterday from 20 or more GPs who feel it falls upon them to derail the humanity of what we are trying to achieve. To suggest that the move towards decriminalisation is a Trojan horse for anything but keeping people alive is outrageous. As Senator Ruane indicated, it is beyond time for the debate on this matter to take place. We are willing to work with the Government on the basis of the report, which may or may not already have been heavily leaked, if what comes out of it provides a basis upon which we can work. To suggest that the decriminalisation argument is somehow trying to achieve something else is absolutely insulting to all of us who do not believe that people who are sick or who have addictions belong before the courts; they do not. Someone who is sick, who is in need of medical help and who has an addiction does not belong in a courtroom, a prison or a Garda cell. They should not be interacting with the criminal justice system. Such a person needs a counsellor, a nurse, a doctor and a path to recovery. That is the basis for decriminalisation. It is not decriminalisation of the substances but of the person. If this issue was taken seriously, we would have a lot fewer people dying on our streets as a result of what is a real and contemporaneous issue.

Senator Michael McDowell: Nobody seems to speak for County Carlow in this Chamber. Carlow came first in the divorce league, as reported in today's newspapers, and there is not a word about it from Senator Murnane O'Connor.

Senator Jennifer Murnane O'Connor: I am here now to make up for it.

Senator Michael McDowell: I just wanted to note that achievement.

Somebody has been careless enough to lose my seat on three occasions in the Lower House. I was struck by an account in today's edition of the *Irish Independent* regarding a Member of that House who lost her seat while on a swing in a hotel in Harcourt Street recently.

An Cathaoirleach: That matter is *sub judice*. I would tread carefully.

Senator Michael McDowell: I just want to say two things without commenting on the merits of the case. It would appear that 55 years after Belfast City Council unlocked the swings on Sundays, the proposition is being put in court that there should be supervisors for swings

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when adults are using them and that it is a matter of civil liability if there are not. It occurs to me that we live in a strange world when civil liability can exist in such circumstances. Perhaps we are only hearing a portion of the evidence. Who knows? It also occurs that if the Government is serious about driving down the claims culture, we cannot stand idly by when adults with two objects, one in each hand, lose their seat and fall off a swing and then claim that there should have been a supervisor looking after them, especially when it comes from somebody who has so much public influence and clear influence over Government policy in these matters.

As I understand it, the letter to *The Irish Times* to which Senator Ó Ríordáin referred merely points out that the case for medicinal cannabis is being confused with the case for decriminalisation of all cannabis by cannabis users.

Senator David Norris: There was a lot of highly flavoured language involved.

Senator Michael McDowell: That is a legitimate point to make and I do not believe there is anything disgusting or disgraceful about making it. This is not a simple issue. There is a big problem with criminalising the possession of small quantities of cannabis; it is probably a waste of everyone's time prosecuting people for it. However, decriminalising cannabis will have serious effects because it is a psychotic substance which causes psychosis among young people. I know this and science has proved it.

On a lighter note, marriage equality for homosexual people and the decriminalisation of cannabis came in at the same time in Canada recently. It was stated in a newspaper there that evangelists were completely shocked by this and that they were worried about the phrase in the bible that "if a man shall lie with another man as if his wife, he shall be stoned".

(Interruptions).

Senator Máire Devine: The Senator has a sense of humour.

Senator Gerard P. Craughwell: How does one follow that? A number of my colleagues have mentioned drug addiction, while one has mentioned the problems faced in emergency departments. A couple of weeks ago I had the misfortune of having to spend the best part of 24 hours in an emergency department with a relative who was a frequent visitor to the place owing to chronic health issues. I cannot begin to recount the girl's distress in sitting in the emergency department, surrounded by people who were either substance abusers, completely drunk or high on drugs. Surely the emergency department is not the place to treat such persons? We would change the entire system if a proper place could be provided for those suffering from substance abuse.

Senator David Norris: Whatever happened to the drunk tank?

Senator Gerard P. Craughwell: Anyone sitting with the girl I was with, or the others sitting around us who were really sick would have been heartbroken. At one point the queue had to be restarted because one of the substance abusers had run out of the place and a number of staff had to follow to bring her back in order that she could be fitted back into the queue. I cannot begin to describe the hurt felt by the people sitting around me. We really have to tackle the issue of substance abuse. There is not a family in the country that does not have somebody suffering from substance abuse. We have to tackle the problem. They are crowding emergency departments throughout the country. I have had the misfortune, owing to heart problems, to

attend the emergency department at St. Vincent's University Hospital on several occasions and each time the place was full to the rafters. It is desperate.

I ask everyone in the House to join me in condemning those who are cutting down posters belonging to candidates running in local and national elections. The posters cost a lot of money and anyone who acts in such a way is committing a vicious act.

Senator David Norris: First, I second-----

Senator Gerard P. Craughwell: I second Senator Humphreys'-----

Senator David Norris: The Senator need not bother. I second Senator Humphreys' proposed amendment to the Order of Business.

I was not going to speak, but since the question of hospitals was raised, I will say that yesterday I was in St. Vincent's University Hospital and looking at the notices. Last year some 19,000 people failed to turn up for appointments, at a cost to the hospital of €1.5 million. We hear much squawking from the consumers of health services. However, I would like to say it is a very fine service but it is not well served by citizens in every hospital in the State routinely failing to turn up for appointments, particularly when, as in the case of St. Vincent's hospital, a text message is sent to remind the person of his or her appointment.

Senator Rónán Mullen: The full facts have yet to come out about what happened to the baby who died in Holles Street. What we can say is that this is something more than a case of a misdiagnosis and all the tragic consequences that followed. It raises the most serious questions about the medical establishment and the establishment of some doctors within our system. I spent a lot of time last year and in the past attempting to draw policymakers' attention to the fact that many parents in this tragic situation have felt patronised, sometimes pressurised-----

Senator Aodhán Ó Ríordáin: The full facts have yet to come out. This is unbelievable.

Senator Rónán Mullen: -----have experienced less than encouragement-----

Senator Aodhán Ó Ríordáin: This is outrageous. The Senator is a thundering disgrace.

Senator Rónán Mullen: -----and have felt passed over-----

Senator Aodhán Ó Ríordáin: There is nothing he will not say.

An Cathaoirleach: Please, Senator Ó Ríordáin.

Senator Aodhán Ó Ríordáin: There is no tragedy the Senator will not politicise. He is a disgusting disgrace.

An Cathaoirleach: Whether we agree or not, Senator Mullen is entitled to make his point. I am in the Chair and I will make the ruling.

Senator Aodhán Ó Ríordáin: The Senator should hang his head and keep it hung.

An Cathaoirleach: Allow Senator Mullen to proceed.

Senator Rónán Mullen: And passed over when it comes to important and, at the very least, relevant information. We have seen in the case of the CervicalCheck scandal some parallels with tests abroad and lack of information and responsibility towards people at home. We need

to know more and hopefully we will know more and at that point more can be said by calm people-----

Senator Aodhán Ó Ríordáin: The Senator does not know what he is talking about.

Senator Rónán Mullen: -----who want people to be properly and respectfully treated.

Less of a life and death issue but nonetheless important is dentistry and people's oral and dental health. I was very interested by what Dr. John Marley, dean of the faculty of dentistry in the Royal College of Surgeons in Ireland, RCSI, had to say last week when he came before the Joint Committee on Health. It probably will not surprise people that during the recession, many households cut down their spending on dental treatments but what would surprise them is that the faculty of dentistry in the RCSI had no input into the development of the national oral health strategy. Dr. Marley pointed out some interesting matters of which I was unaware and of which other people may also be. There is no foundation year – what we would call an internship year in the area of medicine - for dentists. Dentists go into private practice without having such a foundation year pre-registration. There is no mandatory continual professional development for dentists in the way there is for medics and other professionals. As doctors and pharmacists have ongoing training in the latest medical developments, it is striking that no such system operates for dentists. There is limited access to dental specialties. There are only about two specialties and consultancies, orthodontics and oral surgery, in which people can work in Ireland while there are about 11 other specialties in the UK and internationally. That is something we should discuss in this Chamber. I was extremely surprised by all of those things Dr. Marley had to say. We should discuss them with the Minister for Health, together perhaps with other issues in due course.

Senator Marie-Louise O'Donnell: I want to say something positive. It is about St. Vincent's hospital, where I have spent the last two days for family reasons, not my own but other family members. I cannot begin to stress how wonderful the staff were.

Senator David Norris: Hear, hear.

Senator Marie-Louise O'Donnell: It is packed - it is a city of the frail, the feeble and the very unwell - and accident and emergency departments are like that. A man called Stephen Wilson, who is an advanced paramedic within the ambulance service, was outstanding. Another man called Thomas Chirayath from Kerala, a healthcare assistant, was also outstanding, as was a man called David Kelly, who was given an award for heroism for his ability as an advanced ambulance paramedic who tried to save a child's life. The child unfortunately died but the mother of that child recommended him for this award, which he received from the people of Dublin. It was not so much even that - particularly as I did not know any of it until later - it was just the care and attention in a city with a lot of people of all ages who are very unwell. I just cannot say enough about it, and also about the health care assistants. I keep talking about this because health care assistants do everything in between the doctors and the consultants. They are outstanding. They come from all over the world to work here. They are happy to do so, to have lives here and tend to us, and we still will not give them a critical skills facility, or a proper trajectory and proper conditions in respect of their jobs in order that they can remain. We need to look at that. It is only when one is in that situation that one is so grateful for the care of others at consultant level but also at the level of the everyday in a city of the feeble and of people who are very unwell. I thank those at St. Vincent's University Hospital. We should remember the good things that happen every day in this country and the good health people enjoy. We should

also remember the Sisters of Charity who built the hospital.

An Cathaoirleach: I thank the Senator and call the Leader.

Senator Jerry Buttimer: Go raibh maith agat.

Senator Máire Devine: A Chathaoirligh-----

An Cathaoirleach: Senator Devine did not indicate but I will allow her to speak as she has been sitting there a long time.

Senator David Norris: Do not.

An Cathaoirleach: I asked my very wise clerk if Senator Devine had indicated because I did not see her, but I will allow her in.

Senator Máire Devine: It was my fault. That is grand. I thank the Cathaoirleach very much. I will not be long.

An Cathaoirleach: Senator Devine was sitting there patiently.

Senator Jerry Buttimer: Senator Devine has 90 seconds.

Senator Máire Devine: Do I?

Senator Jerry Buttimer: I am only joking.

Senator Máire Devine: That is great. The HSE produced its service plan for 2019. It is working towards a seven-day service for the child and adolescent mental health service, CAMHS, to ensure support for vulnerable young persons in line with the policy of Connecting for Life. A couple of weeks ago, I received a response which indicated in black and white that there is no plan to implement the 7-7 service. The period from Thursday evening to early Monday morning is when the demand for psychological and psychiatric services is at its greatest. That is the reason we were hopeful that we would have not just a 7-7 service but a 24-7 service.

I raised this issue on the Commencement last week and I received a response from the Minister of State, Deputy Finian McGrath, rather than the Minister of State, Deputy Jim Daly. I was unimpressed by his response in which he did not once mention a 7-7 service. It was a long spiel about the history of the HSE going back forever and about the current services but not the services that were promised for 2019. He said he would bring my concerns to the Minister. I look forward to some response because a 7-7 service is the minimum we must try to provide for children under the 2019 service plan. There was also a letter from community healthcare organisation, CHO, 9 stating that it cannot put anybody on the mental health waiting list who is referred. It also outlined its regret in having to inform people that, due to the high referral numbers, the primary care mental health service has ceased for the foreseeable future. I would welcome some clarity from the Minister on the 7-7 service and mental health services in CHO 9. I thank the Cathaoirleach and I also thank the Leader for his generosity.

An Cathaoirleach: There is some kindness in me. I call on the Leader to respond.

Senator Jerry Buttimer: I thank the 15 Members of the House who contributed to the Order of Business.

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Like Senator Ardagh, I begin by paying tribute to and remembering the late, great Anton O'Toole. Those of us who grew up as part a generation that watched the Dubs display their prowess in the 1970s will remember him as a fantastic and skilful footballer. We extend our sympathy to his family. Ar dheis Dé go raibh a anam dilis.

Senator Ardagh raised the comments of the Minister, Deputy Eoghan Murphy. What he articulated is that co-living is one housing option. It is about offering choice. Co-living works in other cities and, to be fair, we cannot all judge on one concept, whether it is single housing or planning or apartment living. We are concerned about increasing supply. That is the reason the Government is committed to Rebuilding Ireland. I would be happy for the Minister to come to the House for a debate on housing again.

Senator Ardagh raised the issue of the early childcare scheme regarding places for babies. The Government is committed to enabling people to have access to high-quality, affordable childcare. It is a very important issue. Under the Minister for Children and Youth Affairs, we have seen an increase in the budget over the past two budgets. The Government is committed to ensuring that children in the nought to three age group referred to by Senator Ardagh are accommodated. We have seen an increase in the number of young children accessing services from 13,000 in 2014 to 31,000 today. I would be happy for the Minister to come back to us in June for a debate on the matter.

Senators Boyhan and Lawless raised the issue of the Famine commemoration in Sligo last weekend. In his very fine contribution, Senator Boyhan spoke about celebrating diversity and the need to have empathy, as the Taoiseach said, for those suffering today. I would be very happy to have that debate in the context of migration and where we see ourselves as a culture and society within the EU project. The remarks of Senators Boyhan and Lawless are ones about which we need a wider discussion, particularly on the issue of migration, where some people peddle a line that migration is bad for our country. As we all know quite well, there are many fine immigrants in our country today making a very valuable contribution to our society and communities. Freedom of movement of people is one that we all cherish. As the Senator for the diaspora, Senator Lawless can testify to the fact that as a race of people, we have been welcomed across the world, particularly in North America. That debate is one we should have and I commend Senators Boyhan and Lawless on their contributions.

Senator Conway-Walsh raised the issue of pyrite. As Members will be aware, the Government announced €20 million in the budget for a pyrite and mica remediation scheme for affected houses in counties Donegal and Mayo. It has committed to resolving the problem and the final aspects of the scheme are being worked out and will be published soon. Many emergency and technical works have been undertaken to date. The issue of standardisation of testing and other types of works will be fed into the scheme. I would be happy for the Minister to come back to the House with regard to the matter raised by the Senator. I join with her in commending the O'Neill Pipe Band on being here today. I also commend the work of the Oireachtas Committee on Justice and Equality on Irish Sign Language. Senator Conway-Walsh is not here but I was going to say to her that if she was talking about The Flying Pickets' song, I was hoping she might extend all her love to us on this side of the House.

Senators Ruane, Ó Ríordáin and McDowell raised the very important issue of the decriminalisation of drugs. It is a very emotional issue where we need to see a different type of approach. I concur with some of the comments made by Senators Ruane and Ó Ríordáin, as I think we need to look at how we can do things differently while recognising that the letter to

The Irish Times addressed a different issue. I have to say that Senator McDowell's contribution regarding psychosis and cannabis is one we cannot just dismiss.

(Interruptions).

Senator Jerry Buttimer: Senator Ó Ríordáin should not make it all about him. Sometimes it is not all about him. Before Senator Ó Ríordáin jumps in, I was going to say that as Minister of State, he did a significant amount of work of which I was supportive but there are issues around cannabis that we cannot ignore. The views of a body of opinion were published yesterday and there were letters to the newspapers, which need to be part of a wider debate that I am happy to have. In fairness to the Minister of State, Deputy Catherine Byrne, the report has not yet gone to Cabinet. I am told that there is a need for cross-departmental review of and contribution to the report. It is a complex issue but we need an informed debate on the matter and I look forward to the Upper House having that debate in due course. I will not shy away from it. Senator Ó Ríordáin is right. The pathway to recovery is one we need to examine. As somebody who has been involved with a number of organisations in Cork, I know that it is one we need to examine further.

Senator Humphreys proposed an amendment to the Order of Business that I cannot accept. Senator Mulherin raised the issue of clarification regarding Rehab, as did Senator Murnane O'Connor. It is important that we provide certainty and continuity to the users of Rehab. That is why there have been talks going on between the Minister and the service provider, Rehab, today and prior to today. I hope that a resolution can be found to the talks because it is an important service. I will leave it at that.

With Senator Murnane O'Connor's permission, I will rejig the Senator's comment to wish all candidates in the local elections every success on Friday.

Senator David Norris: They cannot all be successful.

Senator Jerry Buttimer: To participate in democracy as a citizen is one thing but to be a candidate is another. To all the men and women who are standing for election, irrespective of their hue, party or if they are Independent, I say, "Go n-éirí libh". I hope they all do well.

Senator Máire Devine: Outside of Carlow?

Senator Jerry Buttimer: Does the Senator want me to raise the Carlow candidates who I support?

Senator Murnane O'Connor had better mark the calendar. I completely agree with the Senator's remarks on that young boxer who should be allowed to participate in a variety of boxing events. I thought we got rid of the ban in sport in our country. The decision by the IABA is wrong. There are two types of boxing and I do not see why one cannot participate in both codes.

Senator Jennifer Murnane O'Connor: That is great. I thank the Leader.

Senator Gerard P. Craughwell: I feel the love.

Senator Marie-Louise O'Donnell: A sudden swing.

Senator Jerry Buttimer: Senator McFadden raised the issue of University Hospital Galway. That is a matter that deserves to be treated with the utmost respect and seriousness. In

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fairness, Senator McFadden might get a better reply through a Commencement matter. I addressed Senator Ó Ríordáin's issue.

In response to Senator McDowell, the issue of the swing is before the courts and I will not mention that.

Senator Michael McDowell: It is the swing vote I am worried about.

Senator Jerry Buttimer: The swing vote did not benefit Senator McDowell on a couple of occasions. It did on other occasions.

Senator Gerard P. Craughwell: Roll on independence day.

Senator Kevin Humphreys: Senator McDowell was out casting the swing vote lately.

An Cathaoirleach: It might be wise for the Leader to swing away from that issue.

Senator Aodhán Ó Ríordáin: Swings and roundabouts.

Senator Jerry Buttimer: I hear that Senator McDowell swings either way in terms of one-----

(Interruptions).

Senator Kevin Humphreys: But he is not stoned.

Senator Aodhán Ó Ríordáin: Not stoned.

Senator Jerry Buttimer: Many hope Senator McDowell's prevarication ends soon. The Senator is swinging one way or the other, depending on who he meets. I really hope that he can.

Senator Gerard P. Craughwell: Down with that sort of thing now.

Senator Jerry Buttimer: The issue of civil liability is one that, in the wider insurance debate, needs to be addressed. We will have the Judicial Council Bill 2017 coming back before us and the Minister of State at the Department of Finance, Deputy D'Arcy, is working on reducing the cost of insurance. I note Cork City Council has set aside €20 million for insurance claims. That is a huge chunk of money out of the budget of the city council. It poses the question as to why we must have that kind of money. Let us have that debate at a future time.

Senator Craughwell raised the issue of the accident and emergency department and the distressed girl. I have made the point repeatedly that the system of access to emergency departments should be changed. We need more investment in primary care which we are providing. Senator Norris, off-camera, made reference to the issue of drunk tanks. We need a specific area of emergency departments for those with alcohol and drug issues who come into accident and emergency departments, clog them up and hold patients up. Senator Norris is correct. There are people who come into hospitals who need to be seen as outpatients but there are people who misuse the hospital system by failing to turn up, failing to notify and cancelling on a number of occasions and that adds to a backlog. I would be happy to have that debate on the health system following the local and European elections.

Senator Mullen raised the sensitive and tragic issue in the National Maternity Hospital. The best contribution I can make is that we do not know all the facts. There is a review under way

in the hospital. Let us await that conclusive report and then have a debate. Let us treat the matter with sensitivity and not use anybody, anything or any place as a political football. We all have concerns. We all have issues. Let us wait until we get the full facts when we can have the debate on the matter.

Senators Marie-Louise O'Donnell and Norris commended those involved in the healthcare system, particularly in St. Vincent's. The Senators are correct. There is a significant amount of work being done. We can have a real debate on the positivity around the healthcare system and about the need to keep the patient at the heart and centre of it. The remarks of both Senators are ones that should be promulgated.

Finally, Senator Devine-----

Senator Marie-Louise O'Donnell: On a point of order, I went on to talk about the healthcare assistants at a very real political level.

Senator Jerry Buttimer: I said that would form part of our debate.

Senator Marie-Louise O'Donnell: It is not about positivity. That is actually determined negativity regarding their work.

Senator Jerry Buttimer: I said we should have a debate on the healthcare system to address the matters raised by the Senator. I used the word "promulgated", which means to articulate.

Senator Marie-Louise O'Donnell: I understand the English language. I am just wondering what is the Leader's opinion on healthcare assistants.

An Cathaoirleach: I cannot allow interventions. Perhaps the Senator might speak privately to the Leader about the matter.

Senator Jerry Buttimer: I will be happy to have a debate on the healthcare system. If there are issues that need to be addressed, let us promulgate them.

Senator David Norris: Healthcare assistants.

Senator Jerry Buttimer: I understand what Senator O'Donnell said. I can hear.

Senator David Norris: Really. Very good.

Senator Jerry Buttimer: If there are concerns, let us have that debate. I have to be honest. There is much positivity in the healthcare system too. We sometimes hear a lot of negativity in this House, but there is a lot of positivity too. I am not saying the Senator is saying negative things but making the point as part of the debate.

Senator Marie-Louise O'Donnell: The Leader is putting me in that context after I made a speech about how marvellous the healthcare system was.

Senator Jerry Buttimer: I understand that.

I do not have an answer for Senator Devine to her question about CHO 9, nor do I have a further update. She is unhappy with the Minister of State, Deputy McGrath's response last week. The Government is committed to working on the issue of mental health. On child and

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adolescent mental health services, I suggest, with respect, that the Senator resubmit her Commencement matter for further consideration. We will have a debate on health issues again after the local elections. The HSE's service plan is not debated in the Houses of the Oireachtas *per se* but at the Joint Committee on Health. As a Member of the Oireachtas, the Senator should have the opportunity to meet representatives of the HSE in her area to speak about issues related to the service plan. She should consider resubmitting her Commencement matter because I accept that it is an important issue.

I regret that I cannot accept Senator Humphreys' proposed amendment to the Order of Business.

An Cathaoirleach: Senator Humphreys has proposed an amendment to the Order of Business: "That No. 2 not be taken today and that No. 3 be taken at 4.45 p.m." Is the amendment being pressed?

Senator Kevin Humphreys: Yes.

Amendment put.

The Seanad divided by electronic means.

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

Amendment again put:

The Seanad divided: Tá, 17; Níl, 16.	
Tá	Níl
Boyhan, Victor.	Burke, Colm.
Clifford-Lee, Lorraine.	Burke, Paddy.
Craughwell, Gerard P.	Buttimer, Jerry.
Daly, Paul.	Conway-Walsh, Rose.
Gallagher, Robbie.	Conway, Martin.
Horkan, Gerry.	Devine, Máire.
Humphreys, Kevin.	Feighan, Frank.
Marshall, Ian.	Hopkins, Maura.
McDowell, Michael.	Lawlor, Anthony.
Mullen, Rónán.	Lombard, Tim.
Murnane O'Connor, Jennifer.	McFadden, Gabrielle.
Nash, Gerald.	Mulherin, Michelle.
Norris, David.	O'Mahony, John.
O'Donnell, Marie-Louise.	O'Reilly, Joe.
O'Donovan, Denis.	Reilly, James.
Ó Ríordáin, Aodhán.	Richmond, Neale.
Ruane, Lynn.	

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

Amendment declared carried.

An Cathaoirleach: There is an equality of votes. Pursuant to Article 15.11.2o of the Constitution, I exercise my casting vote and vote in favour of the proposal in this instance. I, therefore, declare the question carried. Is the Order of Business, as amended, agreed to?

Senator Jerry Buttimer: No. On a point of clarification, is the import of the disappointing result of the vote that we will take the Residential Tenancies (Amendment) (No. 2) Bill 2018 now?

An Cathaoirleach: Yes. Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Sectoral Employment Order (Electrical Contracting Sector) 2019: Referral to Joint Committee

Senator Jerry Buttimer: I move:

That the proposal that Seanad Éireann approves the following Order in draft:

Sectoral Employment Order (Electrical Contracting Sector) 2019,

a copy of which has been laid in draft form before Seanad Éireann on 9th May 2019, be referred to the Joint Committee on Business, Enterprise and Innovation, in accordance with Standing Order 71(3)(k), which, not later than 28th May 2019, shall send a message to the Seanad in the manner prescribed in Standing Order 75, and Standing Order 77(2) shall accordingly apply.

Question put and agreed to.

Residential Tenancies (Amendment) (No. 2) Bill 2018: Report and Final Stages

Acting Chairman (Senator Gerry Horkan): I welcome the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, back to the House. I remind Senators that they may speak only once on Report Stage, except the proposer of an amendment, who may reply to discussion on the amendment. Furthermore, each non-Government amendment must be seconded. Amendment No. 1, in the names of Senators Craughwell and McDowell, arises out of committee proceedings. I call Senator Craughwell.

Senator Gerard P. Craughwell: I move amendment No. 1:

In page 8, between lines 39 and 40, to insert the following:

“(VI) refurbishment that meets a per square foot value investment as set by regulations published by the Minister for properties that are pre 1963.”

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I welcome the Minister. I appreciate his urgency regarding this Bill but this amendment has the backing of this country's leading expert in building energy rating, BER. I am told this part of the Bill concerning housing which predates 1963 could be illegal in the context of European legislation. Those regulations call for a national policy to cover major renovation where more than 25% of the building envelope is being refurbished. There is no requirement for a member state to link this to rent caps but there is a requirement for all major renovations to be undertaken in a cost optimal way. In other words, the refurbishment being done should not be so expensive as to result in no practical realisable saving for occupants.

Will the Minister point to where I might find a report on cost-optimal studies that may have been done for such buildings? My information is that no such study has ever been done. The same consultant advises that in his professional opinion, as one of the leading BER assessors in the country, it is almost impossible, in practical terms, to reach a seven point improvement in a building that dates from before 1963. The practical reasons include the walls of architecturally sensitive buildings, which can only be dry-lined. To avoid condensation risk, that can only be done with specially formulated materials, such as calcium silicate boards, to absorb moisture from breathable brick structures. Those materials do not reach the U-value requirements, for example, that are required by the Sustainable Energy Authority of Ireland to support grant-eligible measures for dry lining, meaning homeowners would have to take the costs involved. This appears to directly contradict the stated position of An Taoiseach, who indicated at the weekend that the Government will help to grant-support retrofitting. As matters stand, all these folks would be excluded from the grant scheme because of the nature of the materials used.

In these pre-1963 buildings, many internal features, such as architraves, skirting boards, etc., are conserved, making it absurdly expensive for all but those with the deepest of pockets to undertake the necessary dry-lining in an architecturally sensitive way. As there is a practical limit on the U-values to be achieved, there is also a practical limit on the renewable technologies that can be used in such homes to replace existing heating systems. We should remember that most of these homes were originally designed to be heated with coal and turf fires and that the walls are inherently breathable. As there is a U-value constraint-----

Senator Jerry Buttimer: This is a Second Stage speech.

Senator David Norris: It is not Senator Buttimer's business to make such a remark.

Senator Gerard P. Craughwell: I am trying to put some important facts on the record.

Acting Chairman (Senator Gerry Horkan): Members should speak through the Chair.

Senator Gerard P. Craughwell: A heat pump operates most efficiently at a narrow-operating delta-T temperature range and would be very inefficient and costly to operate in such a home. A demand-response heating system, such as oil or gas boilers, would be much more effective.

Under the current rules it can be practically impossible to obtain window energy performance certification for bespoke wooden sash windows. It can often be impossible to verify that the savings made under the current rules of the building energy rating system, even when the homeowner has installed the best available components in line with architecturally sensitive practice. It is not simply a matter of the market responding to this demand either. By its nature, bespoke or craft windows and door manufacturing is undertaken by one-man bands who do not have the resources to file for certification in accredited laboratories. As windows dominate the

front-facing facades of these types of buildings, this is a major issue.

If the Minister insists on pushing through this legislation this evening, I would want some reassurance for those who own pre-1963 properties that he will put in place a form of compensation for the homeowners affected, perhaps by means of grant aid or something of that nature. I ask the Minister to accept the amendment. I would not ordinarily be a great supporter of the landlord class, as the Minister knows, but in this case I can see that the Bill is flawed and needs to be dealt with on that matter.

Acting Chairman (Senator Gerry Horkan): As long as the Senator spoke to the amendment, I did not consider his contribution a Second Stage speech.

Senator David Norris: I dispute the statement that there is a landlord class. There are many different kinds of landlords, including huge institutional investors, individuals, pensioners and all the rest. It is not appropriate to say there is a landlord class.

I can add a sentence or two of context. Last Monday, we hit two new national records. The first was the lowest number of dwellings ever offered to rent and the second was the highest figure for average rent. The person who contacted me about those asked why anybody would be surprised because, for the past five or six years, punitive legislation has been enacted in waves, with each wave more extreme than the last. I can provide some evidence a little later. Another correspondent told me the following:

Substantial refurbishment, which is in a tenant's interest too, can cost up to €10,000, and this feature, if enacted, will cause deterioration in existing rental properties and create very poor accommodation as time goes by. Substantial refurbishment is not financially possible when, effectively, rent control is in place.

The two elements are in conflict and, as the Minister can see, I have a sheaf of correspondence from landlords. That is only a small portion and I have edited it so as to speak appropriately to the first amendment.

The Bill is so restrictive with regard to the definition of "substantial renovation" that most property owners will find it impossible to comply with the criteria and will not be able to increase their rent even after substantial expenditure. Apartments and pre-1963 multi-unit accommodation will be hardest hit.

If enacted, investors will no longer purchase this type of accommodation, which will further decimate supply in the rental market. That is the market responding to the situation. Three issues, in particular, are causing concern. First, a permanent alteration of the internal structural layout cannot be made. This means that disability access changes may be impossible where, for example, an apartment block has no lift. Second, a permanent increase in the number of rooms will invalidate fire certificates. Third, an improvement in BER of two or more ratings is difficult to achieve and impossible for protected pre-63 buildings, which are exempt from BER. A logical solution is to link the substantial refurbishment spend to the existing rental price of the property such that a substantial refurbishment would involve an expenditure of more than 80% of the annual existing rent up to a maximum of €10,000. Under that model, apartments with rents of €1,500 per month would require an expenditure of €10,000, while properties renting for €500 per month would require an expenditure of €4,800.

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Another item of correspondence, from Mr. Graham Farrington-Christie of Haden Properties in Dublin, accuses the Minister of conveniently brushing over two of the three additional measures, particularly the provision dealing with permanent alterations to the internal layout of a building. The correspondent notes that the altering of the internal layout of a pre-1963 building goes against the basis of the pre-1963 legislation in the first instance. In terms of dwellings being adapted to provide for access and use by a person with a disability within the meaning of the Disability Act, it is noted that this type of accommodation is traditionally three floors over a basement, which does not lend itself to any disability modification works given its status as a protected structure. The Minister's proposed solution for these properties is unattainable, the correspondent argues, a point he has highlighted to the Minister several times since meeting him on Monday, 13 May to explain his organisation's difficulties with the Bill. Mr. Farrington-Christie states in his letter to me that the issue is that the majority of the buildings in question are protected structures and are exempt from BER, as set out by the Sustainable Energy Authority of Ireland. He refers to the specific scale that is suggested to be utilised as a grading against refurbishment. He notes further that because they are protected structures constructed more than 100 years ago, should he follow the direction of the Minister and go against the legislation on protected structures, the buildings will only come up to the BER scale between three to four scales without external or internal insulation, both of which are blocked. In effect, landlords in this situation are caught in a catch-22 situation.

This is one type of horrifying situation landlords sometimes face. I accept that there are good and bad landlords. My sister, who went to a clinic in Malawi as a volunteer on no pay, let out her house in Kilkenny to a friend for a nominal rent of €500 per month. Being a good citizen, my sister declared the extra income only to be hit by penalties. I let out the basement apartment in my house, and I have had good tenants but also horrendous tenants. In one case, the tenants left the apartment in such a condition that I made an 11-minute television-quality film of it. I have a photograph here showing what the sheriff and I found last week when we inspected the property. It does not show the bedroom and bathroom, which I have not been able to get to yet. The woman involved owes me €11,000. I had to pay the solicitor €4,000 and the sheriff €2,700 to send two men out for ten minutes, and it will cost me at least €20,000, with no comeback, to repair the house. I would only be wasting more money trying to chase the tenant down for the moneys owed. The process to get her out took nearly two years from start to finish. Yet, if I as a landlord do anything wrong by a tenant, he or she can claim 15% to 20%-----

Acting Chairman (Senator Gerry Horkan): Does the Senator have more to say on the amendment?

Senator David Norris: I have only a few more points to make. What do I get from a tenant who leaves my house in this condition and owing so much? I get only the deposit of €900. This is not the first time the property has been returned to me wrecked but it is the worst case. As the owner of a pre-63 house, I am saying that for landlords of such properties, the restrictive clauses contained in the legislation will be impossible to satisfy. Even if we invest thousands of euro improving the premises, we are not guaranteed to get market rents in years to come. In other words, there is a significant expenditure for no return.

A woman who recently bought an older pre-63 building which is on the Record of Protected Structures says in a letter to me:

The building is greatly in need of refurbishing as it is unsustainable and unlivable in its present condition. Had I been aware or given advance notice of the introduction of this

Bill and its restrictive criteria, I would never have considered purchasing the building. As it stands, my plans to spend a substantial money on refurbishment works are in question as I feel they are very unlikely to meet the proposed criteria. I am faced with an impossible situation, unable to move forward with the improvements and making units available for sufficient rent but also unable to resell as we would not sell for a respectable price...

The provisions in the Bill effectively impose a burden on the building which will attach to its future value. There is clearly an issue here with properties that have the double status of pre-63 building and are on the Record of Protected Structures. As this correspondent notes, "Having considered the refurbishment criteria set out in the Bill, I now realise that despite having had plans to spend in excess of €230,000 on refurbishment works, I would still be unable to satisfy the very restrictive criteria as set out in the Bill."

Acting Chairman (Senator Gerry Horkan): Senator Norris is making his points well but is beginning to repeat himself.

Senator David Norris: I am seeking to give an indication of the volume of resentment that exists regarding these provisions. The proposed amendment contains a substantial refurbishment definition that is making it difficult for most and impossible for some to make any useful investment. Another correspondent writes:

I could do substantial refurbishments, the first of which is the crazy 25% extra floor area, and I would probably do some others. I would prefer not to do that as the properties are interest only and still in negative equity, because of section 23 of the previous Government's-----

Acting Chairman (Senator Gerry Horkan): The Senator has made his points well.

Senator David Norris: I am almost finished. The writer continues:

I could increase the number of bedrooms by converting the attic. Planning permission has already been obtained for the same. However, I will not achieve the 25% increase.

The correspondent asks that the required increase be reduced to 15%.

I am making the case for this amendment in the context of the considerable distress in which some landlords find themselves. I did not refer to the people who contacted me who have six or 12 properties as their situation is not the chief cause of my concern. My concern is for the individuals operating on a small scale, who have taken out an investment with a view to guaranteeing their old age but are now facing these restrictions. As a landlord, I usually had very nice tenants and I never put up the rent. Now, when I am re-letting, I am faced with only being able to increase it by 4%. I do not mind all that much because I am not dependent on the income, but there are elderly people who are dependent on the rent they receive. I ask the Minister to take them into account in the legislation.

Senator Kevin Humphreys: I welcome the Minister to the House. All Senators have received similar emails and telephone calls to those outlined by Senator Norris. Will the Minister lay out clearly, at the earliest possible stage, the implications of these particular provisions in the Bill? There is confusion about what he is seeking to do. I accept that his aim in this legislation is to improve the standard of rental accommodation throughout the country, which is the driver of this particular section. However, speaking to landlords about it, there is clearly some

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confusion. Shortly after the legislation goes through, it would be useful if the Minister were to produce an information booklet which sets out in an understandable way the implications for landlords. This would be especially useful for accidental landlords and those with only one rental unit to cover their pension. I realise it is not the Minister's intention to drive such people out of the market, but there is an issue regarding the clarity and readability of the Bill. The original legislation has been amended several times over a decade and when one tries to read it in its entirety, it is difficult for Members and advisers to follow, never mind for an individual who might only have one property for rent and who wants to obey the law. It is no longer clear, if one takes the Bill in its entirety. Sometimes we need to do that.

I will not be supporting the amendments, as outlined, but I ask the Minister to consider issuing some manner of a clarification document on the exact implications of the Bill for those I call single-property or accidental landlords.

Senator Marie-Louise O'Donnell: I said two or three days ago that I found the Bill to be one of the most unbalanced Bills. I think the Minister actually admitted that. There is a kind of rush here. We are all rightly in a panic that people have nowhere to live, or cannot find a place to live, but blaming landlords for the crisis is not the way to go. The Minister might have three, four or five prongs to try to solve the housing issue but it seems that this Bill has every landlord standing at the gates of hell, with something wrong with every one of them.

I cite the example of a landlord who was owed €11,000 by his tenant. He had to pay a solicitor €4,000 and then had to pay a sheriff €2,700 to send out two men for ten minutes. It will cost him €20,000 to repair the house and he has no comeback, and he would be wasting his time trying to follow the tenant. The whole process took him two years from the get go. If a tenant wants to do something to a landlord, it can cost €15,000 to €20,000 for the landlord to get out of the trouble. The Bill is totally unbalanced. Where is the law and regulation for the tenants?

I do not agree with the Bill, although there are aspects of it I like. It is extremely important young people have a home or the prospect of a home, but the Government seems to be extremely smug about this. Where are they? It is the most important issue in terms of electioneering at present. Why are they not in here arguing against me or arguing for me? Where are they? They are out banging on the doors of people who happen to have a house who are asking, out of generosity, worry and anxiety, whether they will do something about housing. I understand that it takes time to build a house. If it takes time for local authorities to realign themselves with the ability to build houses, let them do it. By blaming landlords, the Bill is entirely unbalanced. That is why I worry about it. The Government should worry about it because landlords - the best and the worst of them - will run for cover. I am not suggesting there are not bad ones, or bad, good or great tenants, but there is no balance in the Bill and the landlords are at the gates of hell ready to burn. Where is the balance? If I was to vote in the local election, that is what I would ask about. It is all very well, but where is the balance?

Leaving out all the other architectural matters, pre-1963 and those areas that the Government and the officials know all about, because they are extremely well informed of them, as are many Senators, I do not understand where the balance is. We are always looking for balance and equality, equality of opportunity, equality of outcome, which my learned friend has spoken much about, equality of this and that, including equality of education. Where is the equality here? It is not in the Bill. There is no balance anywhere in it but there must be because there are good and bad landlords and there are certainly good and bad tenants.

I despair and I think there will be a reaction to it, and it is not going to be good. I am not a landlord. I am the tenant of a vulture fund, to which I openly admit, but I can see landlords running out of the country, saying that it is just not worth it. We see vacant houses which people will not rent out because the law is not balanced. It is balanced on the side of the tenant and that is wrong. It is wrong, both in the good times and in the bad times. I am not supporting this under any circumstances.

It is taking the eye off the ball because we should be building. I cited Mulvey Park, primarily because I know it. It is in lower Dundrum and it is county council housing with greens in the front, back gardens and a community. Half the country was reared in places like that. Why can we not bring in expertise and say to it to build such housing. Such housing is all done in circles and diamond shapes and there are wonderful communities. Now we have people who cannot even speak to each other because they cannot see their neighbours and have no right even to an architectural vista. I am against it, lock, stock and barrel.

Senator Lynn Ruane: I was not going to speak but the amendment is around raising the standards of the accommodation and for Senators who have been arguing for decent housing for people to then come in with an amendment that tries to carve out ways for people to evade rent caps is completely hypocritical. If one is willing to invest and use a property as an investment, one should be investing in it to meet a certain standard in the first place without it having to be written into the law for one to bring it up to that standard.

It is not fair to talk about balance in the Bill. If a person is a landlord and is in a position to have an investment property, the balance already lies with him or her. It does not lie with the tenant. The tenant is the one requiring a service and is renting the home. The balance never lies with the tenant.

This is about raising the standards. This amendment is about trying to find ways for landlords to evade rent caps. That is all it is. If one does not want to bring one's home up to the standard, one does not have to do it. The only reason one would want to do it is that one could evade the 4% cap. It is hypocritical for Senator Craughwell to come in here talking about tenants, housing and standards of living, and the conditions in which people live, and then table a landlord amendment because of some emails he received. I am sure Senator McDowell wrote the amendment for him and he should be here speaking on it himself instead of sending Senator Craughwell in.

Senator Gerard P. Craughwell: That is outrageous. I do not need anybody to write amendments for me. The amendment is based on professional advice from one of the leading BER consultants, Mr. Liam Donohoe, registered SEAI BER assessor and heat pump technical adviser, of Glen of Imaal. That is who gave me the information I needed.

Senator Marie-Louise O'Donnell: On a point of order, I have listened to Senator Ruane many times here and I have agreed with her on many occasions. If one wants to talk about balance, I am trying to get balance on both sides, not only because somebody happens to have an investment property. I am talking generally across the Bill. Balance is both sides of an argument.

Acting Chairman (Senator Gerry Horkan): That is definitely not a point of order but I gave the Senator some level of latitude.

Senator Marie-Louise O'Donnell: Senator Ruane has argued about herself on many oc-

casions on different issues.

Acting Chairman (Senator Gerry Horkan): Senator Marie-Louise O'Donnell may be right. It was not a point of order but I let the Senator in anyway.

Senator Jennifer Murnane O'Connor: I have concerns about the Bill and I have said so. We have worked on this in the Joint Committee on Housing, Planning and Local Government. It is good for tenants. There are good landlords and bad landlords. Across the board, as previous speakers said, we must achieve that balance.

On the report, I seek clarification from the Minister on how many pre-1963 buildings are listed. How many do we have? What did the Department come back with? My other query relates to protected structures. One of the biggest issues with those who are living in old protected structures, whether a family home or a residence being rented, is that when one wants to get work done it costs twice as much as a normal works. I am dealing with a person in my own area who is living in an old bungalow that is a protected structure and the grant was applied for. There is a small grant for protected structures every January, and applications must be in within four weeks. It is difficult to get them. These are small grants for protected structures, which would be old buildings. Has the Minister looked at this in its entirety, including the grant for protected structures, to find out exactly how many there are in the country and how many are pre-1963 that would be listed? I do not know how many such structures are in existence. There are not many pre-1963 houses in my area, for example. The telephone calls I have been getting are mainly from people in Dublin. What does the report indicate? I did not see a copy of it at the Joint Committee on Housing, Planning and Local Government. I would like to know what the figures are in that regard. If they are provided, when we pass legislation we will at least know that we have the correct information regarding the number of properties involved.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I thank Senators for their contributions. I obtained agreement from the Cabinet this morning on a motion for early signature by the President. The legislation will go to the President for signing once we have concluded our proceedings, which this means that it will come into effect as quickly as possible.

I wish to touch upon a couple of points but not necessarily in the order in which they were raised. Senator Norris referred to landlords and the landlord class. It is worth repeating that 70% of landlords own only one property. Many of them are accidental landlords because of what happened in recent times. It is wrong to tar every landlord with the same brush. We must find another word for those landlords who are abusing people's human rights when it comes to the standard of accommodation being offered, overcrowding and other matters.

It is also important to note that the proposals in the Bill are not new. The Bill has been six months in the making. At the relevant committee and again in this House last week, Senator Murnane O'Connor referred to the amount of time we have given to the Bill. The proposals are not new and the Bill is not being rushed. In fact, it is late. The Bill is not unbalanced. It is trying to bring balance to a sector where there are already very strong laws relating to landlords. The Bill is trying to rebalance some rights in favour of tenants. We have statistics and if someone wants to have a Commencement debate on the issue, we can discuss what happens in the RTB, the percentage of cases that are taken by landlords and by tenants and the percentage of cases where the landlord wins compared with where the tenant wins. There are very strong laws already in place but since the first day I came into this office I recognised that we are at

risk of losing more and more landlords from the sector. As more landlords leave, that increases housing insecurity for many because they serve notices to quit, as is their right. In everything we do, we must ensure that we find a balance. We must also ensure that we push back against lazy arguments that are being made, day in and day out, in the Dáil against landlords. That is very important. In the previous budget we introduced 100% mortgage interest relief for landlords. Last year I introduced new guidelines for the build-to-rent sector in order to encourage more landlords to enter that sector. We are doing things for landlords as well and it is important to be aware of that.

It is also interesting to note that what we are trying to do is improve standards in accommodation. This is about raising standards and ensuring that landlords invest in their properties. We must find a balance and ensure that we do not introduce a definition that will put landlords off and have the unintended consequence of bring investment in property to a halt. The definition strives to strike that balance and does so well. The reason we believe that is because we examined the issue in great detail at the committee. We considered the idea of linking it purely to expenditure so that if a landlord spent a certain amount of money, he or she would be able to step outside of the rent caps. However, that was not seen to be viable or easily certifiable. It was not seen as the best way to proceed. We also recognised on Committee Stage that we would like landlords to prioritise in their investments certain things that will bring about greater affordability for tenants in terms of bills and fuel security and that assist in reaching objectives relating to climate change and the environment. That is the reason we made two changes to the definition of what constitutes substantial refurbishment. We made changes, via the amendments we brought forward on Committee Stage, to ensure that there would be different ways of achieving a definition of substantial refurbishment that would not include BER. This matter was also dealt with on Report Stage. Senator Norris read out a list of different things but it is a case of using a combination of those. There are a couple of things one can do which, if done on their own, allows one to step outside of the rent cap limitations. Another section refers to a combination of things. In the combination category, we introduced changes in the BER ratings in order to try to incentivise BER improvements by two or three points, as well as improving disability access. They are all very important things to do. We also introduced a stand-alone definition in respect of the seven points on the BER scale. We did so because of the consultation we have had on pre-1963 properties.

Senator Craughwell and I both need to recognise that we are not experts when it comes to the physical works that are done on buildings. He will have meetings, he will get documentation and he will work to advice. As Minister, I will do the same. One of the things that I asked my officials to prepare was a report which we could publish and which Senator Humphreys sought. That report goes through different types of pre-1963 buildings and the different types of work that can be done. It also deals with the different costs that will allow someone with a pre-1963 building to be able to get up those seven points on the BER scale and step outside the rent caps. Therefore, they are not disincentivised from investing and the tenant gets a much greater improvement in the context of the property. If the target is reached, the landlord can increase the rent by more than 4%. However, we brought in rent caps for a reason, namely, so that landlords would not increase rents by more than 4%. The goal is for rent caps or rent controls to be in place, but we must recognise that one of the unintended consequences of not allowing a step-out for refurbishment purposes might mean that people might not invest in their properties. The ultimate aim of the definition is to ensure that we do not disincentivise investment in property and, more importantly, that we get rid of so-called renovictions - there have been reports on these in so many places - whereby people are spuriously invoking substantial refurbishment in

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order to try to abuse the law when it comes to rent caps or, worse, get their tenants out. Given the amount of attention that this aspect of the Bill has received at different points, we are of the view that we are going to be able to capture that. Where the works might be significant because of the age of the property and the different stages might take up to 24 months, the landlord will not be bound by the rent caps in the next rent setting but only that setting. It is also true to state that even when no works have taken place, the landlord can still raise the rent each year, but by no more than 4%. However, it still is an opportunity to raise the rent, which is important. From the evidence that has been provided, I am of the view that it is possible to meet the new definition, even for pre-1963 properties, but I accept that it is more difficult when it comes to protected structures. We will keep the measure under review and I will publish the document very shortly in order that people can see the work the Department has done.

I think there are in the region of 40,000 to 45,000 protected structures in the country. I do not have the figure in my head for how many are rented properties. From the engagements I have had, I recognise that the owners of pre-1963 properties that are protected structures will find this more challenging but we believe that the documentation we will produce will show that it is possible. We will continue to engage. If further amendments need to be made in time, then we will make them. This is a very robust change to the law to protect tenants but also to ensure that landlords can continue to invest in their properties and avail of their own rights under the rent changes.

Senator Gerard P. Craughwell: I thank the Minister for his considered response. Like everyone else, I want to ensure that tenants have good quality accommodation. When I went to London as a young man of 15 and a half years of age, I recall having to share a single room with four other men whom I did not even know. That was the name of the game in those days. I remember the landlady charging us 10 shillings a week for milk. I also remember that if one put a steak on a pan, by the time one came down to the kitchen again somebody would have eaten it, so do not talk to me about the quality of accommodation.

Senator Lynn Ruane: Was the Senator not doing well for himself?

Senator Gerard P. Craughwell: I will not take lectures from anybody.

Acting Chairman (Senator Gerry Horkan): Senator Craughwell should be allowed to speak without interruption from Senator Ruane.

Senator Gerard P. Craughwell: What I was discussing here was not something to enrich landlords, it was the engineering difficulties that exist in the context of bringing pre-1963 properties up to standard. The grave danger we have is that single property owners of many pre-1963 properties will find it too expensive to upgrade and that those properties will be placed on the market or will be left to just sit there. We will then see a recurrence of what is happening in many towns. I do not want to make anybody rich and I do not want to make anybody poor. I do not want anybody to have to live in miserable accommodation. I stated earlier that there is a belief that European law is being broken. The one fear I have is that some of the big institutional investors will take this to the European Court if it comes to it. The professionals are telling me that it is not possible to come up seven points in a pre-1963 home. That is not the case with all of them but it is with some. That is the reason I fear the legislation will be challenged when it leaves this House.

I accept the Minister's bona fides. I accept what he is trying to do but I advise him that there

will be an attempt - if not here then in the courts - to overturn this and that would be bad for all of us.

Deputy Eoghan Murphy: I appreciate the Senator's point. If the property is in as poor a condition as the Senator states it is and needs significant works but is still unable to get around the BER exemption, it cannot have been let on the market any time soon. In which case, when the landlord brings it to market after the works are done, he or she will be able to set it at a market rent. That will not change. That balance is there. We will publish the information and keep it under review, as we do with everything. Let us wait and see what the people involved in this work think about the possibilities to get the BER rating there. Again, when we talk about significant investments, examples of which have been given to me regarding properties, they cannot have been rented any time soon in which case they will not be bound by the first rent setting relating to a rent pressure zone.

Acting Chairman (Senator Gerry Horkan): Senator Humphreys cannot come in again. Nobody can come in again because it is Report Stage.

Senator Kevin Humphreys: I am not coming back in with regard to the debate. It is just a point of clarification. It is a one-answer question.

Acting Chairman (Senator Gerry Horkan): I cannot bring anyone else back in.

Senator Kevin Humphreys: I just wanted to know when the information-----

Acting Chairman (Senator Gerry Horkan): It is Report Stage and they are the rules. They are not my rules. They are the rules of the House, which I am enforcing. I reminded Senators that they may only speak once except for the proposer, who can come in at the end. That is it. I now ask Senator Craughwell-----

Senator Jerry Buttimer: Can I make one contribution?

Acting Chairman (Senator Gerry Horkan): No, you cannot.

Senator Jerry Buttimer: I have not yet spoken.

Acting Chairman (Senator Gerry Horkan): It is after the debate has concluded. Senator Craughwell concluded the debate and allowed the Minister to respond to his points. The rules are that a Senator may speak only once, not the Minister. The Minister can come back in.

Senator Jerry Buttimer: I have not spoken.

Acting Chairman (Senator Gerry Horkan): I know you have not yet spoken but you came in too late.

Amendment put and declared lost.

Acting Chairman (Senator Gerry Horkan): Amendment No. 2 in the names of Senators Murnane O'Connor and Ardagh has been ruled out of order. It was previously rejected by the committee of the whole Seanad.

Amendment No. 2 not moved.

Acting Chairman (Senator Gerry Horkan): Amendment No. 3 in the names of Sena-

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tors Warfield, Conway-Walsh, Devine, Gavan, Mac Lochlainn and Ó Donnghaile arises out of committee proceedings. Amendments Nos. 3 to 5, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Fintan Warfield: Will I move amendments Nos. 3 to 5?

Acting Chairman (Senator Gerry Horkan): The Senator can only move amendment No. 3. We can get to amendments No. 4 and 5. The amendments must be discussed together but Senator Warfield will move amendments Nos. 4 and 5 when we have dealt with amendment No. 3. He can discuss them all together now.

Senator Fintan Warfield: I move amendment No. 3:

In page 12, between lines 21 and 22, to insert the following:

“Amendment of section 34 of Act of 2004

13. Section 34 of the Act of 2004 is amended by the deletion of paragraph 3 of the Table to that section.”.

I have resubmitted amendment No. 3, which removes the selling of a property as a ground for ending a tenancy. In the context of the current rental crisis, we have seen prospective landlords purchase houses for buy to let where they have no intention of living in the house but see it as an investment opportunity that was a return in terms of rent and perhaps in terms of sale later on. The difficulty here arises when the new owners of the property seek to end an ongoing tenancy. Under the 2004 Act, they are permitted to do so. Many of those outside rent pressure zones or those seeking to evade rent pressure zone obligations seek to do this so that they can inflate rents substantially and see greater return on the investment. However, for the tenants *in situ*, it ensures eviction without reasonable cause or fairness. It ensures that under the current market, many families that have built a life and that, for all intents and purposes, are good tenants find themselves re-entering a market where rental options in that locality are usually limited and probably at an inflated price compared with what they were paying. It does not only affect families; it affects many students and young professionals who, typically, are not of great means. For example, a couple I know renting in a shared Dublin city apartment were recently given notice to quit for the purposes of sale of the property. They were paying €750 per month for a double room. Two months later, they found a property that would accept them and are now paying €1,250 per month for a room in an apartment 50 m away from their original letting. They may have found cheaper options but, in reality, time was against them as they had less than two months to uproot their lives and go into a market of two-tier rents. These are the people who are now being told by the Minister that co-living spaces at €1,300 per month are now a viable option for them. So-called co-living is not a solution to the rental crisis. As Sinn Féin sees it, it is a step on the road to future tenements. The Minister’s comments about young people having to make sacrifices in terms of rental accommodation are frankly bizarre.

The Minister also referred to the awkward situation where a young couple buys a rent-to-buy property and must look to evict current tenants. While this is not a nice situation for anyone involved, the awkwardness of this situation is not sufficient for us not to allow for leniency for the tenants *in situ*. The consequences of evicting tenants, making them vulnerable to homelessness or condemning them to inflated rents, far outweigh the consequences for the buyers here. While we discussed this on Committee Stage, I remain unconvinced that this amendment is not a legitimate call to make. It should receive the support of Government.

On numerous occasions, the Minister has referred to the constitutionality of such an amendment. However, he has not elaborated on the basis for this. While commercial properties are typically different arrangements and involve longer leases, owners still cannot use sale as a reason for ending a tenancy. The Constitution is not so prescriptive that it discriminates between commercial and residential lettings and without being furnished with any legitimate legal opinion to question the constitutionality, I must proceed with my amendment.

Acting Chairman (Senator Gerry Horkan): Does anyone else wish to speak on amendments Nos. 3 to 5, inclusive?

Senator Fintan Warfield: I have not yet finished.

Amendment No. 4 is related. It refers to removing the references to occupation of the property owner's family members as the basis for a notice to quit. The Minister mentioned on Committee Stage that the purposes for its retention is that if a landlord has a family member who has fallen on hard times, he or she may be able to assist the family member with this property. Having thought about it after the last debate we had, I still do not agree with that. It is insufficient to allow for what is the current situation and what is a constant occurrence in the market as it stands. What we did not discuss is the fact that many landlords make the decision based not on assisting a vulnerable family member but on availing of tax incentives that having a family member *in situ* brings when renting other rooms. In a four-bedroom house where one room is occupied by a family member, the three remaining rooms would be far more profitable than had all four rooms been rented to non-family members due to the tax incentives for such a scenario. A situation where landlords end tenancies to do this are far more prevalent than the Minister has described, and I suspect the RTB has made him aware of this. While nobody has an issue with family members availing of property in this way, the issue arises when the tenancy is ended somewhat prematurely for the landlord's financial benefit as opposed to its natural end when a family member may move in.

Amendment No. 5 extends notices to quit to 90 days for tenancies of six months or less. While the Minister was correct when he said that lease agreements must be adhered to before a notice to quit is given, in instances where tenants are subject to a six-month lease or a periodic tenancy, the landlord may end the tenancy at any time during the first six months without having to give a reason. While circumstances change or sometimes tenancies simply do not work out, 28 days for a family to find alternative options is not good enough and is unfair given the realities of the rental crisis and the lack of affordable options. It is not reasonable to ask a family that has found accommodation in a suitable area that may be close to the children's school or the extended family who then find themselves issued with a notice to quit, to find another affordable option within that locality within four weeks. Last week, we discussed about how *daft.ie* reported there were just 2,700 homes available to rent across the State on 1 May, which is the lowest recorded since *daft.ie* started to compile these statistics in 2006. That has filtered down to what may be local and affordable accommodation. The reality is that options are often not readily available in 28 days and this has contributed to homelessness. I do not believe such provision is unreasonable to expect from landlords.

Senator Kevin Humphreys: On the ability of landlords to cite as a reason for eviction their wish to move a family member into a property, all politicians will have seen abuse of this right. We have heard on many occasions of family members moved into a property and suddenly leaving after three, four or five months. I understand where Sinn Féin is coming from in proposing these amendments.

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I debated this issue at length during the passage of the Planning and Development (Amendment) Act 2017 and has reason to read over that debate. The Minister of State, Deputy Damien English, brought through the legislation which provides for co-living. At the time, it was argued that co-living accommodation would be aimed at hipsters and would be ideal for people moving to Dublin to work in the information technology sector for a year. I described co-living, as proposed in that legislation, as student accommodation for adults. To expect an adult to live for a long period in a co-living setting, which is one third the size of a one-bedroom apartment, is not acceptable. A number of planning applications for co-living developments have been submitted. One application is for a development with 220 bedrooms in Tallaght, which is not in the city centre. It has not been identified as accommodation for people who would be living in the city for only a year. It is a development for long-term accommodation. This has horrible implications for the future of Dublin. It is totally wrong. While I accept that co-living is not covered by this Bill, I will continue to raise the issue. This type of accommodation is the only option developers are offering people, certainly in the Dublin area, and that trend will spread to other cities. I support the amendments proposed by Sinn Féin.

Deputy Eoghan Murphy: I thank Senator Warfield for proposing these amendments and those who spoke on them. I will deal with the issues raised and speak to amendments Nos. 3 to 5, inclusive, as they are related and grouped together. On the ability to serve a notice to quit when somebody wants to sell a property, we going over ground we have covered already in the Seanad. It is the case that if someone has a lease with a landlord, it is the same as a commercial lease. That cannot be torn up by the landlord by serving a notice to quit on the tenant. It operates in exactly the same way as a lease in the commercial sector in that regard.

Legal advice was given by the Attorney General's office and I will go through the four elements of it again. The first is that this was not constitutional because it was seen as an unjust attack on one subgroup of a sector regarding a problem in society that is larger than this one particular issue. I have had conversations with the various non-governmental organisations, the Residential Tenancies Board, RTB, and the Dublin Region Homeless Executive on capturing accurate data. According to the RTB, arrears is a bigger issue and we should be doing more on the arrears side. We are now engaging with the Department of Employment Affairs and Social Protection to do that. Even if this proposal was constitutional, it could not be retrospective. We would not, therefore, be able to introduce a temporary measure to protect current tenants, as members of Sinn Féin keep saying in the Dáil. It would not work in that way.

Even if this proposal was constitutional and retrospective, would it be a good policy decision? I do not believe it would be. Many landlords are accidental landlords who have been in arrears for a long time. They are now reaching the point at which they can sell their properties and pay off their debts. If we were to enforce this provision, we have evidence that indicates that as much as 30% of the value of the property, as opposed to the profit on it, would be lost. In order to help one family or individual, which is a noble intention, we would be hurting another one. That would not be acceptable when introducing a new policy. Furthermore, even if we decided that was still okay from a policy point of view, we would not solve the problem because the person buying the home could then serve a notice to quit. We would move the obligation to get the tenant out of the property from the professional landlord or person who has been operating as a landlord for a number of years to the new buyer or new family. We could have circumstances where a young family is trying to serve a notice to quit on a family living in a house. That is not the right thing to do. It does not solve the problem because a notice to quit can still be served by the person who has bought the property. It displaces the problem and

places an unfair burden on the people buying. The societal risks of that are very great.

Notwithstanding that, we are making considerable improvements in the notice to quit periods that will be allowed. I mentioned the figures previously. If a person has been living in the property for more than a year, the notice to quit period is currently 42 days. Once this legislation has been signed into law by the President, the notice to quit period for such tenants will be 128 days. That is a significant improvement and the right decision to make. Where people have been renting an apartment or house for less than six months, the period is too short to lock either side into a further three months by extending the notice to quit period for this particular cohort of people. In the case of people who have been renting for six months or more, the notice to quit period will increase from 35 days to 90 days. For those who have been renting one year or more, it increases from 42 days to 128 days, and it increases as the period living in the property increases. A notice period of 28 days for those renting for less than six months is considered fair for both sides of the equation.

Co-living is not a response to the housing shortage. It has been well flagged in discussions as a way to allow for greater choice in the rental sector. Everyone should have choice when it comes to housing. It should not be the privilege of those who have more money or different circumstances. Too many people are trapped in accommodation circumstances in which they should not be trapped. This is about providing choice. When we are younger we make sacrifices because we have different priorities. We spend our money differently from the way we might spend it when we are older. We work in different jobs. We put up with things we would not put up with when we are older and have families and different responsibilities. At certain times in our lives, we want live in the city centre and enjoy what that brings. At other times in our lives, we might want to move away from the city centre and enjoy what that brings. We must recognise that there is a large mobile workforce coming to work and live here for six months or one or two years. They want an accommodation option as well. They are not coming here to live long-term. They do not necessarily want to move into a four-bedroom semi-detached house with people they do not know, nor do they want the isolation of a studio or one-bedroom apartment. That is why co-living is another option that will be available.

One application for co-living accommodation has been submitted. I cannot speak about individual applications but we should not be judging this new concept, which was welcomed by all the experts at the time and is still welcomed today, based on one application alone. We are talking about six to eight units of private accommodation with private bathrooms and shared communal facilities. There are very clear guidelines on this and they were developed taking account of best practice abroad. That is what we are trying to do. People are judging this based on one application. They are making this a political issue and in doing so they are reducing choice for people who are coming to work here or starting their first job. Standards are improving for rental accommodation. In the previous amendments, we spoke about how we can improve rental standards. It is inconsistent to then say that we are trying to lower standards in a separate move. That is not what this is about. It is about choice.

Regarding definitions around family members and what is and should not be possible, we should not change the definition of what a family member is in the legislation. If someone has a second property, there are very legitimate reasons he or she might want to give it over to a very close family member. This would reduce the burden on the State and potentially free up other property elsewhere for someone else to rent. If we consider the Bill rather than the amendment only, it contains new protections in cases where someone seeks to abuse the section 34 right to

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move a family member into a home. Where this right is abused, the RTB can take new sanctions against the landlord. There is also a new right for the tenant to be rehoused in that home if the relative moving in has not lived there for a sufficient period as per the Bill. If Members read the detail of the Bill, they will note those new protections have been put in place, which are welcome.

Acting Chairman (Senator Gerry Horkan): Does Senator Warfield wish to respond?

Senator Fintan Warfield: No. We can proceed to a vote.

Amendment put:

The Seanad divided: Tá, 8; Níl, 21.	
Tá	Níl
Conway-Walsh, Rose.	Burke, Colm.
Craughwell, Gerard P.	Burke, Paddy.
Humphreys, Kevin.	Buttimer, Jerry.
Mac Lochlainn, Pádraig.	Clifford-Lee, Lorraine.
Nash, Gerald.	Coffey, Paudie.
Ó Ríordáin, Aodhán.	Conway, Martin.
Ruane, Lynn.	Daly, Paul.
Warfield, Fintan.	Feighan, Frank.
	Hopkins, Maura.
	Horkan, Gerry.
	Lawless, Billy.
	Lawlor, Anthony.
	Lombard, Tim.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Reilly, Joe.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Fintan Warfield and Rose Conway-Walsh; Níl, Senators Gabrielle McFadden and Frank Feighan.

Amendment declared lost.

Senator Fintan Warfield: I move amendment No. 4:

In page 12, between lines 21 and 22, to insert the following:

“Amendment of section 34 of Act of 2004

13. Section 34 of the Act of 2004 is amended in paragraph 4 of the Table to that section,

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by the deletion of “or for occupation by a member of his or her family and the notice of termination (the “notice”) contains or is accompanied by a statutory declaration”, and the substitution of “and the notice of termination (the “notice”) contains or is accompanied, in writing, by a statement.”.

Amendment put:

The Seanad divided: Tá, 6; Níl, 20.	
Tá	Níl
Conway-Walsh, Rose.	Burke, Colm.
Humphreys, Kevin.	Burke, Paddy.
Kelleher, Colette.	Buttimer, Jerry.
Mac Lochlainn, Pádraig.	Clifford-Lee, Lorraine.
Nash, Gerald.	Coffey, Paudie.
Warfield, Fintan.	Conway, Martin.
	Daly, Paul.
	Feighan, Frank.
	Hopkins, Maura.
	Horkan, Gerry.
	Lawless, Billy.
	Lawlor, Anthony.
	Lombard, Tim.
	Marshall, Ian.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Reilly, Joe.
	Richmond, Neale.

Tellers: Tá, Senators Fintan Warfield and Rose Conway-Walsh; Níl, Senators Gabrielle McFadden and Frank Feighan.

Amendment declared lost.

Senator Fintan Warfield: I move amendment No. 5:

In page 15, to delete line 41 and substitute the following:

“

Less than 6 months	90 days
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“

Amendment put:

The Seanad divided: Tá, 7; Níl, 20.

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Tá	Níl
Conway-Walsh, Rose.	Burke, Colm.
Humphreys, Kevin.	Burke, Paddy.
Kelleher, Colette.	Buttimer, Jerry.
Mac Lochlainn, Pádraig.	Clifford-Lee, Lorraine.
Nash, Gerald.	Coffey, Paudie.
Ruane, Lynn.	Conway, Martin.
Warfield, Fintan.	Daly, Paul.
	Feighan, Frank.
	Hopkins, Maura.
	Horkan, Gerry.
	Lawless, Billy.
	Lawlor, Anthony.
	Lombard, Tim.
	Marshall, Ian.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Reilly, Joe.
	Richmond, Neale.

Tellers: Tá, Senators Fintan Warfield and Rose Conway-Walsh; Níl, Senators Gabrielle McFadden and Frank Feighan.

Amendment declared lost.

Senator Kevin Humphreys: I move amendment No. 6:

In page 17, between lines 6 and 7, to insert the following:

“Private residential tenancies register: publication of certain details

22. Section 128 of the Act of 2004 is amended by substituting the following for subsection (4):

“(4) The published register—

(a) shall not contain any information, as respects a particular dwelling, that discloses or could reasonably lead to the disclosure of the identity of the landlord or the tenant of the dwelling,

(b) shall disclose, as respects every dwelling, the amount of the rent payable under the tenancy of that dwelling.”.”.

Senator Colette Kelleher: I second the amendment.

Amendment put and declared lost.

An Cathaoirleach: Amendment No. 7 has been ruled out of order.

Amendment No. 7 not moved.

An Cathaoirleach: Amendments Nos. 8 and 9 are related and may be discussed together by agreement.

Senator Kevin Humphreys: I move amendment No. 8:

In page 42, line 28, after “regulations” to insert the following:

“(which shall include but is not limited to persons, whether established in the State or otherwise, who provide for consideration advertising, agency or management services in respect of short-term lettings)”.

Senator Lynn Ruane: I second the amendment.

An Cathaoirleach: I ask for silence please. Senator Humphreys has the floor.

Senator Kevin Humphreys: I am not going to delay proceedings. Amendments Nos. 8 and 9 are intended to allow proper enforcement of regulations on short-term lets. They will allow for desktop enforcement rather than-----

An Cathaoirleach: I ask those not participating in the debate to leave the Chamber, please. There is too much noise and we cannot hear Senator Humphreys.

Senator Kevin Humphreys: These amendments would make it much easier for planning enforcement officers to uphold the legislation as it is proposed. I put them forward as a suggestion for the Minister. I am not inclined to press either amendment to a vote if the Minister gives some reassurance on enforcement. I am not confident that his proposals will work. I understand these two amendments would have to be dealt with by the Department of Transport, Tourism and Sport and that the Minister, Deputy Ross, would have to introduce legislation to provide for regulation in this area. I urge the Minister to give me some reassurance now that he will revisit this Bill if it is found that the enforcement elements regarding short-term lets are not working.

Senator Jennifer Murnane O'Connor: I agree with Senator Humphreys. This is an important issue. We have been working on this Bill for months in the housing committee and I have some concerns about it. We spoke today about the different amendments. The Minister spoke about the regulations, the Revenue Commissioners and approved housing bodies or AHBs. There are 30,000 AHB properties and the Minister wants all of them to be registered with the Residential Tenancies Board. That will cause problems. There are also 6,000 volunteers involved. This process will not work. There are issues with this Bill, which I have discussed previously with the Minister. My main issue is with the registration of AHB properties every year, as they already register every year with the housing regulator. There is much confusion in this Bill and issues such as this need to be sorted out. It is not possible or realistic for AHBs to register 30,000 properties every year with the RTB.

An Cathaoirleach: We will let the Minister respond to Senators Humphreys and Murnane O'Connor to see if it is possible to appease them.

Deputy Eoghan Murphy: The amendment on AHBs on which Senator Murnane O'Connor

spoke has been ruled out of order.

Senator Jennifer Murnane O'Connor: I know that but it is an important issue.

Deputy Eoghan Murphy: We are speaking on the amendments related to short-term letting. What Senator Humphreys is trying to do with these amendments is the right way to go about this. Unfortunately, the regulation of online platforms in this area does not fall under the remit of my Department or the Revenue Commissioners. That does not mean that our work stops with the enforcement procedures we will introduce in the regulations once the proposed amendments to the Bill have been made. Short-term letting has to be a transparent activity if it is to work and to enable members of the public to find properties easily online. This in a way will lend itself to enforcement by our planning authorities. Dublin City Council has already been enforcing short-term letting to a degree but since it did not have the legal powers or the legal clarity, it was not in a position to do so as robustly as we might have liked. We are bringing that clarity forward in the legislation and the regulations as to what is and is not allowed. These authorities will be responsible now for enforcing these new laws. They will need new staff to do that and we will work with them to ensure that happens. As we begin these new enforcement procedures, like new laws, they will have to be kept under review to ensure they are working in the best way possible. We also have to recognise that what we are doing around short-term letting is being done through the planning code, which has happened in other jurisdictions.

This is just one part of it. There is a second tier to come, which is the regulation of the activity itself. We need to recognise that in the future, concepts around the shared economy will not go away. When the pressure comes off the housing sector, because supply will have increased sufficiently, we may decide three, four or five years down the line to loosen what we are bringing in here which is a prohibition on a second property being let in a rent pressure zone to the short-term market. Now is the time to start building proper regulation of the sector by bringing in the online platforms.

It is the case that Revenue can request the information it needs. Even if I thought there was a way of getting at this through my Department, I am reluctant to allow the sharing of the information between one party and another where it concerns a third party. That will need to be looked at more carefully.

As proposed in this House, we need to look also at activities not just around short-term letting but all lettings on online platforms, where certain platforms are allowing properties that are completely substandard to be advertised and let on their websites. They cannot say it is not their responsibility. That is not good enough. We need to move on that as well and we will work with Members of this House who have ideas on the activities of online advertising platforms to ensure they do not allow substandard apartments to be advertised on their websites, in the same way that there is a responsibility on certain websites not to allow certain comments or material to be posted on their sites. The same responsibilities should fall on private operators running websites that allow properties to be advertised that are not suitable for letting. That is further work we need to do but we are not trying to do it in this Bill. I accept that the motivation behind the amendments represents something that can be done but unfortunately it cannot be done through these amendments or the regulations that will follow.

Senator Kevin Humphreys: This is probably one of the problems in this regard. If one looks at what has happened in other jurisdictions, online platforms have set out to undermine legislation and regulations and actively advertise property on their platforms and get around

the regulations. They have succeeded in getting around the regulations in London and can get around them in Dublin, purely through sponsored ads on the platforms. That was the purpose of the Private Members' legislation I put forward, that is, to impose a level of responsibility on those platforms, which Revenue has done. What one sometimes needs to do is to work co-operatively across Departments. I totally accept that it is not the Minister's Department alone that has a role here, but it concerns the Department of Transport, Tourism and Sport and the Revenue Commissioners.

The Minister said he actively reviews new legislation, of which I am aware. There is a need to review very quickly the enforceability of the regulations we are bringing in on short-term letting. The Bill will be undermined if the platforms set out purposely to undermine it, given the difficulty in bringing enforcement actions against those who set out to breach the legislation. I accept what the Minister said but the two amendments would assist him in doing exactly what he wants to do. Last night, while canvassing, I came across a person who had eight properties on Airbnb, and that is not to criticise one platform as many of them do short-term lettings. This person explained that she was on the Airbnb platform and had moved eight long-term residential properties away from family lettings to short-term lettings. She said she would have to sell them back into the market and I told her that was correct and was what the legislation was supposed to. I fully support it in that regard.

These amendments were to assist in the success of the legislation. I ask the Minister and his officials to review the position of platforms that purposely set out to get around the legislation because there is a large amount of money being made in short-term lettings.

Out of curiosity, I put my own property on one of these sites to find out what offer or money it would make. I answered the ad on the site and the site came back to me and said it would give me €5,000 a month for the property and anything above that amount would be its profit margin. This was for a two-bedroom terraced house in Dublin 4. The amount of money and the profit to be made in this area can be seen from this. These sites will set out to undermine the legislation.

I ask the Minister to strengthen his commitment to an early review of enforcement, because planning enforcement officers will, with good intentions, make an effort to enforce the legislation he has outlined. However, I do not believe they are being given the tools to do the job really well. We are asking them to do a tough job. Enforcement will involve visibly seeing the legislation being breached. That will not be possible from a desktop. One would not have to recruit as many planning enforcement staff if the platforms had to maintain a register on the basis that a hefty fine would be imposed if they did not do so. A simple email could be sent to the different platforms to request the information, which the Revenue Commissioners currently do.

I am requesting a whole-of-Government approach involving the Revenue Commissioners, the Minister's Department and the Department of Transport, Tourism and Sport. I will not press these amendments if the Minister can give me a stronger guarantee that he will review the enforcement of the legislation.

Deputy Eoghan Murphy: Co-operation is key and it happens across many aspects of Government, because life does not fall into the silos of Government Departments. I could not risk any unnecessary delays, as there have been enough already, and I had to progress with the planning laws, as per my responsibility. I knew I could do that within a certain time horizon.

On enforcement, a breach of planning laws is very serious. People need to understand that

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they will be in breach of planning laws where they are not engaged in home sharing but in a short-term letting. Much of the work will and can be done on the desktop in terms of how we enforce this.

In regard to those who seek to step outside of this, I will look at this very carefully because the property still needs to be advertised online. Even if a company approaches an individual and says that it can get around this, in order for that individual to be able to identify a site on which to rent, it has to be online for this to work. That would, therefore, be a route for us to be able to identify those properties seeking to step outside of this. There are also other methods where an address may not be registered publicly online but that will not stop us from engaging and in trying to get addresses. We will, of course, need to review this and to ensure that enough time is given to see how properly this is working. To give an example, if we had reviewed the operation of the Rebuilding Ireland home loan scheme after six months, most people would have said, as they did, that it was not working, whereas we knew it was working very well, and more successfully than anticipated. We will need to have a period of time to get a proper understanding of exactly what is happening before we engage in a formal review.

Like most things we are doing in housing now, we are constantly looking to ensure that the changes and improvements we are making in law are having the intended consequence. I appreciate the amount of work the Senator has done in this area since he entered the Seanad, and I will be happy to see this legislation passed today. I will bring the regulations to the joint committee next week to be ready for 1 July when the new laws will take effect.

Amendment, by leave, withdrawn.

Amendment No. 9 not moved.

Bill received for final consideration and passed.

Residential Tenancies (Amendment) (No. 2) Bill 2018: Motion for Earlier Signature

Senator Catherine Noone: I move:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Residential Tenancies (Amendment) (No. 2) Bill 2018 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Catherine Noone: Tomorrow at 10.30 a.m.

The Seanad adjourned at 6.30 p.m. until 10.30 a.m. on Wednesday, 22 May 2019.