



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoín, 17 Nollaig 2020

Thursday, 17 December 2020

Chuaigh an Cathaoirleach i gceannas ar 12.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Teachtaireachtaí ón Dáil - Messages from Dáil

An Cathaoirleach: Dáil Éireann has passed, on 16 December 2020, the Planning and Development, and Residential Tenancies, Bill 2020, changed from the Planning and Development Bill 2020, considered by virtue of Article 20.2.2° of the Constitution as a Bill initiated in Dáil Éireann, to which the agreement of Seanad Éireann is desired. Dáil Éireann has also passed, on 16 December 2020, the Investment Limited Partnerships (Amendment) Bill 2020, without amendment.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for the Environment, Climate and Communications to make a statement on the impact of energy consumption by data centres.

I have also received notice from Senator Eugene Murphy of the following matter:

The need for the Minister for the Environment, Climate and Communications to make a statement on the future of Lanesborough and Shannonbridge power stations.

I have also received notice from Senator Regina Doherty of the following matter:

The need for the Minister of State with special responsibility for special education and inclusion to provide an update on the building of a permanent school for St. Michael's House Special School, Skerries, County Dublin.

I have also received notice from Senators Lisa Chambers and Fiona O'Loughlin of the following matter:

The need for the Minister for Defence to include the Department of Defence in the terms of reference of the Commission on the Defence Forces.

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

The need for the Minister for Housing, Local Government and Heritage to make a statement on the proposal for a deposit protection scheme for tenants.

I have also received notice from Senator Lynn Ruane of the following matter:

The need for the Minister of State at the Department of Enterprise, Trade and Employment to make it a mandatory requirement for companies to make annual public disclosures of the greenhouse gas emissions arising from their activities in the State.

I have also received notice from Senator Barry Ward of the following matter:

The need for the Minister for Transport to set out the provisions that will be available to local authorities for the management of harbours within their functional areas.

I have also received notice from Senator Gerard Craughwell of the following matter:

The need for the Minister for Foreign Affairs to provide an update on the provision of overseas allowances for Irish citizens who represent Ireland as secondees in the OCSE special monitoring mission in the Ukraine.

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the supports available to those affected by the avian flu.

I have also received notice from Senator Garret Ahearn of the following matter:

The need for the Minister for Transport to make a statement on plans to improve Ardfinnan Bridge, Cahir, County Tipperary.

I have also received notice from Senator Róisín Garvey of the following matter:

The need for the Minister for Education to make a statement on autism spectrum disorder, ASD, class provisions at primary and secondary level nationally.

Of the matters raised by the Senators suitable for discussion, I have selected Senators Boylan, Murphy, Doherty and Chambers and O'Loughlin, who are sharing their time, and they will be taken now. I regret that I had to rule out of order the matter raised by Senator Garvey on the ground that it is a repeat of a Commencement matter raised on 18 November 2020. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Data Centres

An Cathaoirleach: Senator Boylan has four minutes and can then come back in.

Senator Lynn Boylan: Go raibh maith agat, a Chathaoirligh, and I welcome the Minister of State. I am here to raise the deeply concerning proliferation of data centres in the country. It seems they are now a new frontier for extraction where our cool climate and windy hillsides are ripe for the taking. We know that data centres are popping up all over the country and with them comes wind farms and fossil fuel energy generators. Despite the best efforts of tech giants to greenwash the impact they are having, the figures do not lie. The surge in Irish data centres comes with a massive carbon footprint. They pretend that big tech is a clean industry but it requires a huge amount of energy to power the servers and fans to suck in cool air. Each video on file on the Internet has to be stored in these data centres.

By 2027 data centres will consume 31% of Ireland's electricity. Across Europe while energy use is decreasing, in Ireland we are an anomaly because it is increasing. That has nothing to do with our household or population growth. It is purely down to the rise in the number of data centres. They will require 12.5 TW of electricity above what is being provided. That is enough power for 24 million homes. These data centres should be treated like the carbon intensive industry that they are. It seems there is a greenwashing campaign in full spin because we hear that data centres will be 100% powered by renewables. However, the amount of energy projected to come from their wind farms is far outstripped by the demand from these data centres. On top of that, each megawatt of wind capacity must be backed up with energy generated from fossil fuels. This is not to mention the fallout of the biodiversity disaster in the Meenbog wind farm, which has a contract with Amazon. While pilot projects in which waste energy is sold to heat homes or public buildings are welcome, they barely put a dent in emissions.

When we hear talk of the cloud, it is as though it has no material impact but the truth is it is bad for climate and to date, the Government has given the industry a free pass while the public is left to carry the bulk of the massive cost for the infrastructure required to run these data centres. The Irish Academy of Engineering estimates that we will need €9 billion of new infrastructure. It seems the Government strategy has been so successful in attracting data centres that we now have an enormous and disproportionate amount of western Europe's data infrastructure, and with that comes these colossal CO2 emissions.

This raises the question as to what we are getting out of this deal. Will we get jobs? Not really, as after the short-term jobs used in construction, data centres do not require very many people to run them. I read the Government strategy and the headline benefit in the executive summary indicates that this will raise the international visibility of Ireland. It seems that what we are getting in return for hosting these data centres is some good public relations. I am sure the Tánaiste's spin doctor could come up with a bigger and cheaper way to do this with less of an impact on climate change.

Billions of euro in taxpayers' money are being siphoned off to benefit these big technological companies for what appears to be no tangible benefit but rather a massive environmental cost. Communities, non-governmental organisations and individuals have tried to stand up against these tech giants, as we have seen with the Athenry case, and they demonstrated the faults in the environmental impact assessment. Apart from what we are getting out of this deal, will the Government commit to reviewing the environmental and climate impact of the policies we have that support the proliferation of these data centres?

Minister of State at the Department of Rural and Community Development (Deputy Joe O'Brien): I thank the Senator for raising this important matter and apologise on behalf of the Minister for the Environment, Climate and Communications, Deputy Eamon Ryan, who is

attending an EU Council meeting today.

The Government's statement on the role of data centres in Ireland's enterprise strategy acknowledges the role of data centres as part of the digital and communications infrastructure for many sectors of our economy. The statement also noted that data centres pose considerable challenges to the future planning and operation of Ireland's power system. Such challenges arise in terms of renewable energy policy, generation adequacy, security of electricity supply and electricity customer costs.

The programme for Government commits to developing efficiency standards for equipment and processes, particularly those set to grow rapidly, such as data centres. The information and communications technology sector must undergo its own green transformation. Earlier this year the European Commission adopted Shaping Europe's Digital Future, which includes an objective to foster an open, democratic and sustainable society. Key actions include initiatives to achieve climate-neutral, highly energy-efficient and sustainable data centres by no later than 2030.

Data centres have, until recent years, accounted for less than 2% of Ireland's total electricity demand. EirGrid, in its generation capacity statement for 2019 to 2028, projects that demand from data centres could account for 29% of all demand by 2028. EirGrid, in its capacity as the transmission system operator, continually models and forecasts the predicted future growth of electricity demand in its published analysis, including the Tomorrow's Energy Scenarios.

EirGrid, the transmission system operator, published an updated data centre connection offer process and policy over the summer in line with the Government policy statement and the climate action plan. While data centres can consume very large amounts of energy, they have a flat and predictable demand profile, meaning they use the same amount of electricity day and night, therefore requiring a range of generation technologies to meet demand.

Significant increases in volumes of generation capacity, including from renewable energy resources, will be required to meet Ireland's electrification objectives and demand from heat pumps, electric vehicles and data centres. The climate action plan set an ambition of 70% renewable electricity by 2030, the majority of which will be met through the renewable electricity support scheme, RESS. The first auction under the RESS has taken place and this will see major upscaling in renewable energy projects connecting to the grid from 2021, with solar energy and community-owned projects supplying electricity in Ireland for the first time.

The climate action plan also provides that IDA Ireland will use its new strategy to fully integrate decarbonisation objectives across its portfolio of clients. This strategy will seek to ensure new large-scale enterprise investments in Ireland, including factors such as location and power purchase agreement opportunities, with alignment to the buildout of the grid to maximise renewable sources.

We have recently seen a number of unsubsidised corporate power purchase agreements, CP-PAs, purchased by data centre operators. It is hoped we can encourage more in order to meet the target of 15% of electricity demand to be met by renewable sources contracted under corporate power purchase agreements by 2030. When data centre operators purchase electricity directly from renewable generators, it contributes to the State's objective to decarbonise our electricity system without any subsidy from electricity customers. Work is ongoing in the Sustainable Energy Authority of Ireland, SEAI, and following from a study by consultants Baringa Partners on

policy options for meeting Ireland's targets of 15% of demand to be met by renewable energy sources under CPPAs. The SEAI will launch a public consultation in the coming weeks.

Senator Lynn Boylan: I thank the Minister of State. I note he states that data centres have a flat demand but this means they are more likely to rely on electricity generated by fossil fuels. I wonder if there has been a cost-benefit analysis of the gas generators used as backup for the data centres or the long-term impact of fossil lock-in. Is there any possibility that the Minister will review how the planning system operates?

One current specific problem is that the process does not adequately address the cumulative energy and climate impact of continued data centre development in Ireland. A typical data centre's energy use contributes approximately 0.5% of Ireland's annual greenhouse gas emissions and this might go into an environmental impact assessment as being insignificant but it is the cumulative impact of these data centres that must be taken into account. They cannot be taken into account on a local basis because climate change is a global matter. We must look at the cumulative national impact.

Deputy Joe O'Brien: I again thank the Senator for her comments. The Government is committed to achieving net zero emissions by 2050, with an annual reduction in overall emissions of 7%. This is a challenge and at the same time an opportunity for the Government, agencies and industry stakeholders to work together to achieve a green Ireland.

I have noted the Senator's questions and will take them back to the Minister. Data centres can form part of integrated energy systems as we move forward, as demonstrated by the recently announced and innovative district heating project in Tallaght using waste heat supplied free of charge from a local data centre. It is estimated that once the project is completed, there will be a reduction in carbon dioxide emissions in the south County Dublin area by nearly 1,500 tonnes of CO₂ per year.

The climate action plan also contains a number of actions related to this area, including that IDA Ireland will use its new strategy to fully integrate decarbonisation objectives across its portfolio of clients. I will take the questions back to the Minister.

Just Transition

Senator Eugene Murphy: I thank the Cathaoirleach for accommodating me in respect of this matter, which in one way is not too far removed from the matter Senator Boylan has just discussed.

I thank the Minister of State for being here to speak to the matter. I am sure he is aware at this stage that the closure of the Lanesborough and Shannonbridge power stations has been a huge blow. I accept that peat-burning stations are going, as this must happen for environmental reasons. I do not want to excite people too much but we could face power cuts in the coming months. This is a time when we really need to make the change but the just transition was supposed to happen over eight years and this process has been very rushed. We are not going to slow down the process of putting the peat-burning stations back into action. That is gone. It is over.

As the Minister of State will be aware, part of the plan was that the power stations at Shan-

nonbridge and Lanesborough were to be dismantled. I have raised this issue with the Minister for the Environment, Climate and Communications, Deputy Eamon Ryan, the Taoiseach and the Tánaiste. I want them to stall the process, however that can be done, of the power stations being dismantled. If the power stations have to be handed over to the local authorities in Lanesborough and Offaly as a way out of this and it is necessary to seek some type of retention such that they are not dismantled, that is fine with me. We live in a very quickly changing world. We do not know what type of power may come on board in the next two or three years that could be used in those stations.

If the stations are not used for generating power, a significant tourism project relating to the story of the midlands, Bord na Móna and ESB should be developed. The companies provided an economic lifeline to the midlands for 70 years. That lifeline is gone but it should not be written out of history. It was part of our culture and our history. It provided employment. It built villages and towns and kept people in the area. I am sure the Minister of State will acknowledge that the demise of the ESB and Bord na Móna in the area involves the loss of thousands of jobs. Members often speak out about the loss of a couple of hundred jobs. In this case, it is about the shops, the engineering units and all the other services that were involved as part of that process.

As we go forward, I want the power stations to be retained. I know there is a process that must be gone through to retain them. If we go through that process and get feasibility studies, I believe we can bring footfall into the area. That can be done in a very good and environmentally friendly way. It would revive the areas, which is what is needed.

I compliment the groups in Lanesborough and Shannonbridge that have worked so hard on this issue. On behalf of those people, I wish to say that we appreciate the just transition fund of almost €28 million. If we can dot the i's and cross the t's, that will be very significant. This should be a plan for the future. We should not bury the whole situation or accept that the power stations are gone for good. As the operator they are gone, but we can develop new projects and make this a significant success. I look forward to the reply of the Minister of State.

Deputy Joe O'Brien: I thank the Senator for raising this matter. I welcome the opportunity to set out the actions being taken by the Government to support the midlands region. Significant funding has been allocated to support workers, companies and communities affected by the closure of the peat-fired power stations and the end of peat harvesting by Bord na Móna. The work of Kieran Mulvey as just transition commissioner in the midlands region over the past year has seen comprehensive engagement with relevant stakeholders, facilitated by the midlands regional transition team, to address the challenges facing the region, Bord na Móna workers, their families and communities which arise from an accelerated exit from peat harvesting. Mr. Mulvey's reports and recommendations to the Minister and the Government have informed actions now being taken to support job creation efforts and create new opportunities for Bord na Móna workers and the wider region.

Last month, the Government approved significant funding of €108 million for Bord na Móna's large-scale peatlands restoration project. The plan will protect the storage of 100 million tonnes of CO₂ emissions, avoid 3.2 million tonnes of emissions out to 2050, enhance biodiversity, create 350 jobs in total, deliver significant benefits and contribute to Ireland's target of being carbon-neutral by 2050. The Government funding, which will come from the climate action fund, will be bolstered by an €18 million investment from Bord na Móna, which is committed to a brown to green transition. Many of those employed on the project will be former peat harvesters, who have an intimate knowledge and long history of working on our bogs.

The Government has also announced provisional funding offers, totalling €27.8 million, to 47 projects throughout the midlands region under the just transition fund. The projects represent innovative and inspiring plans from businesses, local authorities and communities in the midlands that are committed to creating a green and sustainable economy for the region. This dedication from the community and targeted support will make the region an attractive and sustainable place to live and work. It will fund training and reskilling such that local businesses and communities can adjust to the low-carbon transition.

On the issue of the closure of the ESB peat-fired power stations, it is important to state that the management of the ESB-owned facilities is the responsible actor in terms of this issue. The decision of the ESB in November 2019 to close west Offaly and Lough Ree power stations followed the July 2019 decision by An Bord Pleanála not to grant permission for the operation of the west Offaly plant at Shannonbridge with biomass and a subsequent extensive review by the company of options for continued operation of the existing plant based on the key planning, climate and commercial factors associated with generation at the sites. Notwithstanding this, ESB is committed to the future use of both sites and is currently undertaking further feasibility work to assess the best use of the sites in the long term, taking account of their location, infrastructure and future requirements of the electricity market. We should recall that this work reflects a specific commitment in the programme for Government to assess the potential for a renewable energy hub in the midlands using the existing infrastructure. This remains a key objective of the Government.

Senator Eugene Murphy: I very much welcome the comprehensive reply of the Minister of State, but in situations such as this, the Government will have to lead. I know the Government is very anxious that we rebuild the economy in the area. The Minister of State probably cannot give me a direct answer today but I have spoken to the Minister, Deputy Eamon Ryan, about this issue and he has committed to come to the area and meet the people involved in Lanesborough and Shannonbridge. Obviously, that will not take place until the new year. This issue needs a hands-on approach from the Government, working with the people affected to ensure the moneys they have been granted facilitate the reinstatement of bogs and the re-employment of people. That will happen as part of the bogs project. For that to happen and be a success, we need a real hands-on approach from the Government. I do not think we can be left out at sea on our own. There is a significant tourism project there.

One must remember that, apart from turning the stations into museums, the area is home to the River Shannon and Slieve Bawn. There is a significant combined project that we could do together. Tourists visiting the bogs and learning about their flora, fauna and history could all be part of that project. We should not let that opportunity go. It would create significant extra jobs. I thank the Minister of State for his engagement on the matter.

Deputy Joe O'Brien: The Senator's point is very much taken. The ESB recognises that the closure will impact on the midlands region. However, this does not mark an end to the long relationship of ESB with the region. The company has extensive ongoing operations, which include ESB Networks depots in several areas and the ESB Networks national training centre in Portlaoise, which provides training to 280 apprentices from all over Ireland. It also owns and operates several renewable energy wind farms across the midlands, each of which contributes significant revenues. In a joint venture with Vodafone, it has brought fibre broadband to 50,000 homes and businesses in many towns across the region. The ESB is ambitious for the region and its economy into the future and it is actively exploring options in investing in renewable energy projects. I spoke to the Minister, Deputy Eamon Ryan, about this issue last night. There

is a window at the moment to do something with the sites and he is very open to ideas and engagement on that. I expect the Senator will see him on site at some stage.

Acting Chairman (Senator Sharon Keogan): I thank the Minister of State for coming to the House. I wish him and his family a very happy Christmas.

Deputy Joe O'Brien: I thank the Acting Chairman and wish her a very happy Christmas.

Schools Building Projects

Senator Regina Doherty: I thank the Minister of State for coming to the Seanad to discuss this issue. I compliment her on the work she has done in recent months. It is truly refreshing to see the proactivity and the new approach that is being taken in the Department with regard to specials needs. I wish her every success. I know the Seanad will continue to support her.

I wish to raise the issue of the urgent need for provision of a permanent school building for St. Michael's House Special National School in Skerries, north County Dublin. It is a co-educational special school under the patronage of St. Michael's House, with 30 pupils, many of whom have a diagnosis of autism or are on the ASD spectrum. Some of them have very complex additional needs. For many years, work has been under way to build a permanent and purpose-built school and home for St. Michael's.

It is currently based in a very old converted house and faces all of the challenges that come with that, mainly being overcrowded and always oversubscribed. With the support of the Department, the school is currently at stage 1 of the design and build process and is hoping to move on to the next stage early in the new year. A very successful and long meeting was held yesterday, which gave some succour. This is a hugely important milestone and is an impressive achievement for a small school at this stage.

While we are all pleased to see this part of the build process moving forward, there is an issue, a blocking and an impediment when it comes to the site acquisition. This process has been under way for four years now, but unfortunately seems to have completely stalled in the Chief State Solicitor's office. I want to ensure this delay does not begin to impact on the subsequent stages of the design and build process, which we will now move into. We need action on this now. The site acquisition needs approval and sign-off and that needs to be done now. We have been waiting for far too long. The school has enormous support in the community. The Minister of State will know from her work over the last few months and visiting special schools that they are taken into the hearts and minds of the people who live around them and it is no different in Skerries. All sides are in favour of the purchase of the site and so there should be no issues. The delays in the Chief State Solicitor's office are proving quite disappointing.

The future of St. Michael's House in Skerries is bright. Its transformation from an old house to a 16-classroom purpose-built campus will do wonders not just for the area, but for all the pupils and their families. It will greatly enhance the school experience for those students and their families. It will also allow the school to cater for students with more serious and profound needs in our community. At the moment the school is constricted to those with moderate needs and the children with more severe needs have to be sent outside of their own community.

I am grateful that the Department has been so supportive of this project in recent times and I look forward to that support continuing. The completion of the site acquisition process should remove the last of any significant challenges we face in getting this school built and getting boots on the ground. I urge the Minister of State to sign off on it as soon as possible. I thank my local councillor, Tom O'Leary for highlighting this issue. I note in particular the dedication of the principal, Karen Byrne, who joined the school in 2018, and her predecessor Pat Price. The members of the board of management are all local and have given much time and commitment to this long sought after project. We want to see it come to fruition. We want to see a happy outcome and for any obstacles in the Chief State Solicitor's office to be addressed and cleared in order that we can move on to stages 2 and 3 and get this school built.

Minister of State at the Department of Education (Deputy Josepha Madigan): I thank Senator Doherty for her strong interest in the area of special education. She has always been a very strong advocate in this area and I appreciate the work she has done to date, particularly in trying to bring this school into the spotlight. As she noted, there was a very long and productive meeting on this matter yesterday.

As regards the site acquisition, I understand there are some small issues in the Chief State Solicitor's office that still need to be rectified. I assure the Senator that as Minister of State with responsibility for special education, I will be speaking with the Department about this on a regular basis to ensure it does not delay the acquisition of the site any further. There are sometimes complex legal issues that need to be sorted out when dealing with a site acquisition of this nature. We want to ensure there is no delay in this project progressing to planning and in order for there to be no delay, that needs to be sorted out. The site acquisition is in the process of being finalised by Fingal County Council and no issues are anticipated, other than the small issues arising through the Chief State Solicitor's office. Meanwhile, the design work is continuing and stage 1 work has commenced, which includes things like site investigation, site suitability and the design options. On 16 December, I received the very first submission report. We are now reviewing that and we will then come back to the board of management of the school. There is also an external professional project manager in place to co-ordinate all the various components of a project of this nature.

The Senator has quite eloquently set out the school and its main purpose, which is to provide an educational facility for children with special needs. From an overall perspective, I am pleased that this school will be moving to Hacketstown, which is in the immediate environs of the St. Michael's House Special National School in Skerries. It will provide 16 classrooms and two ASD classes. There will be a new deputy principal's office, a nurse's office and a multisensory room. I visited St. Martin de Porres National School in Tallaght this morning and it would really like a multisensory room. That will be provided in this instance, as will a home economics room. The design team was appointed in May 2020 and it has done a significant amount of work since that date. The architect, the quantity surveyor, the civil and structural engineer, the mechanical and electrical engineer and all the others have worked hard to present this stage 1 submission report to the Department, and we are currently reviewing it.

The needs of children with special needs is of paramount importance to me and I appreciate the Senator's comments at the outset of her contribution. This is the very first time there has been a Minister of State with responsibility for special education and we are getting €2 billion, or one fifth, of the overall departmental budget. That is badly needed in order that we can ensure children with special needs receive exactly the same type of education as children without special needs. That is the bottom line and we cannot have them in a building that is suboptimal

or is not providing them a proper service or a proper education.

Senator Regina Doherty: It is heart-warming to hear how much attention and personal commitment the Minister of State will give this matter. One can see from the level of detail and ambition that has been put into the design in stage 1 of the process how ambitious the staff, the families and the community are for the students in this school. Of course we want the absolute best for our children. We want to be able to expand that service. I am grateful for the update the Minister of State has given me and for the attention and the level of detail she is going to give those issues that still remain in the Chief State Solicitor's office. I hope we can get over them very quickly.

I do not mean to put her on the spot but does the Minister of State have any idea of the timelines we could be looking at to move to stage 2 and stage 3, to get the school doors open? That would give some hope and some renewed impetus to the people who have been working so hard.

On a wider issue, would it be possible to conduct a review of special educational needs across the wider Fingal area? We have an awful lot of schools that do not have ASD units but definitely have special needs children. Would the Minister of State consider doing a special audit across Fingal?

Deputy Josepha Madigan: In the Senator's original contribution she noted that the school was in an old converted building. That is below par for children with special needs so from an overall perspective, it is going to be of benefit to those 30 children, and hopefully more, when they move to the new building in Hacketstown.

From a timeline perspective, as a solicitor and lawyer I know things can get bogged down in legal detail and that can take time. I am not in a position to give the Senator an exact timeline but suffice it to say I will be giving this matter my absolute attention. It will be prioritised as far as I am concerned and we will be closely connecting with the Chief State Solicitor over the next number of months and weeks to see if we can expedite the process. The Chief State Solicitor obviously has to be satisfied that all components and the rigour of the law are tested before moving to the next stage. I will give this my full attention.

As regards a review, the National Council for Special Education will undertake a review of all areas but I will ask it to look at Fingal in particular and to ensure we have enough special classes and ASD units. There are 200 building projects going out in 2021 and 111 of those will provide ASD units. Obviously, if there is a deficit in Fingal I will look at that very closely.

Acting Chairman (Senator Sharon Keogan): I thank Senator Doherty for raising this question. I know of the great work Karen Byrne, the principal of that school, does. It is an important subject for all those in special education. I thank the Minister of State, Deputy Madigan, for coming in and wish her and her family a very happy Christmas.

Defence Forces

Senator Lisa Chambers: The terms of reference for the Commission on the Defence Forces were published some days ago. Why has the Department of Defence been excluded from the commission given the strategic role it plays and the input into and control it has on all

matters relating to our defence forces? It seems like a glaring omission from the commission's terms of reference. It is a specific request from the representative associations. They are deeply frustrated and disappointed by the omission. I ask the Minister of State to relay to the Minister, Deputy Coveney, that he might reflect on the decision, review it and amend the terms of reference to include the Department.

The representative associations have put it eloquently when they describe this as a once in a generation body of work. The Commission on the Defence Forces is very welcome. It gives us the opportunity to examine all aspects of the Defence Forces, not just pay and conditions, which will form an integral part of the work, but also how we operate our Defence Forces and how we can make them more effective and resource them properly. A point made to me by the representative associations time and again is that we often get a very small, miserable defence budget and try to jam defence policy to fit the budget when it should be the other way around. We should devise a defence policy that is properly resourced by the Government to deliver on it. That has not happened to date.

Fianna Fáil has long supported our Defence Forces; we need to show that support again now. We need to amend the terms of reference to include the Department of Defence so that we can get full buy-in from all stakeholders. If we do not have the representative associations on board, it will not work.

Senator Fiona O'Loughlin: I thank the Minister of State for being present to take the matter but I must express my disappointment that the Minister for Defence is not here to listen to our points and give us the basis for his reason to not include the Department of Defence in the terms of reference. When this commission was announced it was good news. It was in the programme for Government and it was something that we in Fianna Fáil had fought for. I am grateful to those who have agreed to serve on the commission and give their time, experience and expertise. However, not including the Department of Defence in the commission's terms of reference was a glaring omission. In all the conversations we have had over the years with Representative Association of Commissioned Officers, RACO, Permanent Defence Force Other Ranks Representative Association, PDFORRA, and the Wives and Partners of the Defence Forces, WPDF, it was always very clear that the Department was a big part of the part of the problem in the workings of the Defence Forces. The commission is examining recruitment and retention along with pay and conditions and the excellent service given by Defence Forces personnel and seeing how that can be promoted, but to not include a review of the role and workings of the Department is quite wrong. It was a very specific request by those in the Defence Forces and was the basis of much of the complaints we have had over the years, such as the Department's oversight, that it is in charge of policy and its control of the purse strings and its refusal to allow the military leadership the appropriate resources or ability to make decisions for the Defence Forces, which is wrong. Senator Chambers and I are asking the Minister of State to ask the Minister of Defence to reverse this decision.

Minister of State at the Department of Foreign Affairs (Deputy Thomas Byrne): I thank the Senators for raising this. I know their commitment to the Defence Forces well. Senator Chambers served in the Reserve Defence Force for many years and Senator O'Loughlin has constantly been a strong advocate for the Defence Forces publicly and within the parliamentary party. I take my colleagues' comments very seriously indeed.

I apologise on behalf of the Minister for Defence. He is also the Minister for Foreign Affairs. It is quite busy at the moment for him, and for me, and we are all trying to help each other

out, so I agreed to take this for him today as there is a lot happening.

The Minister was delighted to announce last Tuesday that the Government has approved the establishment of an independent commission on the Defence Forces. The Government also approved the terms of reference and the membership of the commission. The decision taken at Cabinet yesterday follows a specific commitment made in the programme for Government, as agreed by the three parties, to establish a commission on the Defence Forces before the end of the year.

The establishment of an independent commission on the Defence Forces underpins the Government's commitment to ensuring that the Defence Forces are fit for purpose, both in meeting immediate requirements and in seeking to develop a longer-term vision. In establishing this commission, which contains impressive national and international high-level expertise and experience, the Government is seeking to ensure that the outcome of this process will be a Defence Forces that is agile, flexible and adaptive in responding to dynamic changes in the security environment, including new and emerging threats and technologies.

The membership of the commission has been carefully chosen to ensure the optimum range of expertise in key areas including management, human resources, security policy, public service, as well as both domestic and international military expertise. The commission will be chaired by Mr. Aidan O'Driscoll, a former Secretary General of the Department of Justice, and previously Secretary General of the Department of Agriculture, Food and the Marine, and will be supported by an independent secretariat under the direction of the chairperson.

The terms of reference require that the commission's overall approach will be guided and informed by both the White Paper on Defence 2015 and the White Paper Update 2019, which set out Ireland's overall defence policy approach. This is against a backdrop of the high-level defence goal which is to provide for the military defence of the State, contribute to national and international peace and security and fulfil all other roles assigned by the Government. This fits within the broader context of the protection of Ireland's defence and security interests nationally and internationally.

In accordance with a commitment made in the programme for Government, the Minister for Defence consulted widely on the terms of reference, involving a wide stakeholder group comprising the Joint Committee on Foreign Affairs and Defence, the Defence Forces representative associations, the Defence Forces veterans associations, the unions and associations representing Department of Defence staff and civilian employees, the Defence spokespersons of Opposition parties, the Institute of International and European Affairs, the Royal Irish Academy and all other Departments. In finalising the terms of reference, all submissions were carefully considered, in the context of what we agreed in the programme for Government.

The establishment of the commission is a significant opportunity to address the issues agreed in the programme for Government. The Government and the Minister want the work of the commission to take a visionary but practical approach to a range of issues and the Minister is very anxious that the commission is not deflected in this task. He is aware that others have suggested that the scope of the commission be widened but he wishes to keep its remit within what is envisaged within the programme for Government. In giving priority to the matters in the programme, the Minister took account of the position that like other Departments, the Department of Defence has been subject to a wide range of review and reform measures both internally and through the Civil Service reform and wider public service reform. In 2021, it

will be subject to an organisational capability review. In recent times, the Department has led action 10 of Our Public Service 2020 to embed project and programme management across the public service. It has led out on the adoption of the provision of shared transactional HR and payroll services and is currently participating in the programme to deliver shared financial services across the Civil Service.

In concluding, the Minister has asked me to stress that, in observing some of the external commentary about the Department of Defence and its approach, it in no way accords with his experience. He makes this point based on his leadership as Minister for Defence and in seeing at close hand over an extended period what the Department does and the sustained commitment of officials to ensure the best outcomes for the citizen. There will always be alternate views. This kind of difference of view will always feature in every area of public policy. The commission's focus is targeted precisely on the issues identified in the programme for Government for urgent but positive attention.

The Commission on the Defence Forces has a mandate from the programme to report within 12 months, and given the wide-ranging and comprehensive scope of the detailed tasks set out it has a challenging job ahead. I understand arrangements have already been made for the inaugural meeting of the commission to be held early next week, and the Minister looks forward to receiving its report this time next year.

Senator Lisa Chambers: I thank the Minister of State for the reply but, with respect to the Minister, Deputy Coveney, the fact that he has had a good personal experience of the Department of Defence is beside the point. Having looked at the terms of reference, the defence community have questions over the independence of the commission and questions as to why the Department was excluded. There are members of the commission who have clear links to the Department of Defence. If there is not buy-in from stakeholders and if there is an air or degree of suspicion around this process before it even gets started, we are nobbling ourselves before we even get going. The whole point of this was to work with the defence community and to take on board its recommendations and ideas. This has not happened in the way it should have.

One of the key requests made by RACO was that the distribution of decision-making throughout the defence organisation be looked at and assessed. How can decision-making throughout the organisation be assessed if one arm of that organisation is not included in the terms of reference? It is a glaring omission which needs to be addressed. There should be nothing to hide and nothing to fear. This is not about targeting any one individual. It is a root-and-branch review of our defence organisation with a view to improving conditions for members and improving how we run defence in this country.

Senator Fiona O'Loughlin: May I just come in for a moment?

Acting Chairman (Senator Sharon Keogan): The Senator may have 30 seconds.

Senator Fiona O'Loughlin: I appreciate that. The relationship between a Minister and his or her Department is completely different from the relationship between a Department and those whom it purports to serve. It is not good enough for the Minister to simply state he has always had a good experience. If this issue is not addressed, the commission will be made unworkable. I accept the point the Minister of State made with regard to the Minister, Deputy Coveney. I know it is a very busy time for both. On behalf of all of us in the country, I wish them well in the talks on Brexit.

Deputy Thomas Byrne: I again thank my colleagues for their sentiments, which I take very seriously indeed and which I will certainly relay to the Minister and to the Taoiseach. I will, however, take the opportunity to remind the House that the establishment of an independent commission on the Defence Forces follows a very specific commitment made in the programme for Government, as agreed by Government parties, to establish such a commission before the end of the year. The continuous review programme of the Department of Defence will continue in 2021, when the Department itself will be subject to an organisational capability review, which I hope might address some of the issues Senator Chambers raised in her latter contribution. The commission has been given wide-ranging and challenging terms of reference, which focus on ensuring that our Defence Forces are agile, flexible and adaptable in responding to dynamic changes in the security environment including new emerging threats from technology. The Minister has stated that the commission is going to proceed with its important task and we look forward to the completion of this work.

Acting Chairman (Senator Sharon Keogan): I thank the Minister of State and the Senators. I wish the Minister of State, Ann and the children a very happy Christmas.

Sitting suspended at 1.23 p.m. and resumed at 1.32 p.m.

An tOrd Gnó - Order of Business

Senator Regina Doherty: The Order of Business is No. *a1*, motion regarding arrangements for a sitting of the House on Friday, 18 December 2020, to be taken on conclusion of the Order of Business, without debate; No. *b1* Planning and Development, and Residential Tenancies, Bill 2020, changed from Planning and Development Bill 2020 [Seanad Bill amended by the Dáil] – Report and Final Stages, to be taken at 3 p.m. or 15 minutes after the conclusion of No. *a1*, whichever is later, and to conclude after three hours by the putting of one question from the Chair which shall include only those amendments set down or accepted by the Government; and No. *c1*, earlier signature motion on the Planning and Development, and Residential Tenancies, Bill 2020, to be taken on conclusion of No. *b1*, without debate.

Senator Lisa Chambers: I wish to voice my agreement with the Order of Business and raise a couple of items. As Members will be aware, the national development plan, NDP, is currently being reviewed and is open for public consultation. People can submit their ideas and suggestions before the end of January. I know the Minister for Housing, Local Government and Heritage will be coming to the Chamber early in the next term, but I think it would be a good idea to request a debate on the national planning framework. As we know, the national development plan identifies where investment should go in order to implement the national planning framework. It seems inconsistent to review the NDP but not the planning framework. The two go hand in hand. The process of getting agreement on the planning framework during the last Oireachtas was fraught with challenges. There were last-minute adjustments, including the addition of Sligo as a regional growth centre. The west and north west would benefit from a review of the national planning framework in conjunction with the current review of the national development plan.

The second issue I wish to raise, which I think has gone below the radar during the Covid-19 pandemic, is supports for mothers, particularly first-time mothers. I know from speaking to public health nurses in Mayo that many women are struggling to cope because of the lack of community supports. There are no visits from lactation consultants, mother and baby groups,

breastfeeding groups or toddler swim classes. All of these opportunities to get out of the house, meet other mothers and get some support are gone. Many mothers are feeling very isolated and alone because of the lack of wrap-around community supports for them when they get home. There is a serious body of work to be done there. The Minister for Health must come before the House to outline the supports that will be put in place to assist mothers in the community. This would also assist public health nurses who tell me they are really at their limit. They are going above and beyond to help mothers as best they can. They are trying to see as many mothers as they can with very limited resources, while operating under increased restrictions. A debate in the House on those two issues in the next term would be very welcome.

Senator Annie Hoey: I am sure many Members saw items on the news about Hungary in the last 48 hours. I am sure many Senators will join me in expressing my dismay. For those who do not know, Hungary has amended its constitution to change the definition of family, preventing LGBT couples from adopting. Many people here will agree that this is an egregious backward step for LGBT people in Hungary and in Europe. I hope Senators will join me in expressing solidarity with LGBT people in Hungary, for whom this is a very difficult time. I also call on our colleagues in this House who are party colleagues with the party of Viktor Orbán. It is very concerning that they share a space with someone who is so determined to roll back LGBT rights when we have been quite a beacon for those rights.

I also wish to briefly mention the people who have been on the front line in the last year. I am particularly thinking of staff and students, who I would say have been on the invisible front line of the Covid-19 crisis. I hope they get the recognition they deserve in the coming months. Staff have worked extremely hard to support students during this time. Students have really been doing their best under very difficult circumstances. Some are really struggling and are wondering if they will be able to continue their studies. Yesterday I spoke to some staff who are doing everything in their power to get those students through the next couple of months and keep them in education so they do not lose out on a lifetime of opportunity because of the effects of the Covid-19 crisis this year.

I also hope this is the last Christmas for which student nurses and midwives are not paid as they should be, and for which we have a two-tier system that does not pay teachers fairly. I implore Members to think about front-line workers this Christmas; nurses, doctors, paramedics and all the people who will be working on Christmas Day and New Year's Eve. We should think about how we will conduct ourselves over the Christmas period. I have family members who will be working over the Christmas period and I want them to be safe and well. I encourage people planning Christmas celebrations to keep them small and safe. We all know someone who is working on the front line and will be giving up their time this Christmas so we can all be safe.

Senator Victor Boyhan: I want to mention one issue which occurred to me last night when I passed the Central Bank and saw the enormous number of families queueing up for soup kitchens. We are so lucky to have the volunteers that do this work in Dublin, Cork and other cities. It was so sad to see. I counted more than 70 people. The thing that was really hard to comprehend was the presence in the queue of nine young children. I spoke to a man who said he felt ashamed to be there because he had had a job. He told me he rents a flat in Glasnevin and that he keeps his hood up because he does not want people to see him. At least we have such a service, however, and people who give out things like soup and bread on a Monday night. I also refer to projects such as that undertaken by the barbers who go onto the streets to cut people's hair and by people like Alice Leahy who give out clothes. It is all about dignity. It was not too

long ago that many of us, if we were being honest, did not have the arse pocket in our trousers either. That is the reality.

Moving on to my second point, I have a sister who works with the Irish in London. Anyone familiar with Trafalgar Square will know the lovely church that is St. Martin-in-the-Fields, right there in the square. An amazing organisation for the Irish is run from that church, and there are facilities for baths and for washing. Those facilities are for all sorts of people but a high percentage of them are Irish. I have had great opportunities over many years to link in with those services. Any time I am in London, I go to St. Martin-in-the-Fields. It is quite a spiritual home for me and it is an amazing church, an amazing congregation and an amazing community of diverse people. Many of them have a simple Christian approach and have no religion at all, which is great. It is, therefore, an amazing building with an amazing community.

Again, however, people there this week are wrapping up parcels. They are struggling and they are our Irish people. In fairness to the past actions of the Minister for Foreign Affairs, Deputy Coveney, it is important that people in Ireland, and particularly the Government, send finance and support to those people in London. Those people providing the services to which I have referred are holding raffles with bottles of wine and drawing tickets for 50p to raise money for our Irish people.

While we talk about our diaspora, many people went, or ran away, to London because they had issues with which they could not cope themselves. They were not accepted, fell on hard times or felt that they had to run away from something. They stayed in London and feel that they cannot come back. In many ways, Ireland is a different place now. We should all use our contacts and tap into our political groupings, parties, Ministers and anyone we know to see if we can support those who are supporting the Irish on the streets of London.

Senator Vincent P. Martin: Deep division remains and festers on this island in respect of legacy issues. We may have peace in Northern Ireland but we certainly do not have normal relations. The past is not exclusively to be shared by one tradition only. No atrocity, no matter how wicked, can justify and encapsulate the pain and loss suffered by so many.

A few weeks ago, this House unanimously called for a public, sworn inquiry and we implored the British Government to do the right thing regarding the murder of Pat Finucane. Subsequently, the British Government, to the great upset of the Finucane family, decided not to have a public, sworn inquiry. That was despite, as we reminded the British Government, a finding by Judge Cory of collusion. We may have peace but we will not have normality until the day mainstream politicians from every party will stand up for the rights of and justice and the truth for the other community. It is easy to stand up in respect of the injustices regarding one's own community but not so easy regarding those of the so-called other side.

Chief Superintendent Harry Breen and Superintendent Robert Buchanan of the then Royal Ulster Constabulary, RUC, were murdered on 20 March 1989, as they returned home from Dundalk. Their families have sought for years to get to the truth about their deaths. Recently, the democratically elected leader of Irish unionism requested the Taoiseach to meet to discuss allegations of collusion south of the Border. I commend the Taoiseach, and I would be grateful if the Leader would convey my message to him, on acceding to that request.

In the Smithwick tribunal of inquiry, while finding there was no direct evidence of collusion in the killing of those two RUC officers, Judge Smithwick concluded, on the balance of prob-

abilities, that collusion did occur involving an unidentified member or members of An Garda Síochána. The then Tánaiste and Minister for Foreign Affairs and Trade said that he was “appalled and saddened at the finding” and that it was “a matter of great public concern”. If we are going to tell the British what to do, surely at the very least, we should look closer to home and not go down the blind alleyways of the British Government. The best vaccination against the deep divisions of legacy issues and the deep distrust is to build bridges of trust, truth and reconciliation.

Senator Paul Gavan: I will raise two issues. The first I have raised before, along with Senators from all sides of the Chamber, and that is the plight of the student nurses. I quote some voices from the front line, which were contained in a powerful article in *The Irish Times* yesterday:

So far I have washed and fed patients, emotionally supported them and have been on the ward as two patients have died ... I’ve worked 12-hour shifts back to back and been so tired I’ve been physically sick.

A second student nurse said,

Since I commenced my nursing studies in 2017 “sure we have the students” is a sentence I have commonly heard. Staff members who are sick or off on leave are very seldom replaced when a student nurse is on placement.

A third student nurse was then quoted as saying,

I have to ask do they really think it is acceptable to have young students working 35 hours completely unpaid during the worst pandemic of our time risking their lives and that of their families and being completely burnt out and disillusioned before they even begin their careers? Student nurses will never forget the actions of this Government and the exploitation that has occurred.

I am raising this issue because I thought we had an agreement from the last debate that student nurses should be paid. However, I am hearing now from the Fianna Fáil Minister for Health that they should not be paid but the allowances will be looked at. Perhaps I could be called old-fashioned, but I think that if somebody does a day’s work, then that person should be paid for it. I think that is something all of us should be able to agree on in this Chamber. The fact that these nurses continue to face into the Covid-19 pandemic in these circumstances without pay is nothing less than a national disgrace. I call again for an urgent debate and urgent action from the Government on this issue.

The second issue I wish to raise concerns the Comprehensive Economic and Trade Agreement, CETA, trade deal. In the words of the leader of the Green Party in 2017, the now Minister, Deputy Eamon Ryan, “We should look for a different form of trade deal, one which absolutely copperfastens the sovereignty of the nation against the corporation and one that absolutely guarantees the environmental standards that everyone says they want to protect.” He also said then that he feared “that in the dispute resolution mechanism CETA enshrines ... we are ceding power and sovereignty to corporations”. I really agree with what he said then and in the five years I have been here, this is the biggest U-turn I have ever seen from any political party.

I ask the Leader for two things. First, I request that we have a debate on this issue in the new year. Surely, we all want to have a say on this matter and we should have that say before

the vote takes place in the Dáil. My second request concerns the sensible suggestion made by my colleague, Senator Lynn Boylan, that we deal with this matter and examine the proposal in depth in the Joint Committee on Climate Action before the vote. If people are confident that there is nothing wrong with CETA, then they should be confident in their arguments and allow that approach to happen. I am genuinely shocked at the stance of the Green Party on CETA. I sat alongside colleagues from that party when campaigning against CETA and I am genuinely flabbergasted at this U-turn. I ask that we have an urgent debate on this matter and that we all agree that the correct way forward is via the Joint Committee on Climate Action.

Senator Fiona O'Loughlin: I again acknowledge how difficult this time during the Covid-19 pandemic is on those people impacted in respect of their health or financially, as well as for those at the forefront in the workplace in dealing with the health problems which arise. We cannot lose sight of the small things which would make a difference in respect of what our country is going through now. We spoke previously about the importance of supporting mental health, particularly among young people, and the importance of sport in that context. I refer to how it helps young people through the discipline of training for and playing matches. I was struck by an email I received during the week from the secretary of Athy Rugby Club in County Kildare. It is a very well-run and well-organised club. He made the point that young people, particularly those of schoolgoing age, had not played a match since 19 March. This is a difficult time for members who are concerned. We all know that leaders in sports clubs and organisations play a very strong, mentoring role in the lives of young people. They feel they are losing this vital connection with young people and families. As far as sports are concerned, level 3 and level 5 restrictions are the same. I appeal for rugby and soccer clubs to be given the opportunity, in a regulated way, to resume playing matches so that members do not lose out on the valuable lessons and physical, emotional and mental health benefits that being part of a team provides.

Senator Seán Kyne: I had the privilege to serve in the Department of Rural and Community Development with the then Minister, Michael Ring, when the rural regeneration and development fund was put in place. At the same time, the then Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, put in place the urban regeneration and development fund to fund strategic projects. I am sure we all agree that this funding has been effective and been welcomed universally because it filled a gap and allowed many worthwhile projects to progress to development, many of which are multimillion euro projects.

Galway County Council and Irish Rail have applied to increase capacity at Oranmore station, east of Galway city. Like many towns, Oranmore has rapidly expanded and once had a railway station that was closed many decades ago. Thankfully, under phase 1 of the western rail corridor project, Oranmore got a new station. A testament to the increase in usage over the past decade is the urban regeneration and development fund application by Galway County Council in association with Irish Rail. It involves the creation of a passing loop at Oranmore, 1 km of track, a second platform and a pedestrian crossover between platforms. The project has been costed at approximately €12 million and has the support of the Department of Transport, which has indicated a willingness to part-fund the project. The lands required are in the control of Irish Rail. I hope the project will act as a forerunner for the double-tracking of the line between Athenry and Galway. This is a priority for the local authorities and would give a significant boost to the provision of an alternative transport mode to private cars. Double-tracking would also allow for a train station in the Renmore and Merlin Park area, which would create access to the east side of the city, including the Galway-Mayo Institute of Technology and the tens of

thousands of residents who live in the area.

The station at Oranmore was officially opened by the then Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, and local councillor, Mr. Liam Carroll, the Mayor of County Galway at the time and a long-term supporter of the project then and now. I welcome the vision of Galway County Council and the fact that these funds are in place and allow an application, which will be adjudicated in due course. I hope the project, if successfully granted, will be the first phase of a larger double-tracking project, which will allow for commuter services to the city and possibly a train station in the Renmore area.

Senator Sharon Keogan: I want to raise the value and importance of human connection. Kindness and love are the real currency of life. The importance of one human being in another person's life is more important when that person is a child. These human connections are formed in the earliest years of our lives. This human connection becomes more important when the child feels safe and confides in someone that things are not right at home or he or she may be living in danger. To be that one good adult that a child can turn to in the darkest of moments is truly the greatest gift.

This morning, I want to thank Erin's Isle Gaelic Football Club in Finglas, County Dublin. In all my years of fostering and of all the children who have come through my door, I have never witnessed the exemplary acts of human kindness that the club's coaches and child protection officers had for one child who ended up in difficulty. It was these fine young men who knew exactly what to do when that child came to them. It was the same young people who rang the child every single day, collected him for training, visited him and tried to keep his spirits up while Tusla tried to find a placement for him. Imagine at a young age having one's life and familiar surroundings turned upside down, ending up in a Garda station seeking protection and, subsequently, being brought into a stranger's house at 1.30 in the morning. I have never seen such camaraderie for a child. Members of the Erin's Isle club literally threw their arms around this child and made him feel important and loved. I cannot go into more detail but the club went above and beyond its duty. I thank the young coaches and child protection officers from Erin's Isle in Finglas for everything they are doing for the children and teenagers in their club.

Every day, children in this country find themselves seeking refuge. There are not enough foster parents to deal with the number of children seeking refuge, even less so with the pandemic. Once again, I call on people from any family type who could be a good role model, even if they are single or, like me, busy, and who have a spare room, patience and an open heart to open their home to a young person.

An Cathaoirleach: I thank Senator Keoghan for outlining the work done on behalf of a vulnerable child in our country today. I thank her for all of her truly extraordinary work in fostering children over the years.

Senator Malcolm Byrne: I join the Cathaoirleach in thanking Senator Keoghan for her testimony and talking about the importance of love and kindness, particularly in these difficult times.

I agree with the comments of Senator Hoey on an issue a number of Senators have raised previously, namely, the importance of having a debate on the rule of law in Hungary and Poland, particularly regarding decisions on European funding for those countries. If they do not respect the rule of law and minority rights, they should be called to account.

I know that other Senators, including Senators Keogan, McGreehan and Davitt, have raised the issue of rural housing. We need a debate on rural housing and supports for rural communities. The Office of the Planning Regulator is currently sending letters to every local authority that is going through a county development plan. The plan for Wexford arrived in the last few days but it is unworkable. It states that those living in a rural area must have a farm of at least 15 acres so the only people who will be able to build in rural areas now are those who inherit the family farm. The advice is that people who want to live in the country should buy an existing house in the countryside and do it up. The difficulty for locals is that they must often compete with purchasers from outside their area. On the other side is an expectation that people should move into villages. Many villages do not have water and waste water infrastructure. Much higher housing densities are now expected in some towns. I am not in favour of allowing anybody to build anywhere. However, planning must be sustainable while having regard to existing traditional rural infrastructure. We must also support our villages. It is essential that we have a proper debate on how we can support rural communities.

Senator Mary Seery Kearney: I raise the issue of suicide. The period leading into Christmas can exacerbate loneliness, hardship and stresses and strains. This year has been particularly challenging, for obvious reasons. Few families have not been touched by the suicide of someone they know or someone within their family. We can never stop emphasising that we need to move away from the words “commit suicide”. Someone I know, love and respect posted a comment on social media about a family member. It is years since his father died and he pleaded for people to stop using the terminology “commit suicide”. It is offensive to his and his family’s experience of mourning their father and how they remember all that is good. I emphasise that point.

People who consider suicide deserve and need our compassion, care and respect, and their dignity. We need to ensure we empower that in any remembrance and in any support for their families. I congratulate Pieta House on its extraordinary work.

It has responded specifically to Covid-19 on its website with videos for children, teenagers and adults in all sorts of situations that address, empower and support. I will end by using the empowering words of Pieta House: You are not alone

Senator Ivana Bacik: As we hear concerning news about rising Covid-19 transmission rates in the North and here and as we digest the news that Mr. Emmanuel Macron has tested positive, I thought it would be nice to share the positive news that the Taoiseach has confirmed to my colleague, Deputy Alan Kelly, in the Dáil that vaccinations will start over the period 27 to 29 December. Colleagues will have heard the President of the European Commission, Ms Ursula von der Leyen making an EU-wide commitment on that, which is very positive. It is important that all of us as public representatives take the lead in encouraging uptake of the vaccine when it becomes available and in countering any misinformation about vaccinations. That is some positivity in the midst of what is rather grim news in this country and elsewhere on Covid transmission rates.

I welcome the publication today of a report on hate crime legislation by the Minister for Justice, Deputy McEntee, and I ask the Leader to schedule a debate on same in the new year. I know that we debated a related Private Member’s Bill in the House recently but the Minister’s report would be extremely informative in setting a context for us to debate the sort of legislation that we would like to see introduced. We need to ensure that there is an adequate balance and respect for free speech, of course, and that the legislation would be effective in a way that the

Prohibition of Incitement To Hatred Act 1989 has not been. Indeed, any new legislation must go beyond that Act in providing that hate motivation in assaults be considered an aggravating factor. I look forward to that debate and ask the Leader to provide time for it early in the new year.

Senator Shane Cassells: Yesterday representatives of the newspaper industry, both local and national, attended a meeting of the Oireachtas Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht. They set out the challenges facing the print media industry today, particularly in the context of Covid-19. They outlined the work they have done during the pandemic and the financial hit they have taken.

First and foremost, we must remember that media outlets are businesses and the aim of their owners is to make money because if they do not do so, they go bust. Some made bad financial investments during the boom and have found themselves in a difficult position as a result. That said, local newspapers in this country provide a very important service. They cover stories that would go under the radar and not be covered at all if they failed to continue in operation. In that respect, I support the call made by Mr. Frank Mulrennan at committee yesterday that the same funding, totalling €2.6 million, which was provided in July for commercial radio, including local radio, be provided to local newspapers that have suffered a steep decline in income from both advertising and sales. I support Mr. Mulrennan's call on behalf of all local newspapers because if the State does not intervene, we will lose something that is more than just a product. Local newspapers cover local council meetings, local court sittings as well as local sporting and cultural events. They are the very essence and fabric of local communities. There is a broader debate to be had on why young people in particular are not buying newspapers at all, never mind local newspapers, but in the here and now I support the call made by local newspapers for financial support. That call was passed on, by resolution of the committee yesterday, to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin.

I have repeatedly called for consideration to be given to introducing a scheme similar to the local democracy reporter, LDR, scheme in the UK, which was introduced by the former Secretary of State for Culture, Media and Sport, Mr. John Whittingdale. Under that scheme, a percentage of the licence fee is used to create a pool of reporters who cover important statutory meetings such as council meetings, court sittings and so on.

Senator John Cummins: I compliment Senator Keogan on her contribution on foster parents.

On 10 November, the Cabinet signed off on a massive €110 million investment project on the north quays in Waterford city. This was the culmination of years of very hard work by many in Waterford as well as the previous Fine Gael-led Government's policy on strategic development zones, SDZs. There is no question that this project will transform the city in the years ahead but there are a number of other projects in the pipeline for Waterford that will help Ireland to meet its targets and projections under Project Ireland 2040. One such project is the ambitious plan submitted by Waterford City and County Council under the second call for the urban regeneration and development fund, URDF. The council has sought funding of €27.6 million as part of a €48.5 million plan to regenerate derelict and underutilised buildings in the wider Viking triangle and cultural quarter areas as well as improving the public realm from O'Connell Street to the new whiskey distillery on Mary Street, the creation of a new linear park on Spring Garden Alley and a new square, called Friary Square, with new housing and commercial units at ground-floor level. In total, 22 projects are earmarked for investment as part of the plan. This

is an excellent project that deserves the backing of Government.

Colleagues may accuse me of being parochial or greedy, given the significant investment that the Government has made in the north quays through the URDF but I make no apologies for that. As I have said previously, Waterford city and its development as the key economic driver of the south east will be the litmus test for the successful completion of Project Ireland 2040. I ask the Leader to ascertain if a decision has been made on whether the regional development projects to be funded under the URDF will be announced before Christmas or in the new year.

Senator Rónán Mullen: Touching somewhat on what was said about the rule of law a few moments ago, the Minister for Justice is proposing that there would be a judicial appointments commission comprising nine members, one of whom would come from the Irish Human Rights and Equality Commission, IHREC. He or she would be one of the lay members. That might seem like a good idea but I am afraid it only seems so. Judges have a duty to be impartial. The time-honoured principle is not just that they are impartial but that they must be seen to be so. We have seen ferment in Ireland in the context of Mr. Justice Woulfe's appointment but even more obviously in America, where politicians probe and predict which way judges might go on important issues if they are appointed.

The IHREC, in respect of an issue that people have different views on, namely the marriage equality referendum, claimed that it was a human right. This was despite a European Court of Human Rights decision in *Hämäläinen v. Finland* which said that member states were not under an obligation to legislate. That is just one example of a political agenda creeping into a judgment about the state of law. The commission has also done it on gender equality. When it was before the Citizen's Assembly, it talked about the need to generate political momentum. I have no issue with the right or the role of the IHREC in doing that kind of thing but when it comes to appointing judges, there must be clear blue water. We do not want a situation in the future where a plaintiff or a defendant is saying that judge X or Y was appointed by a commission, which included people who might be judging people on their political agenda as opposed to their fitness for the job. It is all about perception. Politics has to be kept as far away as possible from the appointment of members of the Judiciary. The proposed legislation will be presented to the Oireachtas Joint Committee on Justice for pre-legislative scrutiny, which I welcome, and this particular mistake will need to be ironed out.

Senator Martin Conway: Just in case I do not get the opportunity to speak tomorrow, I want to wish the Cathaoirleach a very happy Christmas. This is his first Christmas as Cathaoirleach of the Seanad and he has done a great job so far. He has been very co-operative and supportive of Members and a great ambassador for Seanad Éireann. I thank him for that. I also want to acknowledge the work done by the Clerk, Mr. Martin Groves, the Clerk Assistant, Ms Brigid Doody and the team behind them. They are great people and they do a great job. I wish them a very happy Christmas. We have had a challenging year. It has been difficult for everybody and in that context, I wish everybody a peaceful and safe Christmas.

With regard to the vaccines, 2021 will be dominated by the discourse on vaccines, certainly in the first and second quarters. Members of the task force on the Covid-19 vaccine appeared before the health committee yesterday and it was a super engagement. Great professionals are taking charge of ensuring that the vaccine is delivered to as many people as possible as quickly as possible when the doses of vaccine arrive into the country. The work that has been done already is commendable. However, I am concerned about people who have intellectual disabilities and who are not in care settings but live in the community. Clarity is required about how

these people will be communicated with and accommodated with regard to the vaccine. There is a job of work to be done in terms of, first, how to identify these people, who I consider vulnerable, and, second, how the message will be communicated. Obviously, vulnerable people in care settings will be looked after first, but after that we must identify the vulnerable people in the community and have a plan for them. That plan must be transparent.

I would appreciate if we could have a debate in the new year on the Covid-19 vaccine because I believe that will dominate political discussion for at least the first four or five months of 2021.

Senator Robbie Gallagher: This week marks the 37th anniversary of the murders of trainee garda Gary Sheehan and Private Patrick Kelly. They were both killed by the Provisional IRA in Derrada Woods in County Leitrim in 1983 while trying to rescue the businessman Mr. Don Tidey. There was no justification for the murder of these two young innocent men or, indeed, for the kidnapping of Mr. Don Tidey. Their families have never received justice. The truth of what happened that dreadful day has never been told. Gary Sheehan was training to be a garda in Templemore at the time. He was 23 years old and from Carrickmacross, County Monaghan. He was an ordinary young man who played football with his local GAA club, Carrickmacross Emmets. He left a heartbroken mother, father, two sisters and a brother. Last week, this House correctly supported calls for a public inquiry into the murder of Mr. Pat Finucane. Personally, I was delighted to support that. However, all families, including those of Gary Sheehan and Patrick Kelly, are entitled to the truth. As these families face into another Christmas without their innocent loved ones, I appeal to all those who are in a position to help these broken families find the truth to do so. The families have waited long enough.

Senator Regina Doherty: The only thing I can say to Senator Gallagher is that I concur with his request. It is a terrible shame that there are so many families in the same situation as the Sheehan and Kelly families. I will convey the Senator's request to the Taoiseach.

I am in the happy position of being able to tell Senator Conway that on our first week back in the new year a debate is scheduled with the Minister for Health on the roll-out of the vaccine. Despite the fact that we have great confidence in the task force, and Professor Brian MacCraith instils such confidence with his knowledge and expertise, there will be questions that are not in the 57 pages that were issued this week. Different issues will arise thereafter, so we will have a debate in the first week we return.

I fear that if Senator Mullen is trying to keep politics out of judicial appointments, that horse has well and truly bolted. Since the foundation of the State, we have had politicians appointing judges, and the development of a new judicial board is an attempt to take politics out of it. I very much concur. Pre-legislative scrutiny will facilitate all the debate the Senator requires, but if it does not, I will be happy to organise a debate in the House. That is no problem.

Senator Cummins is not being blatantly political by fighting for his city in the Seanad. The news about the North Quays is wonderful. It would be equally wonderful and, indeed, a full circle to provide what could be a state-of-the-art project for the development of the south east, if the Viking Triangle was successful. I do not believe the regional development funding will be announced before Christmas. It will be early in the new year. As the Senator so eloquently described it, I can visualise how it will look if he is successful. I wish him every success in the new year.

Senator Cassells had my good friends from local media before the committee yesterday. I fully support them. It is interesting, and a pity, that we supported local radio stations but did not support our local print journalists when they were in such difficulty. Indeed, there were debates in this House, in the Dáil and in committees before the Covid-19 pandemic to express the difficulties being experienced by local media. They are vital. National media, the news and the way we deliver and consume news are changing and we must change with it. However, local newspapers and local radio stations are unique and need an extra level of Government support. I am happy to relay that to the Taoiseach as well.

In response to Senator Bacik, the 3,600 submissions to the report that the Minister issued this morning show how much interest there is in this matter. The usual suspects are announcing that all we are trying to do is shut down free speech. That is the last thing any Member of this House or the Dáil wishes to do. We want to be able to have respectful debates on any and every platform, without some of the trite denigration that was issued this morning and, indeed, to a Member of this House in the last number of days on Twitter, which is a disgrace. We need robust legislation that does what we want it to do, and the legislation on the Statute Book thus far certainly does not do that. I will schedule that debate early in the new year.

I am aware of what the European Commission said this morning. The Taoiseach is isolating and I send him our good wishes that, hopefully, he is not in the same boat as Mr. Emmanuel Macron. Obviously we send Mr. Macron our good wishes too. The start date of 27 December is genuinely a lifeline. It is not a light at the end of the tunnel, but a light that is shining brightly. There will be questions next year and we will have rolling debates on the roll-out of the vaccine. It is incumbent on all of us to say, loudly and consistently, that we are committed to getting vaccinated. I am committed to getting vaccinated. I do not know yet where I am in the queue, but my father, about whom I have been intensely worried for the past couple of months, will be, hopefully, at the top of the queue at 85 years of age. We need to be leaders in this House, the Dáil, our homes, our communities, our churches and outside post offices to address some of the concerns and fears people have and to reassure them that vaccines have had the most fundamental and transformative impact on modern life, apart from clean water. We must reassure people that this will be equally transformative, to try to get us back to the normality we expect of life.

In response to Senator Seery Kearney, my association with Pieta House is probably well known. I cannot commend it enough. It is a tremendous and wonderful organisation. The campaign we are running this year is one we have never run previously. Its objective is to bring awareness of the signs of suicide, and it has a profound impact on getting conversations going. It is not the only organisation. We have the Samaritans, Jigsaw and probably hundreds of local organisations that have been established by loved ones who have been bereaved as a result of somebody who has died by suicide. All those organisations deserve our respect and support, particularly at this time of the year when people are a little more emotional than they are during the rest of the year. All the charities have had a difficult year. We are not giving in the same way we normally would because we are not living the same lives. Perhaps we should be mindful of that if we are feeling generous over the next couple of weeks.

Senator Byrne raised a matter, but Senator Hoey started the round. I am not embarrassed to say that we will schedule a debate on the rule of law. We might focus on Hungary and Poland, but there are many other countries that have things to answer for at various levels. However, the changes announced by Hungary to its constitution earlier in the week are repugnant to me. I do not stand in solidarity with European People's Party colleagues from Viktor Orbán's party. I am embarrassed by what they have done this week. Our own party and members of the European

People's Party should have taken measures and this should have been addressed before now. The issues around meetings are nonsense and the question of forums for meetings has stalled the process. We will absolutely have a debate after Christmas on the rule of law not just in the context of Hungary but also regarding all those countries with varying records in this regard that must be challenged.

Senator Keogan never ceases to amaze me. I have known her for many years and there is a persona that she is as tough as boots and would do absolutely anything for the community she represents. I know that only too well. She is one of the softest, kindest and most emotional women I know. Do not ever change. It is a huge tribute to the type of person she is that she stood up and commended the wonderful men and women in the Erin's Isle club this morning. Their actions over the past number of weeks have probably been reminiscent of those of many other organisations up and down the country that do not receive enough credit. I pay credit to the Senator today, though, and say again, "Do not ever change". She should be the wonderful, sensitive and caring person she has always been and she should keep showing it. I thank her.

Senator Kyne mentioned another wonderful opportunity for funding and a development of something that we probably thought in rural Ireland was in decline, namely, the rural train station. Perhaps it is because we are more conscious of climate change and the policies being pursued that are undoing what has been done. This dual carriage station in Oranmore would be of tremendous benefit to the community and I hope there is a successful funding application.

Senator O'Loughlin raised the very obvious elephant in the room. We thrive on human contact and different people brought it up, not only today but also in discussing various matters. There has been a huge lack of it over the past ten months. Even those of us lucky enough to still be able to come to work, see colleagues or meet people know that it is still not the same and that there is still no human contact because we are away from each other. This is something of which we must be mindful.

Colleagues referred to the rise in positive case numbers and the very obvious perils that some of our neighbours on the Continent are witnessing. We know what human contact can do during a pandemic so we must all be incredibly careful. Senator Hoey put it perfectly by stating we should keep gatherings small and safe. That is what we all must do over the next couple of weeks until the vaccine programme starts.

I totally agree with Senator Gavan. There have been a number of debates about student nurses in the media, including social media, in the Dáil and with a number of Commencement matters, one of which was tabled by me. I am biased and although I have a student nurse at home, that is not the reason for my bias. There is work being done and nobody can ignore that. There is also learning being done and nobody can ignore that either. Where work is being done, payment must be made. I have no problem saying that and it might not go down well in certain corners of rooms. Where work is being done, payment must be made. It is that simple. The Senator and others have read out testimonies and we all know these students are working and learning at the same time. There is a hell of a lot more work going on than learning and this must be acknowledged. I suppose I respect the fact that the Minister has said a review is taking place and I will wait to see the outcome of the review. I hope my faith will be restored but I agree with the Senator.

I also agree with the Senator that the place to have climate change debates is in the Oireachtas committee. I will send a letter to the Chairman of the committee today relaying the Sena-

tor's request.

Senator Martin touched on a very similar topic to that raised by Senator Gallagher. I concur with the comments and will send a letter to the Taoiseach on his behalf commending him on the reaction to Ms Arlene Foster's request.

Senator Boyhan eloquently described the organisations that look after the people who are down on their luck in different periods of their life. I concur with his comments that such organisations must absolutely be commended, supported, praised and acknowledged. It is an absolute must. I read a report yesterday from the Society of St. Vincent de Paul indicating that many people who were former contributors to the society's coffers are the people it is helping this year. We are in the most absolutely unusual of times.

The State has been incredibly generous as it was a time to be generous in trying to look after workers and everybody we need to support but there are still people who have absolutely nothing to look forward to this Christmas. There are still people who are vulnerable, and as the Senator describes, embarrassed by having the kind of life they have. It is incumbent on all of us to remember that when the recovery comes and we get back to speaking about real and normal matters. For example, the homelessness report this week nearly went unnoticed but I recall that this time last year it absolutely did not go unnoticed. Perhaps politics have changed but the circumstances of those people's lives have certainly not changed.

When we start to get back to some sort of new normal after Christmas, we must start talking about the vulnerable in our society and the 15% of people who are unemployed because of the pandemic and the shocking point that most of these people are under 35. We must start talking about the other issues that have presented along with the older matters that concerned us last year or five years ago. The Senator is correct to commend the people both in our country and in London looking after expatriates, and it is an appropriate time for him to do that.

Senator Chambers started the Order of Business by seeking a debate on the national development plan and the national planning framework. I will certainly facilitate that after Christmas. She spoke eloquently as a first-time mother who had a little baby this year. Our new mams have been entirely isolated from their families this year and the normal supports they might have are not readily available. We must instil those again next year. We have raised many times in the House the question of maternity services and how disjointed they are because we are trying to keep people safe. Many of the infringements on normal life have come about so we can remain safe. I know there is acceptance and acknowledgement of that but it still does not make things easier. There are people who are more vulnerable in society than some of the rest of us, which must be acknowledged.

I will be here tomorrow wearing my Christmas jumper so I will keep my good wishes until then.

Order of Business agreed to.

Sitting Arrangements: Motion

Senator Regina Doherty: I move:

17 December 2020

That, notwithstanding anything in the Standing Orders relative to Public Business, the Seanad on its rising on Thursday, 17th December, 2020, shall adjourn until 10 a.m. on Friday, 18th December, 2020, in the Dáil Chamber; Standing Orders 29 and 30 shall stand suspended; and the Order of Business shall be proposed at 10 a.m.”

Question put and agreed to.

Sitting suspended at 2.30 p.m. and resumed at 3 p.m.

Retirement of Staff Member

An Leas-Chathaoirleach: I welcome the Minister, Deputy Darragh O’Brien, a distinguished former Member, back to the Seanad. I also welcome colleagues back. I want to do something that is not on the agenda but which will, I have no doubt, win the approval of everybody here.

While we will not be able to allow for tributes from Members around the House on this occasion, I know I speak for every Member when I say a fond farewell to a former member of staff of this House, Ms Josie Briody, who recently left on early retirement. Since beginning here in the late 1970s, she has worked in many offices including human resources, the Seanad Office, the Office of the Ceann Comhairle and the Clerk of the Dáil’s office, and, of late, she was clerk to the Joint Committee on Agriculture and the Marine. Josie has given outstanding service to all of us who have worked with her and always has done so with a smile.

I will say something we all say privately and publicly, which is that we are very blessed to have a wonderful permanent Civil Service, which can serve all Administrations and all Members of the House in a fair and impartial way. Josie was a great exemplar of this. She was one of the finest public servants here.

She also has a lovely personal demeanour and accessibility and a way with people. She spent more than 40 years here. She is a proud Cavan woman, a native of Mullahoran, which is a great GAA area. She is a great lover of Gaelic games and would return to Cavan for all significant matches, which we do, occasionally, win. Josie is a wonderful person loved by everyone on the staff. The staff and Members will miss her. She also will be missed as clerk to the Joint Committee on Agriculture and the Marine. I believe I speak for everybody today. There is nobody who would not want to make this speech or to add to it. Well done to Josie. We wish her a very happy, long, pleasant and fulfilling retirement. Members may applaud if they feel that is appropriate.

Planning and Development, and Residential Tenancies, Bill 2020: [Seanad Bill amended by the Dáil] Report and Final Stages

An Leas-Chathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 148, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question “That the Bill be received for final consideration”, the Minister may explain the purpose of the amend-

ments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For the convenience of Senators, I have arranged for the printing and circulation of those amendments. The Minister will deal separately with the subject matter of each related group of amendments. Senators have tabled several amendments arising from changes made to the Bill by the Dáil. In view of the number of amendments and to avoid repetition of debate, I propose that amendments made by the Dáil and related amendments tabled by Senators will be debated together in related groups. Decisions on the amendments tabled by Senators will be taken when discussion on all groups of amendments has concluded. I have also circulated proposed groupings to the House. A Senator may contribute only once on each grouping. I remind Senators that the only matters that may be discussed are the subject matter of each group of amendments made by the Dáil and the tabled amendments which arise out of the amendments made by the Dáil.

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

Minister for Housing, Local Government and Heritage (Deputy Darragh O’Brien):
Gabhaim buíochas leis na Seanadóirí. Táim lán-sásta a bheith ar ais sa Seanad inniu.

This is an important Bill, which I initiated in the Seanad. I was grateful for the co-operation of colleagues in allowing this Bill to pass the Dáil without dissent yesterday evening, following protracted discussions and debate. This legislation is about strengthening the protections for tenants which we introduced in July of this year and which took effect from 1 August. These protections have worked and are working. The Bill also deals with Covid-19 matters, planning and the issue of substitute consent, which has become acute. Ireland remains subject to fines for non-compliance with the orders of the Court of Justice of the European Union pertaining to the Derrybrien wind farm. This is the first opportunity to deal with the matter of substitute consent in line with the advice of the Attorney General so that An Bord Pleanála can move forward. It does not define An Bord Pleanála’s decision. So far we have paid a lump sum of €5 million, with another €2.475 million due. If this is dealt with and wrapped up by the middle of next year, the State will probably be liable for between €12 million and €15 million. I thank the Leas-Chathaoirleach for allowing me to give some context.

I will now report on group 1 of the amendments passed by the Dáil, that is, amendments Nos. 1 to 9, inclusive, and amendment No. 18. I am grateful for the opportunity to return to this House with the Planning and Development, and Residential Tenancies, Bill 2020, as amended by the Dáil. There have been several amendments to the Bill since it passed Committee Stage in the Seanad. Some are substantial in nature and some are technical.

Amendments Nos. 1 to 9, inclusive, are of a technical nature and concern changes made to the Title, definitions and citations. I will quickly explain them because it is important that the reasons for them are on the record of the House.

Amendments Nos. 1 and 2 are supplementary drafting amendments made to the preamble and the Long Title to reflect the Dáil amendments. For example, recitals have been provided to set out the policy context in which the temporary and limited restrictions on landlords’ constitutionally protected property rights contained in Part 3 can be legally justified as a fair, proportionate and rational State intervention to achieve an important overriding objective for the social common good.

Amendment No. 3 provides for updates to the Short Title, citations and commencement of

the Bill to reflect the insertion of urgent planning and residential tenancies amendments, some of which I brought to the House on Committee Stage. The Bill is now known as the Planning and Development, and Residential Tenancies, Bill 2020. Part 3, entitled “Residential Tenancies”, will commence on 11 January 2021. This must be passed this week so that those protections will automatically kick in on 11 January when the Dáil and Seanad will not be sitting.

Amendment No. 4 amends the Bill’s definitions so that the new Parts 2 and 3, which amend the Planning and Development Act 2000 and the Residential Tenancies Act 2004, respectively, provide their own definitions for the purposes of those parts. The definitions, therefore, for general application to the Bill itself are as follows; “Act of 2020” means the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 and “Covid-19” has the meaning assigned to it by the Emergency Measures in the Public Interest (Covid-19) Act 2020.

Amendment No. 5 provides for an amendment to the Planning and Development Act 2000, as set out in Part 2, entitled “Planning and Development”. The amendment provides that for the purposes of Part 2, the “Act of 2000” means the Planning and Development Act 2000.

Amendment No. 6 replaces a reference to the “Principal Act” in section 4 with “Act of 2000”. That section amends section 11 of the Act of 2000, which concerns the holding of public meetings for the purposes of proposed development plans.

Amendments Nos. 7 and 8 are technical drafting amendments to reflect amendment No. 4, which provides the definitions of the “Act of 2020” as Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 and “Covid-19” as the meaning assigned to it by the Emergency Measures in the Public Interest (Covid-19) Act 2020 and is of general applicability to the Bill itself. The definitions in section 4 as passed on Committee Stage are now superfluous as a result of amendment No. 4 and are to be deleted.

Amendment No. 9 is supplementary to amendment No. 5, and replaces a previous reference to the “Principal Act” with “Act of 2000”.

Amendment No. 18 inserts a new section 13 to provide for necessary technical amendments to the Residential Tenancies Act 2004 which are consequential to the introduction of Part 3 of the Bill.

An Leas-Chathaoirleach: I thank the Minister. Before calling the first Senator, I note that he said that the amendments in group 1 pertain to the Title, preamble, definitions and citations. They include amendments Nos. 1 to 9, inclusive, and amendment No. 18.

Senator Róisín Garvey: Did the Minister mention an amendment to section 11(3)(b) of the Planning and Development Act 2000, concerning public meetings?

Deputy Darragh O’Brien: We are dealing with group 1, amendments Nos. 1 to 9, inclusive, and amendment No. 18. These amendments have been passed by the Dáil. We are not dealing with Senators’ amendments yet.

Senator Róisín Garvey: I am not sure when I will get to speak. My notes say we are dealing with section 11, but it is actually section 4.

Deputy Darragh O’Brien: I will explain. This Bill was introduced in the Seanad and has been amended in the Dáil. I have to report to the Seanad on the Dáil amendments. Group 1 in-

cludes amendments Nos. 1 to 9, inclusive, and amendment No. 18. These are not the Senators' amendments, but those passed by the Dáil. They are all pretty technical and concern matters such as changes to the Title. The Seanad amendments are listed elsewhere.

Senator Rebecca Moynihan: I do not wish to discuss these amendments, but I would like some clarity on what we are working on. We were given a Bill as amended by the Dáil. The Minister has now spoken to the amendments. Are we working off the Bill that was sent to us as amended?

An Leas-Chathaoirleach: Yes.

Senator Rebecca Moynihan: I thank the Leas-Chathaoirleach.

An Leas-Chathaoirleach: We now move to the amendments in group 2, which pertain to planning and development and substitute consent. The Minister will discuss the subject matter of amendments Nos. 10 to 12, inclusive, and Seanad Report Stage amendment No. 1. I hope that is clear and I ask the Minister to address this group of amendments.

Deputy Darragh O'Brien: This grouping, group 2, deals with three Government amendments passed by the Dáil, which I must read into the record here. There is an Opposition amendment within the grouping from Senator Warfield, namely, amendment No. 1.

The Planning and Development Act 2000 and regulations were amended following a 2008 decision by the Court of Justice for the European Union, CJEU, in the case C-215/06, known as the Derrybrien wind farm case. This CJEU case necessitated a ban on granting retention planning permission for developments requiring environmental impact assessment, EIA, except in exceptional circumstances, to avoid the circumventing of any environmental assessment obligations under the EIA directive. In this context, Part XA of the Planning and Development Act came into operation with effect from 21 September 2011, providing for a procedure known as substitute consent, that is, a process for the regularisation of certain developments in exceptional circumstances, which had not undergone the necessary environmental assessments, by allowing such developments to undergo a retrospective EIA or appropriate assessment under the habitats directive, to address any environmental effects of the development. Substitute consent is generally a two-stage process requiring either a direction to apply from a planning authority, or a first-stage leave to apply for substitute consent from An Bord Pleanála followed by the making of a second-stage application for substitute consent to the board.

Leave to apply to the board for substitute consent is set out in sections 177C and 177D of the Planning and Development Act and can be sought on the basis of two distinct grounds, the first requiring that the board must consider whether an existing planning permission is legally defective in some way, for example, by virtue of being judged so by a court by reason of omission or error in the environmental impact assessment report or Natura impact statement, or both, or any error of fact, law or procedure. The second ground requires the board to consider whether exceptional circumstances exist such that the board considers it appropriate to permit the opportunity for regularisation by allowing a substitute consent application to be made. Where the board is satisfied that either of those grounds exists, it directs the applicant to submit an application for substitute consent.

The existing criteria for the board's consideration of exceptional circumstances are outlined in section 177D(2) of the Planning and Development Act and include: whether regularisation would circumvent the environmental impact assessment directive or the habitats directive;

whether the applicant reasonably could have believed that the development was authorised; whether the ability to carry out an environmental assessment of the development impacts, and public participation in such an assessment has been substantially impaired; the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development; the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated; whether the applicant has complied with previous planning permission granted or has previously carried out unauthorised development; and such other matters as the board considers relevant.

In order to comply with the findings of the Supreme Court judgment of 1 July 2020, it is necessary to amend the substitute consent provisions at Part XA of the Act of 2000 to provide, first, that exceptional circumstances must be considered by the board in the substantive or second-stage application for substitute consent at section 177K of the Planning and Development Act, and second, that public participation is facilitated, where required, with respect to the consideration of exceptional circumstances, as well as on the wider application. Specifically, amendments are required to ensure that any new applications for substitute consent must demonstrate exceptional circumstances and, in turn, the board must be satisfied that such circumstances exist while also complying with the existing public participation requirements of sections 177K and 177H of the Planning and Development Act and as prescribed by regulations under section 177N. In the case of existing applications pending before the board, the exceptionality test is similarly applied in respect of any grant or refusal, while also ensuring that a further round of public consultation is facilitated in respect of these applications on hand to ensure the public is given the opportunity to comment on the existence of exceptional circumstances or not, as may be the case.

In this context, amendment No. 10 inserts a new section 6 into the Bill to amend section 177E of the Planning and Development Act concerning the content of applications for substitute consent. This amendment enables an applicant for substitute consent to submit with his or her application any other documents that the applicant considers would be of assistance to the board in making a decision in relation to his or her application. This is to allow the applicant the opportunity to furnish material to support his or her case with regard to exceptionality circumstances, which previously would only have been required at the leave stage of the process.

Amendment No. 11 puts a new section 7 into the Bill to amend section 177H(1) of the Planning and Development Act, which currently provides that any person other than the applicant for substitute consent or a planning authority may make submissions or observations in writing to the board in relation to an application for substitute consent, to clarify that this includes submissions or observations regarding the existence or absence of exceptional circumstances justifying a grant of substitute consent.

Amendment No. 12 inserts a new section 8 into the Bill to amend section 177K(1) of the Planning and Development Act to provide that the board may, subject to new restrictions set out at subsection (1A), grant or refuse an application for substitute consent. These new restrictions on the board's decision-making powers in respect of substitute consent applications under the new subsection (1A) are that the board is both precluded from granting substitute consent where it is not satisfied that exceptional circumstances justifying a grant exist, and that when making its decision, the board is not bound or permitted to take account of, or have regard to, any decision it made at a previous leave stage as to the existence of exceptional circumstances. The exceptionality test at section 177D(2) which I previously outlined will apply for the purposes

of this consideration. Furthermore, a member, including the chairperson of the board, will now be precluded from being involved in a decision to grant substitute consent where he or she had been involved in the decision on a previous leave stage in respect of that development.

New subsection (1B) provides that the restrictions set out in subsection (1A) apply to both new applications for substitute consent made to the board and, importantly, existing applications on hand in the board pending decision. New subsection (1C) concerns the submission of further information to the board by the applicant in respect of applications for substitute consent on hand upon commencement of these new requirements in Part XA of the Planning and Development Act. Paragraph (a) requires the board to invite the applicant to submit information to the board, within a specified period, that he or she considers relevant for the purposes of the board satisfying itself as to the existence of exceptional circumstances. The making of this invitation by the board is mandatory but the applicant is not obliged to provide such information where he or she does not deem it necessary. In contrast, paragraph (b) gives the board discretion to make a request of further information from the applicant concerning the existence of exceptional circumstances, notwithstanding that further information may have been previously requested. Under paragraph (c) where the applicant fails to comply with such a request, the application shall be deemed to be withdrawn.

New subsection (1D) facilitates additional public consultation in respect of applicants for substitute consent on hand in the board, which will now include consideration of exceptional circumstance. In this regard, notwithstanding that any or all of these things may have been done in respect of the application for substitute consent previously, the board must require the applicant to publish an additional newspaper notice, including advertising any additional information submitted under subsection (1C). The board must also make the application for substitute consent, including any additional information submitted, available for inspection at its offices and online on its website. It must also give notice of the application, including any further information to the prescribed bodies required to be notified of such applications. It must, furthermore, give a copy of any further information received in accordance with subsection (1C) to the relevant planning authority. The planning authority will have previously been given a copy of the application itself upon receipt by the board, and request the planning authority to consider that information, as part of its report, be submitted under section 177I on the application, including the relevant environmental reports, which shall include amending that report, where required. The planning authority is given an additional five weeks to do so. The board must require the applicant to give additional site notices of the application, copies of which must be submitted to the board.

New subsection (1E) requires an applicant to comply with any requirement of the board under subsection (1D). Similarly, new subsections (1F) and (1G) place an obligation on the relevant planning authority to comply with any request of the board, and to enter details of any further information it receives from the board into the planning register.

Subsection (1H) requires that the board must consider submissions or observations made, including any made arising from the further round of public consultation, facilitated under subsection (1D), in making its decision, which it only may do after it has carried out the public consultation steps in subsection (1D), and where the applicant and planning authority concerned have complied with any requests. Under subsection (1I) the board is given discretion to extend the timeframe within which a planning authority is required to submit its report and application.

I have dealt with amendments Nos. 10 to 12, inclusive, which were the Government amend-

ments that were made in the Dáil yesterday evening. In this grouping is also Opposition amendment No. 1 that was tabled by Senators Warfield, Ó Donnghaile, Gavan and Boylan. I shall, if I could, respond to the amendment as part of this grouping.

Amendment No. 1 to section 8 of the Bill, as passed by the Dáil, and jointly tabled by the Senators that I have mentioned, seeks to insert provisions into section 177K(1)(d), which would require the board, in the case of applications pending before the board upon such commencement, to make available online all information considered by the board, in making a decision, to grant or refuse leave to apply for substitute consent.

Under section 177D, all information considered by a planning authority, under section 177B or section 261A(3), at the notice stage giving rise to a direction to the applicant to make the application for substitute consent, any information received from the local authority, under section 177K(1)(d)(e), and any public consultation shall not commence until the information referred to in this subsection is available online. The consultation period, provided for the public and prescribed bodies, shall not be less than eight weeks.

I cannot accept this amendment as the new subsection 177K(1)(d) sufficiently provides for the making available online, and at the offices of the board, any information relevant to a decision being made under this section in respect of applications pending before the board upon such commencement. In addition, supplementary and consequential amendments to the Planning and Development Act 2001 will be introduced concurrently with the commencement of these amendments to Part XA to set out in finer detail of this further round of public consultation to facilitate the consideration of exceptionality of substitute consent applications already on hand in the board. This will largely mirror the existing public consultation provisions set out in Part 19 of those regulations with some modification. In this context, it is my intention that the public will be given five weeks to make submissions or observations concerning the application for substitute consent, including their opinion as to whether exceptional circumstances exist or not, and that those who have previously made submissions and observations on the application, when it was originally made, will be notified by the board. As I have previously set out, the board is required under section 1H to consider these further submissions and observations before granting or refusing substitute consent. Having regard to new section 1A, it is precluded from granting substitute consent where it is not satisfied that exceptional circumstances exist.

Furthermore, such an amendment, as tabled by the Senators, would run contrary to the insertion of subsection (1A) in section 177K. Section 177K(1)(a) specifically precludes the board from granting substitute consent unless it is satisfied that exceptional circumstances exist that would justify the grant of such consent. Also, when making its decision, the board will not be bound by or permitted to take account of, or have regard to, any decision it made at a previous leave stage, under section 177D, as to the existence of exceptional circumstance.

Subsection (1A)(c) will also preclude a member, including the chairperson of the board, from being involved in a decision to grant substitute consent where he or she has been involved in the decision on a previous leave stage, under section 177D, in respect of that development.

In respect of the report submitted by a planning authority to the board, pursuant to section 177K(1)(d)(e), and in accordance with section 177I, updates to reports made by local authorities, under section 177K(1)(d)(e), are not made available to the public as part of the public notice and the consultation process under 1D. Such reports comprise opinions of a consultative body, which body is not in itself a decision maker in the process. The decision maker being

the board. This is a standard procedure throughout the planning system whereby consultative bodies are invited to provide their views, alongside the views of the public, for consideration by the decision maker, which obviously in this case is the board. Such reports, alongside the submissions of the public form part of the deliberative process whereby the decision maker takes account of all of these opinions and concerns.

Senator Fintan Warfield: Am I right in saying that we have two hours to debate the Bill?

An Leas-Chathaoirleach: No, we have three hours.

(Interruptions).

An Leas-Chathaoirleach: We will proceed. I do not think that we will have a problem in that department.

Senator Fintan Warfield: We might.

An Leas-Chathaoirleach: Senator Warfield, without interruption.

Senator Fintan Warfield: Amendment No. 1 is necessary because the State has failed over many years to properly legislate for the substitute consent process and ensure what are, effectively, retrospective environmental impact assessments have enough community input and scrutiny as a fresh one carried out today. The cost of not bothering to do this has brought misery to the community of Derrybrien and many others. Ultimately, the taxpayer will end up paying €15 million in fines that the European Union levied against Ireland by the end of the year.

The amendment, which the Minister has read out in full, gives the public and affected communities a say at all stages of the substitute consent process. It also allows access to all documentation and evidence submitted by applicants at earlier stages. The cost of not doing this has led to significant fines by the European Union. This amendment ensures that we have as much community input and scrutiny in those applications as any application that would be carried out today.

An Leas-Chathaoirleach: I wish to point out that it was agreed on the Order of Business this morning that this debate would last for three hours. It began at 3.10 p.m. and will finish at 6.10 p.m. That is to give clarity on the timing in response to Senator Warfield's reasonable query in that regard.

We will now move on to group 3, residential tenancies - tenant declaration, the subject matter of Dáil amendments Nos. 13 and 14 and Seanad Report Stage amendments No. 2 and Nos. 4 to 8, inclusive. I invite the Minister to deal with group 3.

Deputy Darragh O'Brien: When will Senators vote on the amendments?

An Leas-Chathaoirleach: The voting will take place later. We are addressing the groups of amendments first. We will discuss the groups first and then we will have a voting process, at which point Senators have the option of pressing their amendments and so forth.

Deputy Darragh O'Brien: I will abide by the Leas-Chathaoirleach's ruling. The amendments are not being moved as we go along.

An Leas-Chathaoirleach: No, not at this stage.

Deputy Darragh O'Brien: They will all be moved later. That is fine.

An Leas-Chathaoirleach: I invite the Minister to address group 3.

Deputy Darragh O'Brien: I will do so but I wish to respond to Senator Warfield briefly first. I will not be accepting his amendment for the reasons outlined already. I know that Senator Warfield agrees that it is imperative that we deal with the issue of substitute consent. As Minister, I have used the first opportunity presented to me, which is this Bill, to try to deal with the issue as expeditiously as possible. My aim is to ensure that the State does not continue to be liable for daily fines into the distant future. It is still going to take time to fully resolve this because by resolving the substitute consent issue, we are not telling the board what to do but are just allowing it to move on and make its decisions. As Members will be aware, we are incurring fines of €15,000 per day in relation to the Derrybrien site. We have already made a lump sum payment of €5 million and another stage payment of almost €2.5 million. The continuation of this is not something that any of us can countenance which is why I am using this opportunity to rectify the situation and to allow the board to move on. I will not be accepting the amendment tabled by the Sinn Féin Senators.

I will now address group 3, which consists of amendments Nos. 13 and 14 and Seanad Report Stage amendments No. 2 and Nos. 4 to 8, inclusive. Amendment No. 13 inserts a new section 9 into the Bill to provide for the interpretation of Part 3 and defines the emergency period to mean the period from 11 January 2021 to 12 April 2021. This is effectively a further extension of the protection period provided for in the Residential Tenancies and Valuation Act 2020. This means that the protections introduced in March will have lasted for more than a year. As I said to Senators previously, if I feel that we need to come back and do more, I will do so. Indeed, we have done that twice already. We also have the permanent protections, should the State have to go back into level 5 restrictions although we all hope that will not happen. If it does, however, the blanket ban on evictions will automatically come back into play on foot of the decision made by the Dáil and Seanad a number of months ago.

Amendment No. 14 inserts section 10 into the Bill, which sets out that the new Part 3 protections shall apply where a tenant makes the necessary written declaration that he or she is unable to pay the rent due to Covid-19 and is at risk of losing his or her tenancy and at the same time serves a notice on the Residential Tenancies Board, RTB, requesting assistance to obtain advice from the Money Advice & Budgeting Service, MABS, and within five days of making his or her declaration, serves a notice on his or her landlord seeking consultation to make arrangements to pay rent due. The new Part 3 applies to tenants who have made a declaration under the Residential Tenancies and Valuation Act 2020, subject to certain conditions.

I cannot accept Opposition amendment No. 2 to amendment No. 13, which proposes to increase the new emergency period under Part 3 from three months to a total of five months ending on 12 June 2021. This is in line with advice from the Attorney General. The Government seeks to limit as much as possible its interference with the constitutionality of protected property rights of property owners. We must balance these rights with protections for tenants. It is the hope of the Government that the situation for tenants will have improved by 12 April so there will be no need for the provisions contained in Part 3. As I have said previously, and the Government's bona fides have been proven in this regard, should we need to revisit this at the appropriate time and provide for a further proportionate extension, I will do so. I have already done so twice this year. Covid-19 has brought much uncertainty and we will need to continue to work together between now and April to protect tenants and wider society and we will do so,

post that date, if required. We might need to review the situation closer to April and will do so if necessary.

Opposition amendment No. 4 relates to section 10 of the Bill. I cannot accept this amendment to Government amendment No. 14, which proposes to delete the requirement for a tenant to be a “relevant person” as defined in subsection (6) of the new section 10 and replace it with “he or she anticipates falling into rent arrears in the near future”. The definition of “relevant person” in this Bill is modelled on the definition contained in the Residential Tenancies and Valuation Act 2020, which was passed in the Houses in late July. It was accepted then that the law needed to clearly set out which tenants in rent arrears are considered vulnerable due to Covid-19 and in need of enhanced tenancy protections. The updated definition in this Bill is the Government’s assessment of which tenants need most help. We aim to protect tenants whose finances, through no fault of their own, have been negatively impacted by Covid-19, causing rent arrears and putting them at risk of losing their tenancy. State assistance is available to support rent payments through the emergency rent supplement scheme. Again, I urge and encourage those who have difficulty paying their rent to access that scheme. It might take some tenants longer than others to access the income supports that are available and these are the tenants we wish to protect in the short term under Part 3. The protections in Part 3 are quite rightly targeted at those tenants who need them the most. These protections have been working. If a tenant falls into arrears as a result of Covid-19 and is at risk of losing a tenancy, he or she can make a declaration under the July Act before 10 January or under Part 3 of this Bill from 11 January onwards.

I cannot accept amendment No. 5 to Government amendment No. 14. The text of subsection (3) of section 10 of the Bill has been carefully considered from a policy and legal perspective. The law needs to be strong and robust. The tenant declaration is the key to activating the protections under this Bill and a false or misleading declaration in a material respect is a serious matter, whether that be made by a landlord or a tenant. The provision for an offence is required to counter any temptation for anyone who has not been financially impacted by Covid-19 to wilfully withhold rent due and avoid a lawful rent increase while fraudulently relying on protections under Part 3. One would imagine that this would happen in only a very small minority of cases but I do not think anyone in this House would support the wilful withholding of rent. We must remember that approximately 86% of landlords own only one or two properties.

There are two parties to every tenancy. We must consider the interests of both the tenant and the property owner. The issue is balancing that, and this Bill and the extension to the provisions we introduced in July do that. I am satisfied that section 8(3) is appropriately drafted and I cannot accept the amendment. A tenant has nothing to fear if he or she makes a truthful application or declaration. The declarations that have been made have been accepted and I repeat that there have been no issues with regard to any reports of false or misleading declarations. The provision ensures that the declarations are robust. If there is a doubt, the RTB is available to help tenants and all relevant documentation will be on its website. We further resourced the RTB in the budget with more financial and physical resources to assist it in carrying out its duties under the additional responsibilities we have given it.

I cannot accept amendments Nos. 6 and 7 to the Government amendment. In the context of the three-month emergency period and the assistance that will be available from the RTB in providing the necessary declarations and notices on its website, it is reasonable to require a tenant in rent arrears who makes a declaration to be protected under Part 3 also to serve that notice. The notice is simply advising the landlord within five days of the declaration, to request that he

or she consults to try to deal with any rent arrears issues. That can help resolve it. We should remember that fewer than 2% of tenancies end up in any type of dispute. In the vast majority of cases these measures will not apply, but we must have the protections in place. The tenant is also required to serve the landlord with a true copy of his or her declaration to the RTB to be protected under Part 3. Again, we have had no issues with this. The landlord will be expecting to hear from the tenant with regard to paying the rent. The requirement here is simply to serve the notice on the landlord within five days to seek a consultation on making rent payment arrangements. It is not a requirement that the agreement be made within those five days. It is simply to make contact, and that is reasonable.

In practice, the RTB website will provide a template for the tenant declaration, in duplicate for serving to the RTB and the landlord, and a notice for the tenant to request the RTB's assistance in obtaining the advice of MABS. The Act passed in July tied MABS into this resolution process. It is a permanent fixture and is one that all have welcomed. There is also a notice for the tenant to request the landlord to consult on a rent payment arrangement. The RTB will make it as easy as possible for tenants. Rather than waiting for the five days, it is more likely a tenant will deal with the requirements under Part 3 at the same time as making his or her declaration to the RTB. Certainly, we aim to assist tenants to do so. The RTB will be writing to all tenants who have made a declaration under the Residential Tenancies and Valuation Act 2020 to outline precisely what steps they should take if they need the protections under Part 3 to continue to next April.

The Bill is scheduled for early enactment. The five-day window for those protected under the Residential Tenancies and Valuation Act 2020 to fulfil requirements under Part 3 of the Bill, if not already fulfilled, does not commence until 11 January 2021. The RTB advises that, up to the end of November, 328 tenants have made the necessary declaration to become protected under the Residential Tenancies and Valuation Act 2020. The RTB will have adequate time to assist these tenants to fulfil any new requirements by midnight, 15 January 2021. The provisions seek to ensure that tenants act in a timely manner by engaging with State supports, and that will help in that regard, and with their landlord to resolve any rent arrears issues at the earliest juncture. It is in everyone's interests to do so. We do not want to have a needless accumulation of rent arrears, an issue that has been discussed both here and in the Dáil. We are helping tenants to pay their rents, and rightly so. Landlords, as well, should not go without lawful rental income or with it being withheld. Covid-19 has impacted on both tenants and property owners.

I cannot accept amendment No. 8 to Government amendment No. 14. In line with advice from the Office of the Attorney General, the Government seeks to limit as much as possible the interference with constitutional property rights. Tenants who fall within the definition of the relevant person and are at risk of losing their tenancies can avail of the new Part 3 protections. For a tenant other than a tenant already protected under the Residential Tenancies and Valuation Act 2020 to be a relevant person under Part 3, it means he or she is unable to comply with his or her obligations to pay rent due in respect of a tenancy because he or she is, or at any stage between 1 August 2020 and 12 April 2021, in receipt of or entitled to receive illness benefit for Covid-19 absence or in receipt of or entitled to receive the temporary wage subsidy or any other social welfare payment or State support paid as a result of loss of earnings due to Covid-19. That includes rent supplement or supplementary welfare allowance.

This is an updated definition only in respect of the period of time in question for eligibility. A relevant person under the Residential Tenancies and Valuation Act 2020 must be in receipt of, or entitled to receive, the aforementioned State payments between 9 March 2020 and 10

January 2021. The person does not have to have been receiving it, just entitled to receive it. Many tenants will qualify for protections under both this Bill and the Residential Tenancies and Valuation Act 2020, subject to certain conditions. There is still time for any tenant who wishes to be protected under the Act to make an application by 10 January 2021. Any tenant who has been in receipt of the aforementioned State payments during the period from 9 March 2020 to 31 July 2020 has had a great deal of time to make necessary arrangements to be protected under the Residential Tenancies and Valuation Act 2020. There is still time to make that simple self-declaration should anybody not have done so. These new protections are carefully targeted at those tenants who are most affected by the Covid-19 pandemic, and rightly so.

Senator Fintan Warfield: I will speak on amendments Nos. 2, 4 and 6 to 8, inclusive. I have a few comments in response to the Minister's contribution. He says that fewer than 2% of tenancies end in dispute. I wonder if that is because there are options open to the landlord if he or she wants the tenancy to come to an end, be it to end the tenancy on the basis of a family member moving in or on the basis of selling the property, which is not always the case. The Minister also said that there are two parties to every tenancy. That is true, but one is more vulnerable than the other. One of the parties is also maintaining a home, contributing to the community and creating a sense of place in that community. That is not being reflected in the current situation.

We should also remember that we are discussing a very bureaucratic procedure. That is evident in how technical the Minister's contributions are. There are 299,000 renters in the State. Am I right that approximately 400 people have made declarations with regard to what we are discussing today? There are 299,000 renters, but it is not a great place to be at times. I have friends who do not hear from the landlord and who would never approach their landlord, even about structural ageing of the house. The attitude is not to mention it or say anything, and that if they do not hear from the landlord, he or she will not hear from them. It is a vulnerable place to be. I believe this is quite a bureaucratic process and that should be put on the record.

In all the amendments, we are discussing limited and narrow protections for which only 400 renters have applied. Was the Minister disappointed with the uptake and does he not think more could have been done by way of an information campaign? We want these people to continue to be protected. With over 299,000 renters in the State, we welcome any extension in these limited protections, but the Government could have gone further. Our amendments simply seek to extend further the period of the same protections that we criticised as narrow and weak when they were introduced in August.

Senator John Cummins: The Minister has outlined the protections for tenants in great detail.

He referred to the time sensitivity of same give that the residential protections under the Residential Tenancies and Valuation Act 2020 will expire on 10 January. I take issue with Senator Warfield's comment that the vulnerability is one-sided. It is not always the case that only tenants can be vulnerable. We also have landlords who are in negative equity or may have lost their jobs and have no income. The Minister was correct that the aim here is to find a balance between both. That is what governments and states must do because we cannot have a proper functioning rental market without landlords. Of course, tenants need protection. The Government has protected tenants during the Covid-19 pandemic. Twice, it has not been found wanting when it put legislation protecting tenants' rights before the House. As the Minister said, if it is necessary to extend these beyond 12 April, as has been identified, he will come before the

House with further protections. I accept his bona fides and share his optimism and hope that those circumstances will not arise and that the vaccine roll-outs will see the end of Covid-19.

Senator Rebecca Moynihan: I am disappointed that the amendments, which are not far-reaching, are not being accepted. I refer, in particular, to the proposal to substitute five days with 28 days. We are asking people in vulnerable tenancies in the middle of a pandemic, just after Christmas, to register their tenancy as being in financial arrears and engage with MABS, which, as Senator Warfield said, involves going through a bureaucratic process at that stage. It is not unreasonable to extend the period to 28 days. People have contacted me who, for whatever reason, be it being overwhelmed or losing their job, have not managed to make their declarations within the specific time period and are in the process of being evicted.

4 o'clock

I will also touch on something Senator Cummins said. This is the third time we have discussed residential tenancies since I was elected to this House in March. I keep hearing about the need for balance and reminders that 86% of landlords have one or two-person tenancies. Tenants living in rental property are the most vulnerable. We know the highest rates of people who enter homelessness come from the private rental sector. We, on this side of the House, are asking for balance but it must be in favour of tenants' rights. Tenants are not left with a capital asset at the end of a tenancy. It is their home. As Senator Warfield said, they are contributing to communities. I have heard more often in this House about the plight of landlords than I have about the plight of tenants.

I ask the Minister to provide information on a couple of technical points. If somebody has previously registered a tenancy under this Act, must they do anything within the five-day period or will their registration be automatically carried over? From our interpretation and reading of the Bill, it is not clear whether tenants must engage with MABS at that stage and must re-register the tenancy as being in danger within five days of 11 October. I would like some clarity around that.

Senator Mary Seery Kearney: This amendment and legislation are good news. This is a good news story. The reason one finds Government Senators addressing the plight of landlords is generally because the Government is advancing legislation which advances rights for tenants. As a consequence, the Opposition says it is not enough. We must stand up and say a balance needs to be struck. That is the obligation of government. We cannot just say let us have it all free or whatever. It is disingenuous to consistently speak as though nothing is being advanced by the Government that protects anybody's rights.

This is good news for two groups of people or sets of tenants. The first are the people who have already invoked the declaration and fall under its protections. They will get a letter and the opportunity to have a further extended period of protection. That they have a longer period is exceptionally good news for them. Hopefully, the economic problems and all the other factors bringing about these emergency periods will have abated by the time that period expires. We will be optimistic on that. The second group is the people who need to invoke the declaration on the RTB website. The website is not bureaucratic. The documents are laid out and easily downloadable. The officials in the Department have been exceptional in responding to our questions and concerns, such as whether the five days should be longer. We have had this discussion backwards and forwards. The document the tenant downloads has a number of parts. We are assured the new document in response to this legislation will have additional templates, as the Minister has said. One document will be available containing everything a tenant needs

and the two different notifications to the landlord and the RTB can be sent in one envelope on the day. The same applies to the landlord and the tenant must furnish the landlord with the true copy of the declaration in any event.

As to the idea that people need longer, the process is being made simple. To suggest otherwise is misleading and untrue because it is straightforward. There is already an appreciation that people are in chaos. They have a horror and fear of homelessness. There is already an appreciation of that and, hence, the system has been made as straightforward and simple as possible to assist that. The documentation has been made available.

The five-day period is sufficient. We raised that as a concern. It is sufficient because tenants download the document and send it there and then. It is not that they must go off and do something else; they do not. They fill in the document there and then, put it in an envelope and send it in. No other mechanisms are required. The process is straightforward and an extended period is not needed.

Senator Fintan Warfield: What about the-----

Senator Mary Seery Kearney: I believe we should debate through the Chair.

Acting Chairman (Senator John McGahon): The Senator should conclude.

Senator Mary Seery Kearney: One can do what one wishes with this but the fact is that the Bill extends protections and supports. It makes sure that vulnerable people in this difficult time have additional supports from the State. It is good legislation for which I thank the Minister.

Deputy Darragh O'Brien: I thank Senators for their responses. Senator Seery Kearney is 100% correct that this requires two pieces of paper to be downloaded. We sent out 450,000 letters and engaged in radio communications on the new tenancy rights and protections. Threshold is part of the homelessness task force, which I chair, and has met the RTB on this issue. The new system is working well.

I will quickly answer a couple of the queries because I know there are other amendments to be discussed. It is not a disappointment that only 328 people have sought protections under self-declaration. It is good that people do not feel they need to seek the protections. The protections work well because they are available.

To answer Senator Moynihan's question, if a tenant has made a declaration, he or she is covered under the current Act. That will continue into next year but that person needs to have made contact. If someone made a declaration on 1 August and has not made any contact with his or her landlord, he or she would now be required to make contact with the landlord, but there is no need to make another declaration. Right now, people have up to and including 10 January to make a declaration under the current arrangement.

I thank the officials and I thank Senator Moynihan for acknowledging the work they have done. They have done an incredible amount of work in a relatively short space of time. We have made sure that briefings have been made available for members of the joint committee and for others, including housing spokespersons such as Senator Moynihan. In addition, they have responded in writing to queries. We are trying to work collaboratively.

I am acutely aware that the Act we introduced in August did not have cross-party support

and that some Members did not support it. I am genuinely pleased that Opposition Members who did not support the previous protections have now looked at what is there and are supporting the extension of the Government protections. That is a good thing. Members should please take that in the manner in which it is intended. It is a good thing, because we do need to make sure our protections are proportionate.

Reference was made to something Senator Cummins said. I think it is reasonable to acknowledge this point. There are approximately 16,000 buy-to-let mortgages in arrears. From time to time, there are instances where rents are illegally withheld. Senator Moynihan, like everybody else, knows that. It is a tiny proportion of cases and should not in any way reflect on all tenants. Likewise, it should not reflect on landlords that a small number are in dereliction of their duties to their tenants and break the law. That is why I have given the RTB more powers and resources to carry out more inspections, carry out investigations and make prosecutions where landlords breach the rights of tenants or break the law. Currently, 200 investigations are taking place. That must happen.

Ideally, the Government wants to ensure there are other supports for people. Fundamentally, that is why on Monday of this week I put out a call for cost-rental schemes for working people, which is a minimum of 25% below the market price, involving long-term leases. The first will be delivered next year. We have been talking about that for long enough. That is a new tenure under which housing will be available. The Government is going to build and deliver more than 12,750 new public homes next year. Some 9,500 of those will be new builds. It will be the single biggest delivery of public housing in any year in the history of this State. That is our ambition and it is realisable. We want to make sure people can have safe, secure and affordable homes. That includes those in the private rental sector. That is why I believe the measures we are bringing forward are proportionate. We must have regard to constitutionality and the balancing of rights. I cannot just disregard that. I know people will appreciate that.

On the question of five days versus 28 days, if there is a potential rent arrears situation it is better that it is dealt with much sooner. All of the advice I get from Threshold, MABS and others is that the sooner one can engage with a rent arrears situation, or a potential rent arrears situation, the better the chance there is of resolving it before it becomes a systemic issue. While the intentions behind a 28-day period, which is effectively another month, are obviously good, in real terms it can have the reverse effect by bedding in the arrears before we have had an opportunity to deal with them. I have covered the amendments in detail. I will not be accepting them. That is my contribution on group 3.

Acting Chairman (Senator John McGahon): We will move on to the group 4 amendments, which pertain to residential tenancies, the disapplication of Part 3, the subject matter of amendment No. 15 and the Seanad Report Stage amendments Nos. 9 to 17, inclusive.

Deputy Darragh O'Brien: I will address these amendments as quickly as I can. As Senator Warfield mentioned previously, the legislation we are amending is of quite a technical nature. It is important that Senators are clear on what we are doing.

Amendment No. 15 inserts section 11 into the Bill to provide for circumstances in which Part 3 shall not apply, including where a landlord makes a counter-declaration to disapply the protections because of its impact on his or her personal and financial circumstances. Like with a tenant declaration, it shall be an offence for a landlord to make a declaration that is false or misleading. Rightly so, there is a balance there.

I will now deal with amendments Nos. 9 to 17, inclusive, to Government amendment No. 15. I cannot accept amendment No. 9 to Government amendment No. 15. In line with the advice of the Office of the Attorney General, the Government seeks to limit as much as possible any interference with constitutionally protected property rights. It is considered reasonable in the context of Covid-19 that rent arrears to the value of five months' rent should be the maximum protection that should apply to a tenant. We have other emergency supports available, in particular the emergency rent supplement that is administered by the Minister for Social Protection, Deputy Humphreys. The scheme is working well. Given the significant State supports available, it is not considered fair to expose a landlord to rent arrears in excess of this amount, as it would put the property in jeopardy in many instances. I have already referred to the 16,000 buy-to-let properties in arrears. The expectation is that tenants will use the time afforded by the protections under Part 3 to work to resolve their rent arrears situation.

The enhanced protections for tenants in rent arrears first came into operation on 1 August 2020, which is less than five months ago. The enhanced State income supports were first introduced in March 2020. I encourage people to access them if they are having difficulty paying their rent. We need to be fair in the legal protections we provide. Tenants have a responsibility to resolve a rent arrears situation. They are being protected while they do so, but we cannot just ignore any situation where arrears have built up. Tenants are obliged to pay their rent and they have entered into a contract in that regard.

If a tenant has rent arrears of more than five months on 10 January, they will not be protected under Part 3. Without Part 3 of this Bill, their tenancy would have been due to terminate on 11 January, or within the 90-day termination notice period, whichever is the later. The Covid-19 rent arrears in question could have been building since March, despite the State income protections and the tenancy protections available. I do not accept that the Government can justify another three months' protection to tenants in such circumstances. I do not envisage this being a major situation anyway. I understand the reason the amendment has been tabled but, thankfully, it has not come to pass under the legislation.

I cannot accept amendments Nos. 9 to 17, inclusive, to Government amendment No. 15. The protections under the new Part 3 are conditional. Requirements are rightly being imposed on tenants to engage with State supports, and to engage with their landlords, again rightly so, to resolve their rent arrears situation. I think it is reasonable that the Part 3 protections would cease to apply to a tenant who does not co-operate with the RTB or MABS in facilitating the provision of necessary financial and budgeting advice to resolve their rent arrears. I do not understand why that would be the case. Why would someone wilfully decide not to co-operate with the assistance that was given and not to pay rent? That is not a situation any of us could reasonably stand over.

It is reasonable that protections would also apply to landlords in such circumstances. The application of Part 3 should not cause undue financial hardship to a landlord. Section 78 of the Residential Tenancies Act provides for a non-exhaustive list of disputes and complaints that can be referred to the RTB for resolution. For example, where a landlord makes a declaration to the RTB and their tenant under Part 3 of this Bill, they may then proceed to serve a notice of termination on the basis of the rent arrears. It is of course open to the tenant to refer a dispute to the RTB as to the validity of the notice of termination within 28 days. We changed that earlier this year in previous legislation to extend the period. It is more likely that the validity of any declaration made under Part 3 would be considered in the context of a dispute resolution as to the validity of a related notice of termination.

I am satisfied that subsections (4) and (6) of section 11, and section 11 in its entirety, are appropriately drafted and align with the Government's policy objectives. The law needs to be strong and robust. The criteria for landlords to make a declaration are carefully set out to provide clarity and objectivity as to the circumstances where a landlord may make such a declaration. If a landlord makes a false declaration, that is also an offence, rightly so.

I have set out in detail the circumstances in which a landlord is a "relevant person" and how the protections under Part 3 can be disapplied. We must be fair. This can only be achieved by clearly defining a "relevant person" under Part 3 in the context of a landlord or, on a similar basis, a relevant person in the context of a tenant. Both landlords and tenants need to be clear on whether this Part applies in their case. Part 3 involves a cost and we must recognise that.

Senator John Cummins: This is one of the areas I raised a concern about on Committee Stage in respect of the disapplication element. However, I am satisfied from what the Minister's officials told us in briefings, and what he has said just now, that the fact that it will be an offence for a landlord to make a false declaration under this is sufficient protection. Senator Moynihan will be happy to hear me say it is important that making a false declaration will be an offence for the landlord and not just for the tenant. That is right and proper and I am glad the Minister highlighted it. I believe also that five months is a reasonable period because it would call the loan or a mortgage on a particular house into question should arrears go beyond a five-month period.

The provision that one must engage with MABS is a very welcome part of this and previous legislation. As public representatives all of us have engaged with the service in our constituencies on behalf of our constituents. The work it does is fantastic. It puts plans in place across a range of issues for tenants and people in financial difficulties. It is very welcome that it is part of this legislation because without such a service we would be experiencing many more difficulties in this country. It is reasonable that people would be asked to engage with the service.

Acting Chairman (Senator John McGahon): Does the Minister want to come back in?

Deputy Darragh O'Brien: No. I will move to the next section if the Acting Chairman wishes.

Acting Chairman (Senator John McGahon): We now move to the amendments in group 5, which pertain to residential tenancies – notice of termination and prohibition on rent increases, the subject matter of amendments Nos. 16 and 17, and Seanad Report Stage amendments Nos. 18 to 24, inclusive.

Deputy Darragh O'Brien: Amendments Nos. 16 and 17 are Government amendments from the Dáil. Amendment No. 16 inserts sections 10 and 11 in the Bill. Section 10 provides that a notice of termination grounded on rent arrears and served during the emergency period shall not specify a termination date earlier than 13 April 2021 and shall give 90 days' notice, rather than the usual 28 days. The position for any tenant who made a declaration under the Residential Tenancies and Valuation Act and to whom Part 3 of this Bill applies is that their termination date will also move out to 13 April 2021. That is very significant. A tenant cannot acquire Part 4 security of tenure rights as a result of the new section 10.

The new section 11 provides that no rent increase can take effect during the emergency period and no increase in rent will be payable in respect of any time during that period to 12 April 2021.

Amendment No. 17 inserts section 12 to provide for necessary technical amendments to the Residential Tenancies Act 2004, which are consequential to the introduction of Part 3 of this Bill.

I cannot accept amendments Nos. 18 to 24, inclusive, to the amendments.

Neither the Residential Tenancies and Valuation Act nor Part 3 of this Bill interferes with the right of a landlord to serve a notice of termination. The protections that apply delay the taking effect of a relevant notice of termination grounded on rent arrears, subject to certain procedures and requirements and the usual recourse to the RTB's dispute resolution service.

I do not propose to provide for a blanket ban on the serving of notices of termination where, for example, a tenant is paying a portion of his or her rent. Tenants are obliged to pay their rent in full and the Members will be aware that significant State supports, which we have discussed, are available to assist tenants to meet their rent payments.

I cannot accept the Senators' amendments but do accept their bona fides in trying to assist tenants. Again, every tenancy has two parties and I need to balance those rights. I also cannot accept the proposed deletion of section 10(3).

The first six months of a tenancy are very much a trial period, so to speak, for both tenants and landlords. Both parties have obligations to fulfil. The payment of rent is a key obligation of tenants. I accept that Covid-19 will make it difficult for many tenants to pay rent and the key purpose of this Bill is to help get tenants in rent arrears back on track.

It is reasonable that where a new tenant makes the required declaration under Part 3 to be protected until 12 April 2021, the six-month trial period be suspended until 13 April 2021. Tenants have had strong protections, and rightly so, during Covid-19. I hope that the vast majority of tenants, with the help of the State, will get back on track during this time to sustain their tenancy. State income support is available, if required, and tenants should seek help from the Department of Social Protection. Help is available. Rent supplement and other social welfare allowances are available, including exceptional and urgent needs payments to help in once-off rent arrears cases. The State, MABS and the RTB want to help. We in government want to help. That is what this legislation is doing.

The clock on the six-month trial period starts to tick again on 13 April 2021 and where a tenant fulfils his or her tenancy obligations, including paying rent due, they will go on to accrue Part 4 rights at the end of month six.

It would not be fair to tie in a landlord with a tenant who is not paying the rent due for another five and a half years. The State has a role to help tenants who need help. We cannot leave it to private landlords to suffer large rent arrears over an extended period. We need landlords to enter and stay in the business of renting residential property. At this time, public housing is not sufficient to house everyone who needs help. That is why we are embarking on the largest public housing building programme in the history of the State in 2021. We are addressing the public housing need issues but we need to be realistic, and we also need a functioning private rental market. We need to treat tenants and landlords fairly. We must recognise also the fact that the landlord and tenant are generally strangers to each other at the early stage of a tenancy. It is only through time that people get to know each other.

I cannot accept amendment No. 21. The new Part 3 protections provide that no rent increase

can take effect during the emergency period to 12 April 2021 and no increase in rent will be payable in respect of any time during that period. From 13 April 2021 onwards, a rent increase can take effect. We are also starting the job of looking at the rent pressure zones, RPZs. That is something I expect to be coming back to the House on at some stage in the new year. It is possible that a tenant with Covid-19-related rent arrears, and at risk of losing their tenancy, has had their amount of rent payable maintained at the same level since before 27 March 2020.

Collectively, the Emergency Measures in the Public Interest (Covid-19) Act 2020 and Part 3 of this Bill protect a relevant tenant from any rent increase for a total of almost 13 months. If we compare that with other jurisdictions, our protections are robust and stand up extremely well to any fair scrutiny.

It is worth remembering the demographic of landlords. We need to maintain a good supply of quality rental accommodation. Most will say they agree with that but we have to show that in practice. I do not want to reduce the available housing stock. That is the reason any legislation we bring forward has to be proportionate.

In line with the advices of the Office of the Attorney General, the Government seeks to limit as much as possible any interference with the protected property rights.

I cannot accept amendments Nos. 22 or 23 to the new section 14. It is essential that the tenant declaration is served on the landlord to ensure that he or she is aware that the tenant intends to avail of the protections under Part 3. The declaration may be channelled to the landlord via his or her authorised agent. It does not have to go directly to him or her. It is important for the tenant to keep a record of having served the declaration, in the event of a dispute arising.

Section 12(1)(f) of the Residential Tenancies Act obliges a landlord to provide to the tenant particulars of the means by which the tenant may, at all reasonable times, contact him or her or his or her authorised agent. Any tenant has the right of access to the contact details of the landlord or the landlord's agent. I cannot foresee that arising. The Government will not be deleting section 16 from this Bill. I am not sure whether the House agrees that the public health risks presented by Covid-19 are still present. Section 16 provides that RTB tenancy tribunals are not required to be held in public during the period to 12 April 2021. This provision aims to safeguard the health and safety of participants in those tribunals and of RTB staff given the current public health circumstances. Section 16 of the Bill amends section 106 of the Residential Tenancies Act. The amendment is modelled on a number of similar provisions, including provisions under the Residential Tenancies and Valuation Act 2020. The RTB is a statutory body and it is appropriate for it to safeguard the health and safety of the participants and staff engaged in tenancy tribunals. I am certain that all of us would want that to be the case. I cannot imagine why people would not. The proposed section 16 of the Bill does not prohibit tribunals from taking place but removes the requirement that they must be held in public. It makes sense.

Senator Fintan Warfield: These amendments, particularly amendment No. 21, relate to the treatment of tenants who are repaying arrears as per an agreement with their landlord. Where a person has experienced difficulties making repayments during the emergency period, there should not be increases in rent for six months after the end of that period. Many people will scrape to get through that period. To impose any additional increases after the emergency period is just not fair.

That is my only contribution on the group. If this is my final contribution, I wish Senators

well over the Christmas period, particularly on this issue. We have a huge amount of work to do in the new year. I hope to introduce a proposal, perhaps a Private Members' Bill, reflecting our ideas on the rental sector. The Minister has mentioned the housing system as a whole and all its constituent parts. I would like to introduce a Private Members' Bill that articulates our ideas and contribution to the debate, particularly on renters.

Deputy Darragh O'Brien: I appreciate what Senator Warfield has said. Have we one more group?

Acting Chairman (Senator John McGahon): Group 6, on public hearings on residential tenancies. It concerns the subject matter of amendment No. 19.

Deputy Darragh O'Brien: Amendment No. 19 inserts section 16 into the Bill to provide that the RTB tenancy tribunals are not required to be held in public in the period to 12 April 2021. We have covered most of this, to be fair. Section 16 of the Bill amends section 106 of the Residential Tenancies Act in this regard. The amendment is modelled on similar provisions: section 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020, pertaining to proceedings before tenancy tribunals; and section 8 of the Residential Tenancies and Valuation Act 2020, on proceedings before the tenancy tribunal under the Act of 2004.

I am not sure of the Senators' position on the section but the Government will not be dropping its amendment. I am sure the House agrees that the public health risks presented by Covid-19 are still present, so we want to make sure staff in the RTB are protected. I am not sure of the meaning or thrust of the Senators' amendment but, obviously, in the interest of the health of the RTB staff, we cannot accept it. I would not want to put the staff at risk.

Will we get a chance to address the Bill at the conclusion of the debate?

Acting Chairman (Senator John McGahon): Yes.

Senator Fintan Warfield: The Minister has noted we have submitted our amendments in good faith. I regret that none of them has been accepted but I would like to push amendment No. 1 to a vote when we come to it.

Acting Chairman (Senator John McGahon): We are finished with the groups. Does the Minister want to conclude?

Deputy Darragh O'Brien: I thank all the Senators on all sides for their engagement. I am aware of their genuine interest in tenants' rights, housing and the importance of protecting those most at risk during Covid-19. I thank the Senators for their engagement at an early stage on this Bill. I initiated this legislation in the Seanad. We had to add to it substantially, which we did not necessarily envisage at first. We have done so with the co-operation of the Dáil and Seanad. This sends out a really strong message. While there will always be some disagreement on various aspects of legislation, points in this regard are put across well. I understand why the amendments have been tabled. The fact that I am not accepting the amendments shows no disrespect to the Senators who have gone to the trouble of tabling them. We have considered them. My team and officials have considered them in detail.

I wish to make a point of clarification on the substitute consent aspect. It represents an important change to the planning side of the Bill. This Bill, in no way, shape or form, is an attempt to revive the provisions of the 2019 regulations that were struck down by the High

Court, which purport to enable peat extraction to continue during a transitional period. It will have no effect on the planning status of peat extraction. As a Government, we are committed to transitioning from such extraction to an approach to land use that values carbon storage and sinks in peatlands, the biodiversity of peatlands and ecosystem services. In line with this, the Cabinet approved just last month an allocation of over €108 million to Bord na Móna for the re-wetting and restoration of bogs as part of a just-transition approach to helping midland communities and workers facing the cessation of peat extraction and associated power generation in the midlands. Earlier this year, the Minister of State, Deputy Noonan, established a working group to progress the elimination of the use of peat moss in horticulture over an agreed period. Regarding the substitute consent provisions, there is no attempt to revive the former provisions.

I thank all the Senators most sincerely for their engagement not only on this Bill but also on others. As this may be my last time in the Seanad before the Christmas break, I wish all the Senators a happy and restful Christmas. I hope they get to spend time with their families, take a little time off and recharge the batteries. I thank the staff in the Seanad and the rest of Leinster House and wish them the very best over the Christmas period. Nollaig Shona do gach duine. Tá súil agam go mbainfidh siad taitneamh as an sos.

Acting Chairman (Senator John McGahon): As the discussion on all the groups has concluded, we will now move to the formal moving of each of the Senators' amendments. I remind Senators that, on Report Stage, each non-Government amendment must be seconded. The first amendment is amendment No. 1, in the names of Senators Warfield, Ó Donnghaile, Gavan and Boylan. It arises out of amendments made in the Dáil and has already been discussed with group 2.

Senator Fintan Warfield: I move amendment No. 1:

In page 12, between lines 15 and 16, to insert the following:

“(ba) make available online all information—

(i) considered by the Board at any leave stage under section 177D for the application now being considered for substitute consent where the application was subject to such a stage, or

(ii) in the case where the application was made pursuant to a notice from a planning authority under section 177B or section 261A(3) all the information considered by the planning authority at the notice stage giving rise to a direction to the applicant to make an application for substitute consent,

and the Board shall also make available online any information received from the local authority under paragraph (e), and any public consultation shall not commence until the information referred to in this subsection is available online, and the consultation period provided for the public and prescribed bodies shall not be less than eight weeks.”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put:

The Seanad divided: Tá, 10; Níl, 28.

Seanad Éireann

Tá	Níl
Bacik, Ivana.	Ahearn, Garret.
Boyhan, Victor.	Ardagh, Catherine.
Boylan, Lynn.	Blaney, Niall.
Craughwell, Gerard P.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Malcolm.
Hoey, Annie.	Carrigy, Micheál.
Keogan, Sharon.	Casey, Pat.
Moynihan, Rebecca.	Cassells, Shane.
Ó Donnghaile, Niall.	Clifford-Lee, Lorraine.
Warfield, Fintan.	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Daly, Paul.
	Doherty, Regina.
	Dolan, Aisling.
	Dooley, Timmy.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Garvey, Róisín.
	Kyne, Seán.
	Lombard, Tim.
	McGahon, John.
	McGreehan, Erin.
	O'Loughlin, Fiona.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

Tellers: Tá, Senators Fintan Warfield and Rebecca Moynihan; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

Senator Fintan Warfield: I move amendment No. 2:

In page 14, line 3, to delete “12 April 2021” and substitute “12 June 2021”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

An Cathaoirleach: Amendment No. 3 has been ruled out of order as it involves a charge on the Revenue.

Amendment No. 3 not moved.

Senator Fintan Warfield: I move amendment No. 4:

In page 14, to delete line 19 and substitute the following:

“(i) he or she anticipates falling into rent arrears in the near future, and”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 5:

In page 14, to delete lines 32 to 38 and in page 15 to delete lines 1 to 3 and substitute the following:

“(3) (a) A person who knowingly or recklessly makes a declaration referred to in *paragraph (a) of subsection (1)* that is false or misleading in any material respect shall be guilty of an offence.

(b) For the purposes of this subsection, the making of a declaration that is false or misleading in a material respect includes a failure to disclose in that declaration information that a reasonable person would consider to be material to the question with regard to whether or not—

(i) the maker of the declaration is a relevant person, or

(ii) as a consequence of his or her being a relevant person, there is a significant risk that the tenancy of the dwelling concerned will be terminated by the landlord.

(c) A failure of a person, through inadvertence, to comply with the requirements of this section in relation to the making of a declaration does not of itself invalidate the declaration, unless the failure relates to the disclosure or non-disclosure of information that a reasonable person would consider to be material to the question referred to in *paragraph (b)*.”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 6:

In page 15, line 6, to delete “5 days” and substitute “28 days”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 7:

In page 15, line 13, to delete “5 days” and substitute “28 days”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 8:

In page 16, line 10, to delete “1 August 2020” and substitute “9 March 2020”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 9:

In page 16, to delete lines 35 to 37 and in page 17 to delete line 1.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 10:

In page 17, to delete lines 3 to 7.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 11:

In page 17, line 3, after “who” to insert “intentionally and deliberately”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 12:

In page 17, to delete lines 10 to 25 and substitute the following:

“(c) if the tenant has failed or refused to comply with the terms of an arrangement referred to in *paragraph (a), (b) or (d) of section 8(4), or*

(d) the application of this Part to the tenant would cause undue financial hardship to the landlord.”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 13:

In page 17, between lines 25 and 26, to insert the following:

“(v) the tenant may challenge such a declaration by making a submission to the Board not more than ten working days after receiving a declaration from the landlord.”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 14:

In page 18, to delete lines 14 to 22.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 15:

In page 18, to delete lines 14 to 22 and substitute the following:

“(4) A landlord may make a declaration that the application of this Part would, having regard to all the circumstances of that case,—

(a) be unduly onerous on that landlord, or

(b) would cause undue hardship on that landlord.”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 16:

In page 18, to delete line 16 and substitute the following:

“(a) the landlord is a relevant person and has provided documentation that could be considered to prove that undue financial hardship has been experienced due to their status as a relevant person in respect of the emergency period,”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 17:

In page 18, to delete lines 26 to 40, and in page 19, to delete lines 1 to 12.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 18:

In page 20, to delete lines 11 and 12 and substitute the following:

“and while a tenant is adhering to the terms of a repayment plan the landlord may not issue a notice of termination.”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 19:

In page 20, to delete lines 13 to 15 and substitute the following:

“(3) If and for so long as a tenant is complying with the terms of a repayment plan agreed between the landlord and the tenant in respect of arrears of rent, the landlord may not issue a notice of termination.”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 20:

In page 20, to delete lines 13 to 15 and substitute the following:

“(3) While a tenant is adhering to the terms of a repayment plan the landlord may not issue a notice of termination.”.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 21:

In page 20, between lines 23 and 24, to insert the following:

“(c) no rents shall be increased in the six months following the emergency period.”.

Senator Rebecca Moynihan: I second the amendment.

5 o'clock

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 22:

In page 20, between lines 30 and 31 to insert the following:

“(c) where the address at which the person ordinarily resides is not known and an address for service has not been furnished, by delivering, leaving or sending it to the Board; or”.

Senator Fintan Warfield: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 23:

In page 20, between lines 33 and 34, to insert the following:

“(d) by delivering it by any means to the Residential Tenancies Board in instances where the landlord has failed to furnish the tenant with a postal address,”.

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Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 24:

In page 21, to delete lines 32 to 34.

Senator Rebecca Moynihan: I second the amendment.

Amendment put and declared lost.

Question put and agreed to.

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

Senator Regina Doherty: Now.

An Cathaoirleach: Is that agreed? Agreed.

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

Planning and Development, and Residential Tenancies, Bill 2020: Motion for Earlier Signature

Senator Regina Doherty: 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 Planning and Development, and Residential Tenancies, Bill 2020 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: The House stands adjourned until 10 a.m. tomorrow in the Dáil Chamber in accordance with the order of the Seanad today. I thank the Minister for coming to the Seanad today to take the Bill.

The Seanad adjourned at 5.02 p.m. until 10 a.m. on Friday, 18 December 2020.