



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé hAoine, 26 Márta 2021

Friday, 26 March 2021

Chuaigh an Leas-Chathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Teachtaireachtaí ón Dáil - Messages from Dáil

An Leas-Chathaoirleach: Dáil Éireann has passed the Family Leave and Miscellaneous Provisions Bill 2021, changed from the Family Leave Bill 2021, on 25 March 2021, without amendment. Dáil Éireann has passed the Residential Tenancies Bill 2021 on 25 March 2021 to which the agreement of Seanad Éireann is desired.

Gnó an tSeanaid - Business of Seanad

An Leas-Chathaoirleach: I have received notice from Senator Rónán Mullen that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Health to make a statement on the importance of reopening places of worship, on a limited basis with appropriate safety measures in place, to facilitate Holy Week and Easter ceremonies for people of all Christian denominations.

I have also received notice from Senator Seán Kyne of the following matter:

The need for the Minister for Rural and Community Development to provide a support scheme to enable the development and refurbishment of community centres.

I have also received notice from Senator Pauline O'Reilly of the following matter:

The need for the Minister for Education to provide an update on the preparation of individual education plans for students with special needs.

I have also received notice from Senator Fiona O'Loughlin of the following matter:

The need for the Minister for Justice to fast track leave to remain applications by immigrant healthcare front-line workers.

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I have also received notice from Senator Niall Ó Donnghaile of the following matter:

The need for the Minister for Justice to make a statement on the process, timeline and costs associated with applications for Irish citizenship through the naturalisation process.

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

The need for the Minister for Justice to provide an update on the proposed new Garda station in Clonmel, County Tipperary.

I have also received notice from Senator John McGahon of the following matter:

The need for the Minister for Further and Higher Education, Research, Innovation and Science to make a statement on the future of Dundalk Institute of Technology and its pursuit of technological university status.

I have also received notice from Senator Malcolm Byrne of the following matter:

The need for the Minister for Social Protection to make a statement on the pension entitlements of community employment scheme supervisors.

I have also received notice from Senator Mary Seery Kearney of the following matter:

The need for the Minister for Children, Equality, Disability, Integration and Youth to make a statement on the relationship between his Department and Scouting Ireland; and the funding allocated to it.

I have also received notice from Senator Mark Wall of the following matter:

The need for the Minister for Health to address the professional therapists waiting times and lists for children in south Kildare.

I have also received notice from Senator Timmy Dooley of the following matter:

The need for the Minister for Education to allocate DEIS status to St. Joseph's Community College, Kilkee, County Clare.

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

The need for the Minister for Housing, Local Government and Heritage to make provision for municipal and-or metropolitan districts in all local authorities to allow for streamlined decision-making in Dublin, Cork and Galway city and county councils.

I have also received notice from Senator Marie Sherlock of the following matter:

The need for the Minister for Health to develop a successor plan to Breastfeeding in a Healthy Ireland - Health Service Executive Breastfeeding Action Plan 2016-2021.

I have also received notice from Senator Ivana Bacik of the following matter:

The need for the Minister for Education to provide an update on the opening of ASD units in schools in the Dublin 2, 4 and 6 areas.

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

The need for the Minister for Health to legislate to create safe access zones for hospitals.

I have also received notice from Senator Jerry Buttimer of the following matter:

The need for the Minister for Transport to make a statement on the issuing of travel vouchers by airlines.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for Education to refund to families payments for school transport during the period of school closures from January to mid-March 2021.

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

The need for the Minister for Justice to make a statement on the failure to waive the financial eligibility criteria when providing legal aid to the families of the Stardust fire victims in the ongoing inquest.

The matters raised by the Senators are suitable for discussion and An Cathaoirleach has selected the matters raised by Senators Mullen, Kyne, O'Reilly, O'Loughlin, Ó Donnghaile and Ahearn, and they will be taken now. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Covid-19 Pandemic

Senator Rónán Mullen: Cuirim fáilte roimh an Aire. I have two questions which require “Yes” or “No” answers. There is an unfortunate tradition of verbiage being prepared for Ministers to read. It is not necessarily the fault of the Minister delivering the reply but, sadly, the answers given on Commencement matters are often not what would be expected.

Is it the position of the Government that there is a legal ban in place on public masses or other public religious worship taking place at the moment? I am looking for a “Yes” or “No” answer to that question in the context of people organising such worship, leaving churches open and of people attending. If there is no such ban in place, will the Minister of State and the Government now support a decision by churches to open for Easter or Holy Week services in light of the importance of those ceremonies for many people and in a limited and responsible fashion, as happened in a very cautious and responsible way at Christmas and, indeed, at other times throughout 2020? I tabled a Commencement matter on this issue on 25 November. The Minister of State, Deputy Feighan, was detailed to take it but, through no fault of his, I got no satisfactory answer to the question I asked.

As regards the question of whether there is a ban, Professor Oran Doyle and his colleagues at Trinity College Dublin have pointed out in a series of blog posts and a report prepared for

the Irish Human Rights and Equality Commission, IHREC, their belief that no such legal ban exists at present in the Covid regulations. Yet we had the bizarre situation during the week of the State lawyers getting an adjournment to allow them to go off and ascertain that basic question of whether there is a ban in place. It was a strange application and, it seems to me, it was a strange decision by the court to grant the adjournment in those circumstances.

Professor Doyle and others have correctly pointed out that from a legal perspective it would be a worse state of affairs if there is no ban because if that is the case, then, rather than the constitutional right to free practice of religion being completely restricted on the back of an unconstitutional law, it is being restricted on the back of no law at all and the Garda Síochána, the national police force, is handing out fines and threatening prosecutions on the basis of no law at all. I refer to Fr. P. J. Hughes, a priest in County Cavan, apparently being issued with a fine by the Garda. He will be cheered to the rafters and he will be in the right if he refuses to pay that fine. It is a bizarre, strange and disturbing state of affairs if the Garda is issuing fines with no legal basis to do so. I will be writing to Garda Commissioner Drew Harris on that very subject. Incredibly, when the Garda press office was asked yesterday to comment on this matter, it refused to say whether there was a law in place despite the fact that its own members are handing out fines. As I stated, that is what happened to a priest in County Cavan recently.

If the Governments of Hungary or Russia started handing out fines or threatening prosecutions on the basis of a law that did not exist, the Irish Government and many NGOs would be up in arms, but here we have almost absolute silence. Professor Doyle described this as frankly outrageous, stating that a country could not hold itself out as a country committed to the rule of law if its government is happy to allow the police to threaten prosecution for things that are not legally prohibited. In fact, in the excellent work he and others prepared, he uses the phrase “a masterpiece of misdirection”. He is basically making the point that the Government is trying to impose the framework generally, which involves things that are not just legally restricted, but is giving the impression that they are so restricted. That is no way to treat a democratic electorate or, indeed, any other electorate or society. If the Government is trying to talk about guidelines on public health as though they all have legal force when it knows that, in fact, they do not, that is dishonest.

The Government needs to be much clearer about what is legally required and what it is, with entitlement, urging the public to do. Is there a legal ban in place in the view of the Government? If there is no such ban, will the Minister of State and the Government support a responsible and limited opening of churches for Holy Week and Easter?

Minister of State at the Department of Rural and Community Development (Deputy Joe O’Brien): I thank the Senator for raising this important point. As he is aware, the current public health restrictions at level 5 will remain in place until 5 April 2021, when a further review will be conducted. The decision took account of a variety of factors, including the views of the National Public Health Emergency Team, NPHET, on the current epidemiological situation of Covid-19 and the need to take decisive action.

The Government remains united in its resolve to tackle the spread of Covid-19. The disease prevention and control strategy that we have adopted seeks to prevent, to the greatest extent possible, the virus spreading among the population. Based on the current situation and the public health restrictions that are in place, it will be necessary to celebrate Easter online and at home this year. This is for the protection of our friends, families and wider communities. The basic public health advice and regulatory measures aimed at blocking the transmission of

Covid-19 from person to person remain vital. From the beginning of the pandemic, we have emphasised the many simple measures that can be taken, including keeping a distance, washing hands, wearing a face covering where required and avoiding crowds. These measures work. The Covid-19 resilience and recovery plan provides an appropriate mechanism to guide decision making and will continue to be supplemented by more detailed sectoral guidance on measures applying at each level of the framework.

We continue to see good progress but it needs to be sustained. I assure the Senator I am extremely conscious of the burdens placed on all members of society as a result of the restrictions that have had to be imposed. Many have been unable to live their lives as normal or participate in the usual rhythms of their communities. For many people, going to their local church during Lent, Holy Week and Easter and attending mass with family and friends is a source of comfort and solace at a difficult time for our country and the world.

Unfortunately, as Members of this House are aware, Covid-19 spreads most easily indoors where a group of people are gathered. When we are doing our utmost to break the transmission of the virus, it means we, regrettably, must make every effort to reduce such gatherings.

I acknowledge the work by the Catholic church and other faiths to put in place comprehensive guidelines to protect their communities in compliance with HSE public health advice. These factors will assume greater importance as we will hopefully move back down from level 5 restrictions in the near future.

In consistence with level 5 restrictions, religious services have moved online and places of worship are open for private prayer only. There are exceptions for funerals where ten mourners may be in attendance and weddings where six guests may attend. Under the current public health regulations, ministers of religion are also permitted to travel to perform service online, to minister to the sick and to conduct a funeral or wedding ceremony.

While our situation presents significant challenges, the rollout of our national vaccination programme offers hope. We expect to have offered every adult in the country one dose by the end of September. In the meantime, the programme focuses on the most vulnerable in our society. As the vaccination programme evolves and scales up, we must continue to apply all necessary public health measures and restrictions. We must be careful not to fall at the final hurdle in our battle against Covid-19 and must hold firm for just a while longer.

Senator Rónán Mullen: Similar to the Minister of State, Deputy Feighan, the Minister of State has given a personally generous answer, which I thank him for, but the statement he has delivered on behalf of the Government is typical of the evasion on this issue. The Minister of State has said that based on the current epidemiological situation, it will be necessary to celebrate Easter online and at home. He then went on to say what ministers of religion can do to celebrate funerals and so on.

The Government is continuing in misdirection by not answering the question I asked as to whether the ban the Minister of State has promulgated is legal. If the Minister of State gave this answer to a child in preschool or an elderly person in a nursing home, he would be accused of oppressive care, because he is not respecting people's intelligence by giving them a straight answer.

The recent High Court ruling on *Ryanair DAC v. An Taoiseach & Ors*, Mr. Justice Garrett Simons said the Executive branch of Government would not be entitled to short circuit the

statutory regime put in place by the legislative branch by creating the false impression that legally enforceable restrictions were in effect. That is the nub of the problem. It is a disgraceful situation.

Services resumed in Northern Ireland today. Last Wednesday, a ban on church services was struck down by the courts in Scotland on the basis it was disproportionate and the supreme court in Chile has struck down a similar ban. However, the Government is persistent in representing to people there is a legally enforceable ban in place when it will not even give people a straight answer as to whether this is legally enforceable. This is not the way to operate in a democratic society.

Deputy Joe O'Brien: I again thank the Senator for raising this important matter today. The Government appreciates that individuals in society have been severely impacted by the pandemic and the necessary public health restrictions imposed over the last year. Ultimately, the Government remains united in its resolve to tackle the spread of Covid-19 and that is its priority. We continue to see good progress but this needs to be sustained. We have more than 232,000 confirmed cases of Covid-19 in Ireland. The Government is concerned that, if left unchecked, our national case numbers will only increase further. We also know that it is the vulnerable in society who are most at risk from this virus and we must do everything we can, collectively, to protect the most vulnerable at this time.

The Government has met with representatives of the Catholic church to discuss the current level of Covid-19 restrictions and the church's desire to return to worship, particularly during the season of Lent and with the approach of Holy Week and Easter. The Taoiseach has advised the archbishops that due to the serious nature of the pandemic it is not possible to give guarantees on future levels of restrictions. However, dialogue is very welcome and will be maintained.

Community Development Projects

Senator Seán Kyne: I thank the Cathaoirleach's office for choosing this Commencement matter and I welcome the Minister of State, Deputy O'Brien, to the Chamber. As everybody knows, community centres are important places for gatherings, sport, events, social occasions, fetes, sales of work and drama, to name but a few of the uses they have up and down the country. They range in size, depending on the size of a community. There are small community centres that are a gathering place for active retirement or old folks' groups in the morning and for children after school, and so on. There is a range of sizes, going all the way up to the big, spacious halls required for basketball and the likes.

In the past, particularly in rural areas, a community might have come together, in a kind of meitheal, gone through planning permission processes and started building a community centre over a number of years. As funds allowed, they completed a little more work and did work themselves through direct labour. In this day and age, that is more difficult with health and safety regulations, insurance issues, improved building standards, the Safe Pass required for building and the likes. There are a range of schemes across Government Departments for community projects, including the Leader programme in county areas, the CLÁR programme in certain parts of the country, the RAPID programme in certain areas of our cities and larger towns, sports capital grants, town and village schemes, the urban regeneration development fund, the rural regeneration development fund, local authority grants, An Roinn Turasóireachta, Cultúir, Ealaíon, Gaeltachta, Spóirt agus Meáin grants and Pobal grants.

However, for certain communities, like my own in Moycullen in County Galway, or New-castle in Galway city, there is no one fund, of scale, that a community or, indeed, a local authority can apply to for a project that may cost in the order of €3 million to €5 million. For smaller projects, the Leader programme can step in to provide supports and one can build smaller centres. However, projects on the scale of €3 million to €5 million are of an insurmountable cost for a community to get involved with. It is vital that we develop a fund similar to the sports capital fund. It would make sense if local authorities could apply to such a fund for large-scale projects. The funding could be shared with the local authorities, or with the community providing a site or funds and so on, but it is absolutely vital.

There is a review of the national development plan, NDP, going on at the moment. I ask that the Minister of State brings this matter to the Minister for Rural and Community Development, Deputy Heather Humphreys. I will speak to her regarding it as well. I have spoken to the Tánaiste about the matter and raised it with the Minister for Public Expenditure and Reform, Deputy Michael McGrath, during statements on the NDP last week. I suggest that we develop a fund similar to the sports capital fund. Communities would engage with their local authorities, which would then make applications. The fund would be used for refurbishments and modernisations, as well as new builds, of community centres up and down the country. Since there are fewer opportunities to find funding for large urban areas that are facing rapid development, I ask that this suggestion be considered. Will the Minister of State engage with the Minister, Deputy Humphreys, on whether this can be developed as part of the NDP review?

Deputy Joe O'Brien: I thank the Senator for raising this important matter. Facilities like community centres form the core of many communities around the country and help to bring people of all backgrounds and ages together for many different types of activity and event. During normal times, they regularly have a positive impact on our communities, as all Senators would agree.

The possibility of a community centre capital programme similar to the sports capital programme that is run by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media has been mooted recently. The programme for Government includes a commitment to “the introduction of an annual small capital grants programme ... for the maintenance, improvement, and upkeep of community centres”. I am committed to supporting the upkeep and development of community facilities and my Department has commenced the process of scoping the need for such an additional fund in the context of the funding that is already available for many of these centres.

The development and maintenance of community facilities, whether they are in State or community ownership, is currently funded from a range of sources across various Departments and Government agencies. For example, funding for community centres can be provided through the LEADER transitional programme. This programme, covering 2021 to 2022, will come into effect next week on 1 April for new project applications and will be delivered through local action groups around the country. The rural regeneration and development fund, RRDF, is also available within my Department and provides investment for ambitious projects in towns and villages with a population of less than 10,000 and their outlying areas. To date, the fund has provided €166 million to 139 projects across a range of projects nationwide, including community facilities. The urban regeneration and development fund, URDF, covering areas with larger populations, is available within the Department of Housing, Local Government and Heritage, and further details are available from that Department. The town and village renewal scheme can also provide funding, and improvements to community centres have been funded

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through this scheme. Separately, the community enhancement programme provides capital grants, usually for minor works. Funding of €7 million was available through two rounds of this programme in 2020, with €5 million of this coming from the July stimulus package. All of this was targeted towards enhancing community facilities, including community centres and it is intended to run it again later in 2021.

I am conscious that we need to continue providing adequate support to important community facilities such as community centres, especially as we cope with the impacts of Covid-19, to ensure that new community centres can be developed where needed and that existing ones can be refurbished or upgraded where required.

Senator Seán Kyne: I thank the Minister of State for his reply. While I agree that a number of schemes provide relatively small amounts of funding for certain community centres, a large cohort of communities that are outside the remit of RAPID, CLÁR and local authorities have requirements for large community centres. There might be some crossover between community activities and sports, but there is no fund to which they can apply, and has been none in my time. Certain local authorities may be able to provide funding through their rates bases, as Galway City Council did in Cappagh and Ballinfoyle, but Galway County Council does not have the wherewithal to provide funding in the county. Applications in respect of Moycullen and Newcastle were made to the URDF and the RRDF but got nowhere. A specific fund for large community centre projects that cost €3 million to €5 million is needed. Will the Minister of State engage with the Minister on providing for same through the review of the NDP?

Deputy Joe O'Brien: The Senator has my commitment that I will engage with the Minister on this matter.

11 o'clock

The Senator outlined the situation around community centres in general very well in his opening statement in that every community centre in the country probably has a different story behind how it came about, often with communities actually building them, and more recently communities themselves directly contributing, along with local authorities and sometimes central government. They are often anchored in a school, GAA club or local church. We will do a scoping exercise to see what is falling between the cracks because there are situations where pieces of infrastructure or concentrations of settlement may not have enough momentum to lever a proper community centre in its own right. It should also be noted that when new developments are planned and are being built, they should and generally do, but not always, include provision for a community centre. I accept the Senator's point that in many areas there are gaps.

Special Educational Needs

Senator Pauline O'Reilly: The Minister of State is welcome. I begin by mentioning the "Prime Time Investigates" programme broadcast last night which has touched many of us. I am here to speak on special needs and because of the matters I raise from AsIAM. People from that organisation spoke on the radio this morning on how disappointed they are the Department of Health has decided to take this approach. It is very hard to understand how people's personal details from their own private GPs being given to the Department of Health without the individuals' consent can have a legal footing. What is the Minister of State's view on this? It is important we as a Government take this matter seriously. The Department of Health will speak

to the committee today and that is welcome. I will follow up on that.

Today I raise the topic of individual education plans. In Ireland, unlike the US and Britain, individual education plans are not on a legislative footing. They are on a statutory footing in the sense that the Education for Persons with Special Educational Needs Act 2004 has quite detailed provisions around the need to provide individual education plans for all pupils and students with special needs. That has not been enacted. That is the problem which AsIAM has identified, as have I.

I refer to the letter from the Department to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, dated 24 November 2020, which stated “whereas there is not currently a statutory requirement to provide individual education plans for children with special needs at present, all schools are encouraged to use education plans”. Either we are using them or we are not using them. Parents tell me, and I am not hearing from the students but I am sure their voices would be just as strong, that some parents do not even know this exists. There is also a problem with getting assessments. Many schools say they get two or three days a year for assessments and the lack of assessments makes it difficult for schools to put in place individual education plans. That is not to say many are not fantastic and there are not guidelines available, but this shows the importance of legislation. That is what we are in this House to do. The Seanad in particular is supposed to value legislation and not just policy guidelines. The Department may feel it has gone in a different direction but it is still very much saying individual education plans are important. In such circumstances, it is hard to see why it would not commence all of the provisions within the Education for Persons with Special Educational Needs Act. I simply do not understand that. The Minister of State will know that part of this would include obligations on her and the Department to follow up and ensure that funding is available. I would hate to think that is a part of the reason this legislation is not being commenced.

I would love an update as to where matters stand. I know that the Minister of State wrote in November but I would like to think that things have moved on at this stage. From 2004 to now is a long time to wait for this. We either think that students with special educational needs are important or we are just going to put them on the back-burner.

Acting Chairperson (Senator Victor Boyhan): This is a Commencement matter. The Senator mentioned the RTÉ documentary but we cannot go into that today. The Minister of State is here to deal specifically with the individual education plans for students with special needs. I call on the Minister of State to reply.

Minister of State at the Department of Education (Deputy Josepha Madigan): I am happy to address the specific concerns raised by Senator Pauline O'Reilly about the Department of Education, in which I am a Minister of State. The Department is not aware of any instance of inappropriate sharing of information, nor does it take lightly any decision to defend cases concerning children with special educational needs and the rights of the child to an appropriate education under the Constitution. The needs of the child and a desire to act in the child's best interests are always to the fore in the making of any such decision. The Senator may know that in defence of any legal proceedings, it is appropriate for the Department to engage with relevant State bodies and the school or educational establishment in which the litigant is a pupil to understand fully and appreciate the education provision on offer. This is to ensure that any alleged deficiencies in provision can be appropriately considered and, in many cases, to look at what further supports might need to be provided. The statement that we issued to “RTÉ Investigates”

outlined comprehensively the Department of Education's position on defending litigation on the sharing of data lawfully in this context. It is also noted that the matters raised in the query from RTE were of a general and unspecific nature and, as a result, the Department was only in a position to respond on that basis. The Department of Education, since the Senator has raised the issue, would like to reassure all parents, families and interested parties that the Department has never unlawfully collected or passed on the sensitive educational information of children involving court cases. I thank the Acting Chairperson for his indulgence in that regard.

I thank the Senator for bringing to my attention the other important issues she raised. Under the Education Act, we know that schools have a legal duty to provide an appropriate education to all students, including young people with special educational needs and, obviously, they need to plan to ensure that happens. Planning is an integral, normal part of a teacher's work and planning tools, such as the student support file, have been created as a resource to help schools provide for their students. Some parents may not be aware of the student support file and the schools should let them now about it if they are not aware of it. The Government, as the Senator knows, has invested heavily in education. In this year alone, €2 billion is dedicated to special education. We have greatly increased the number of special education teachers. There are now 16,500, an increase of 39% since 2011. The Senator might be familiar with Department circulars 0013/2017 and 0014/2017. They set out the basis for the allocation of special education teachers to schools and note the importance of educational planning in them. That is to ensure that children with the greatest levels of need receive the greatest levels of support. Those circulars are clear that educational planning is an essential element of a whole-of-school approach to meeting pupil's needs.

It is also noted that planning for the provision of additional teaching support for pupils of schools is an important part of the process and that co-ordination and planning time for this has been acknowledged in the allocation. Schools are, therefore, resourced to carry out planning and support and guidance for these schools on how best to carry out the educational planning and to prepare student support plans is also available from the National Council for Special Education service and from the National Educational Psychological Service.

Senator Pauline O'Reilly: I thank the Minister of State for responding on both of those issues. When talking about education, we have to be very careful that we do not make it sound like it involves doing something to somebody; it is a collaborative practice. In the responses on both issues, I really hope the Department of Education is taking into account the fact that this is not about defending ourselves but about our obligations in offering a service to society and the children in the schools. Education is a service; it is not about defence or about checking boxes. It may be that there is planning in schools for every student, because every student needs to have his or her needs met, but it is very clear that some students need more than others. Otherwise we would not have a Minister of State with responsibility for special needs. Some of the research, specifically that of Dr. Emer Ring, indicates that one of the key aspects of individualised planning is the promotion of collaborative practice with parental and pupil involvement. That is not always evident. The Minister of State's response is that the school should try to let people know but, with all due respect, that is not good enough.

Deputy Josepha Madigan: I assure the Senator that, as the first dedicated Minister of State with responsibility for special education, I am doing everything I can to ensure the rights and best interests of children with special needs are at the forefront of everything we do. The unprecedented funding of €2 billion is an acknowledgement of that. My list of action priorities includes a review of the Education for Persons with Special Educational Needs Act. That review

will take into account not only the reforms in recent times but also all aspects of developments regarding new allocation models and other matters.

As the Senator and I may have discussed before, the Department's policy of supporting children with special needs has changed from a diagnosis-led model to one driven by the needs of the child. My Department's advice is that the majority of schools do carry out some form of educational planning for pupils with special educational needs.

Citizenship Applications

Acting Chairperson (Senator Victor Boyhan): I warmly welcome the Minister for Justice, Deputy McEntee, to the House.

Senator Fiona O'Loughlin: I welcome the Minister to the House. I really appreciate that she is here to discuss the important issue of the fast-tracking of citizenship for non-national healthcare workers. It is an issue that I have raised in the House before. As we know, migrants currently make up 26% of essential workers in Ireland. Our hospitals have been very active in seeking work permits for non-EU staff since the beginning of the Covid crisis. There is no doubt but that without their work, the country's efforts to combat Covid-19 might well have collapsed. They have been the absolute backbone of the Irish healthcare system, whether it was in hospitals or nursing homes or whether it was caring for individuals in their own homes.

I am going to address the circumstances of essential workers who are asylum seekers, many of whom are living in direct provision and often forgotten about. Elsewhere in Europe, the contribution made by foreign healthcare workers has been recognised with a commitment to fast-tracking their citizenship. Numerous countries, including Italy, France, Spain, Portugal and Canada, have recognised the contribution made by migrant healthcare workers and asylum seekers working on the front line during the Covid 19 pandemic by granting them full citizenship rights and permission to remain in recognition of their selfless efforts to care for the vulnerable. It is time that the same recognition was given here by the Irish Government. Delays in the current system are causing frustration and desperation. Healthcare workers and their families who meet citizenship requirements should have their applications expedited. At an unstable time, we need to provide stability for our essential front-line workers. Dr. Liqa ur Rehman tells us that most foreign doctors end up waiting eight years for Irish citizenship. It is not enough to pay tribute to people such as Ms Mariter Tarugo, Dr. Syed Waqqar Ali, Mr. Solson Saviour and others who have passed away fighting our war. The contribution made by these hard-working people should be reflected in the processing of their citizenship applications. An online petition was launched by Dr. Mohsin Kamal of Crumlin hospital calling on the Department of Justice follow suit on other countries and expedite the citizenship process. I feel strongly that this must be looked at.

I have been working with and listening to our asylum seeker community who are working in essential services. I want, for them, to read part of a letter into the record:

We are requesting favourable consideration in granting us, the essential workers among the asylum seeker community, leave to remain in Ireland in recognition of the contributions made to the Irish economy and society during the pandemic. The journey we have made is not an exciting journey or a comfortable option. We live without our families. We left them for their safety and benefit. Asylum seekers generally live in direct provision accommoda-

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tion centres around the country, meaning they are provided with accommodation and food but with little privacy and independence. We have had to find our way to work come rain, snow or sunshine, denied the basic right to drive, so we find ourselves walking or cycling for hours to get to our place of work. There are between 500 to 800 essential working asylum seekers currently risking their lives every day during this pandemic. We are looking to remain for our front-line essential workers, freedom for Ireland's future adults, our children, to be treated as citizens of this country with dignity, grace and respect.

I rest my case.

Minister for Justice (Deputy Helen McEntee): I thank Senator O'Loughlin for raising this extremely important issue.

First, let me stress that I recognise the crucial role all healthcare workers, including those who are non-EEA nationals, continue to play in this ongoing pandemic in responding to the threat of Covid-19. Their exceptional commitment has been particularly clear throughout the pandemic, during which they have in no small way played a part in preventing the spread of Covid-19. First and foremost, I want to acknowledge the significant, vital and important role they continue to play and they no doubt will play in the future, because this is something that will not end today or tomorrow.

I can Senator O'Loughlin that humanitarian factors, employment records and other factors are considered by my officials in the immigration service as part of the permission to remain and leave to remain processes. Each case is examined in detail on its individual merits, taking all factors into account, as I have outlined.

For people who have applied for international protection, our overall objective, whether they be front-line workers or not, is to have this process on their protection applications and permission to remain considerations decided upon as quickly as possible. This ensures those who are in need of our protection, including applicants who are working on the front line who are working in healthcare services and many other parts of the community who are protecting us daily, can receive this response as quickly as possible and begin rebuilding their lives and starting to set out a new life here with a sense of safety and security.

I am committed to making further efficiencies in the international protection process. As Senators will be aware, with the Minister, Deputy O'Gorman, we launched the White Paper where there are clear commitments given by my Department to reduce processing times of both first instance decisions and appeals to six months in both cases. That in itself will have a huge impact and make a huge difference to those who are currently in the system.

Work is under way in my Department to identify mechanisms which will assist in that overall process, working towards improving those times. Additional ICT resources have been secured for this year. Detailed work, including an end-to-end review of processes to guide enhanced processing times, is also under way. When this first phase of work has been carried out, it will enable a more detailed set of milestones to be put in place.

Regarding the current backlog of international protection cases, my Department intends, in the first instance, to prioritise processing of all cases using improved processes and the planned ICT investment in the system. My Department will, by October 2022 at the latest, commence a

review of progress made in reducing and improving processing times and based on the outcome of that review, decide by the end of 2022, whether additional measures are required in order to ensure that the new system can come into operation without the overhang of any significant number of legacy cases. Furthermore, to ensure that people do not fall out of permission during this time, I have provided six automatic extensions of immigration and international protection permissions since last March. The most recent extension is to 20 April, and I expect to announce a further extension shortly, giving people the reassurance they need.

Healthcare workers are also benefiting from the temporary citizenship process that we opened in January. As a result of Covid-19 restrictions, the face-to-face citizenship ceremonies have not happened and a backlog has built up. We put in place a new temporary system and I am pleased to say that we are on track to meet our target of communicating with 4,000 people by the end of this month with a further 2,500 people by the end of June. A significant number of those are working on the front line in the vital services that have been supporting us through the Covid-19 pandemic. They will benefit from this enhanced system. I believe we will be able to clear the backlog by the end of this year as we had targeted to do.

Senator Fiona O'Loughlin: I thank the Minister for her work on the White Paper, which is very welcome. I impress on her and the Department the need to prioritise these essential health-care workers, both those who are immigrants and those who are asylum seekers. We are not talking about many people. Asylum seekers represent a maximum of 800 people. These workers make a significant difference to the everyday lives of Irish people. They are contributing and paying taxes. They are a vital part of the effort to make Ireland a healthier and safer place.

The Minister said that the Department will commence a review of progress by October 2022 at the latest, but that is a full 18 months away. In line with what is happening in other European countries and Canada, the Minister should make an exception for our front-line emergency healthcare workers.

Deputy Helen McEntee: Irrespective of whether we are assessing asylum applications or citizen applications, it is important that we have a fair system that acknowledges that everybody who has applied is making some contribution, be it working in healthcare or in other settings. The most important thing is to have a system that goes through the application process as quickly as possible and that nobody is waiting for years on end. I know that a backlog has emerged, particularly over the last year which has meant that waiting times are much longer. Many of the people the Senator spoke about are waiting because of that. With the new mechanism for conferring citizenship in place, it is my intention to get rid of those backlogs this year.

While we have a review of the international protection process set up for 2022, should something arise and should there be some difficulty between now and then, we have a commitment to invest in our ICT this year. I anticipate we will address all those backlogs and hopefully the review will show that that is the case and that no changes will need to be made.

I again thank everyone who has been working on the front line throughout the Covid-19 pandemic. Everything is being done to ensure that those who are in the system can be processed as quickly as possible.

Citizenship Applications

Senator Niall Ó Donnghaile: Gabhaim buíochas leis an Aire as a bheith linn agus as an cheist seo a ghlacadh. What I am asking for is very straightforward. People have been in touch with me and many of my MLA and MP colleagues. Their main issues relate to the cost involved in applying for naturalisation and the complexity of the process.

I appreciate and fully understand that citizenship is very precious, that we need to guard it and ensure that we are not lacklustre in our approach. However, it is important to state that we also need to understand that citizenship should not be the preserve of people who have the financial means or, indeed, the skills to complete what has often been described to me as being a very bureaucratic and complex process. We cannot price people out of citizenship, particularly as Senator O'Loughlin said in her previous Commencement matter, those who are working hard at citizenship. What citizenship brings to our lives is much more than simply a monetary value. It is what people do daily in their communities, families and in all of our lives.

I am sure that the Minister can appreciate that the following are two big problem for applicants. While this is an issue across the entirety of Ireland, the vast bulk of the cases that have been referred to me came from applicants from the Six Counties. One of the issues is the need for a personal public service number, PPSN, which people do not have in the North. One also needs a tax certificate from this jurisdiction, which people in the North do not have. Again, that adds a further layer of complexity and difficulty. It is another way to put people off, in some instances, applying for Irish citizenship, which we should not seek to do.

The thrust of my Commencement matter is to ask the Minister to consider the current scale of the costs. One applicant has told me that the virtual ceremony, to which the Minister referred, cost over £900 and that was just to sit at home for a virtual ceremony. That is a significant sum of money for someone who works in a low-paid job, not least in the context of Covid but at any time.

I ask the Minister to consider reviewing the current application process and to take note of the difficulties people have cited. Within that, I ask her to consider a bespoke arrangement that would pertain to applicants from the Six Counties for similar important forms. Again, I am not being green. I realise that we need to be protective and do things right. I would appreciate if people who are resident in the North could have much easier and quicker access to forms of equal importance than, for example, a PPSN and tax certificate from this State.

Finally, the Minister referenced in response to the earlier Commencement matter the movement towards the new ceremony process, which is welcome with the current restrictions due to Covid. I ask her to reduce the cost to reduce the financial burden on people who already are facing a very difficult time. I thank the Minister for coming in and thank the Acting Chairperson.

Deputy Helen McEntee: I thank Senator Ó Donnghaile for raising this issue.

First, let me start with the payments and fees, as outlined by the Senator. These are governed by the provisions of the Irish Nationality and Citizenship Regulations 2011. The fees are paid in two parts. The current application fee is €175, which is payable when an application for naturalisation is lodged. A certification fee is payable when a certificate of naturalisation is issued, that is, only when a certificate is issued and not prior to that or where a certificate is not issued. The standard certification fee is set at €950. A reduced fee of €200 applies in the case of an application made on behalf of a minor or in certain cases where the application is made by a widow, widower or surviving civil partner of an Irish citizen. In the case of recognised

refugees and stateless persons, there is no certification fee. Consequently, there are instances where there is a significantly reduced fee.

The standard fees payable by an applicant are designed to reflect the effort that goes into the entire process and the costs involved in processing applications for a certificate of naturalisation, which gives benefit to everybody involved. It is quite a detailed process. This is not about making money or about the Department or anybody else. This is about making sure that the huge amount of work required to process is covered. There is no provision for the discretionary waiver or reduction of fees or for different fees to be applied, except in the situations I have just outlined and other exceptional circumstances. I mentioned earlier that all of these fees are payable under the Irish Nationality and Citizenship Act 1956, as amended. This matter is constantly reviewed by my Department. If we feel that fees can be reduced, while acknowledging the significant work involved in processing these applications, we will certainly do so. This area is, however, constantly monitored and, as I have said, no profit is being made. The fees are in place simply to make sure that the process can continue.

The Senator mentioned the new process that has come into play. This is quite significant because it means we will be able to address the sizeable backlog. This backlog is a very significant problem as it has affected some people for many years. To date, 3,615 communications have issued and 1,600 declarations have been returned. At the end of this month, a further 500 will be issued. I have received many messages, texts and emails from people who have received their certificates of naturalisation. Some 887 of these have already issued and more will issue in the coming weeks. On top of that, we aim to communicate with an additional 2,500 applicants in the system by the end of June. By the end of June, 6,000 people will have been communicated with and will be able to return their declarations before, it is to be hoped, receiving their letters of naturalisation within a few short weeks. We are moving through the existing backlog.

Obviously, I would like to return to person-to-person citizenship ceremonies. It is a wonderful way to welcome our new citizens, to acknowledge the significant role they play in our communities and to celebrate with them but, until we are in a position to hold such ceremonies, we will continue with the new process which is in place.

The Senator asked whether we could change the system itself. It is kept under consistent review. I take his points on board but the process is in place and the requirements are there for a reason. It is important that anybody who becomes an Irish citizen can adhere to that process and apply it to their own situation. We do, however, need to keep everything under constant review. I acknowledge and take on board the points the Senator has made, particularly in respect of those coming from the Six Counties.

The fee is there to cover the costs of the work being done. If one looks at what is happening at the moment, one will see that we are working through the backlog. We want to make sure that people who have been in the system for a long time receive their citizenship as soon as possible and that the process is not delayed in any way, shape or form for those coming down the line because of the current backlog. I am confident that we will be able to meet all of those targets and timelines we have set, particularly for this year.

Senator Niall Ó Donnghaile: I thank the Minister for her comprehensive answer. There is quite a lot to get through there. I am very keen to work with her and her Department in terms of offering positive suggestions as to how this could be reviewed and how we could look at a more bespoke arrangement for people. The Minister will know from her previous life in an-

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other Department that, given the consequences of Brexit, there is a heightened interest in Irish citizenship among people living in the North who are entitled to avail of it. It is important that we accept and acknowledge that and work to make the process as streamlined, good and effective as it can be.

I am encouraged by the statistics in respect of the backlog and by the intention to clear it. This has been to the fore when people have raised this issue with me. It is something on which we will keep a watching brief. I am sure those who are still waiting will also do so.

Is it possible to consider those low-paid workers who want to avail of citizenship in any review or consideration of this matter? While I appreciate the reasons the Minister has given as to why the fees are warranted, perhaps there is an opportunity to allow these fees to be paid in instalments over a period, rather than in one big sum of money, in order to lighten the burden on applicants.

Deputy Helen McEntee: I will certainly take that recommendation on board. This is about making sure we have a streamlined process. To refer to a previous Commencement matter I addressed today, we are investing in ICT to move systems in these structures and in the Department of Justice away from what are, unfortunately, mainly paper-based systems towards an online system which would make it much easier for people to apply and which would be much easier to navigate. That will help speed up all of these processing times. A great deal of investment is being made in ICT within the Department of Justice and this will be to the benefit of those applying. It is not straightforward to apply for citizenship in any country. It is a special status that is conferred on somebody, so we need to ensure that the system is robust and anyone who applies can adhere to the guidelines, rules and regulations.

The way in which the funding is administered is kept under constant review. I will take the Senator's suggestions on board.

Garda Stations

Senator Garret Ahearn: I thank the Acting Chairman, Senator Boyhan, and acknowledge that he has connections to the wonderful county of Tipperary. I welcome the Minister to the House and thank her for taking this Commencement matter. I am aware that she attaches importance not only to this matter but to all Garda stations.

Built in 1870, Clonmel Garda station has been operating for 150 years. It is located in Emmet Street beside the county council office and in the heart of the town. Its 107 staff, including civilian staff, are headed by Superintendent Willie Leahy. They do incredible work and, as with staff in all Garda stations, they focus heavily on community involvement and community work. The building at which gardaí have been based throughout this time is no longer fit for purpose, certainly not for a new, modern Garda division. Clonmel is seen as a difficult division in which to work, with many challenges in the area, but the people who work in it are devoted to the area and committed to working in it on behalf of the State. To be honest, morale is quite low, and one of the main reasons for that relates to the building.

There has been talk of a new building for some time. Previous Ministers, including Charlie Flanagan and Frances Fitzgerald, have visited the station, as has the Garda Commissioner, Drew Harris. They all supported and recognised the importance of having a new building for

the Garda station. I acknowledge the role of the Commissioner, in particular, and his recognition that Clonmel needs to be supported. Designs for the new building have gone out to the public and there has been great engagement within the town and the adjoining area in support of the building. It will be built on the site of Kickham Barracks which, as most people in the area will know, was closed in 2012.

This project will be undertaken in conjunction with further development of Clonmel and the wider region under the Clonmel 2030 regeneration plan. This is to commence next month and the first phase will be a civic plaza area off Dillon Street, which is beside Kickham Barracks. There was positive news this week when Part 9 planning approval was granted for the construction of the Garda station. The development will involve the construction of a two, three or four-storey building, with a separate single-storey building to the rear. It will have parking spaces at the back, a separate entrance for gardaí and an entrance from the civic plaza. This development will revitalise an entire region of Clonmel around Kickham Barracks.

When the Garda station is being built along with the new civic plaza, a second phase will involve bringing Limerick Institute of Technology, LIT, from the outer area of Clonmel into Kickham Barracks. The civic plaza area, LIT, the education and training board, ETB, and the Garda station will form a significant area that will connect the Showgrounds shopping centre with the main town. The project is being brought forward with agreement on all sides but there is worry about the Garda station because it has been delayed a number of times. Everyone is on board and wants the project to be developed and brought forward. This week's announcement that planning permission has been granted means a significant hurdle has been overcome. Will the Minister outline her Department's continued support for the new Garda station?

Deputy Helen McEntee: I thank the Senator for raising this issue. In response to his last point, as Minister I can inform him that the Department of Justice is working with the Garda Commissioner and the OPW, which has responsibility for rolling out many of these projects. I reassure him that we are committed to ensuring that An Garda Síochána is supported in the work it does by providing the resources it needs. That includes the development of new Garda stations and the refurbishment of older Garda stations. That is a clear commitment and it is something on which I engage continuously with the Garda Commissioner.

The Commissioner has assured me that Garda management keeps the distribution of resources, including the provision of new stations or the upgrading of existing stations, under continual review in the context of overall policing priorities and crime trends, to ensure their optimum use. Following a review of the accommodation requirements of the Garda station in Clonmel, the Garda Commissioner and his management team decided that a public private partnership, PPP, should proceed to deliver new Garda stations in Macroom and Clonmel. I am advised by the Garda authorities that the PPP process is being managed by the National Development Finance Agency and that these two stations, one of which is in Clonmel, are priorities for the Commissioner. The previous Government and this Government have given a commitment in that regard.

As Senator Ahearn outlined, I am pleased to confirm that planning permission has been agreed this week for the site of the new station in Clonmel. As he and others will appreciate, this is a significant positive step in the overall progress of the project. I am also informed that while it is not possible to give a completion date for the project at this time, a working group is advancing the PPP process in its totality, including this Garda station. The Commissioner and I are very keen to see the new stations developed as quickly as possible. I again emphasise that

while I have no direct role in these matters, it is a priority for me as Minister to make sure that the Garda is supported in the work it does and that it is provided with the resources it needs, which includes this type of investment.

The Garda Síochána has been allocated an unprecedented budget of €1.952 billion in its Vote for 2021. This level of funding is enabling sustained ongoing investment and recruitment of Garda members and staff. In addition, €34 million has been allocated for the capital building and refurbishment programme, so there is significant financial investment as well as the commitment at a Government level and within An Garda Síochána to develop these projects, one of which is the Garda station at Clonmel. The Garda station there is one of the projects where the commitment is very clear. While we do not have a timeline, the fact is that planning has been granted and the next stages will progress in terms of funding. While this project was not included within the current capital programme, because of the commitment at a Government level and within An Garda Síochána, as we develop the new capital plan which will begin next year, it will be very much part of that. Funding will not delay projects as they go through the various stages. We know that these projects are lengthy, as they take a period to go through the various processes. I am confident that given the progress that has been made this week and the clear commitment from the Government, my Department and the Commissioner, this project will progress as planned. The work that is being done by An Garda Síochána in Clonmel and the surrounding areas will benefit from the project.

Senator Garret Ahearn: I thank the Minister for her response and her commitment to the Garda station, in particular that it will be part of the capital plan next year. That is really important. Like every project we as a Government put forward, it is not until people see the diggers and something happening on the ground that they fully believe it will go ahead. There is excitement among the staff. The work they do is phenomenal. They believe that if the station is built it will bring new life into the workforce and also into the community.

The Minister indicated that Part 9 planning approval was granted this week. I take it that nothing else is holding up the project and that we are ready to move forward with it. There had been complications at the start between the OPW, Tipperary County Council and An Garda Síochána but we are over the main hurdle now. Is it the case that there are no obstacles in the way and the Garda Síochána has the funding ring-fenced for the project?

Deputy Helen McEntee: It is extremely important that we provide the resources and capital infrastructure for An Garda Síochána to do its work. I am particularly pleased to note the increase in Garda resources in Tipperary in recent years. There are now 411 gardaí assigned to that division, which represents an increase of 16% since 2015 when there were 354. They are also supported by 84 civilian staff, which represents an increase of 162% since 2015.

I am also informed that since the reopening of the Garda Training College in 2014, a total of 90 probationer gardaí have been assigned to the Tipperary division. This is not just about capital infrastructure; it is also about making sure we have the manpower on the ground. A Policing Service for the Future, which is a significant plan, is very much focused on improving the overall structures, making sure that we have the right number of civilian staff and the right number of gardaí coming through the training college, working on the ground and supported by the resources they require. I refer again to the significant budget that has been allocated for this year, which will support them in doing that work.

I again thank the Senator for raising this matter and I reaffirm our commitment to Clonmel

Garda station in the years ahead.

Acting Chairperson (Senator Victor Boyhan): I thank the Minister.

Sitting suspended at 11.47 a.m. and resumed at 12 noon.

12 o'clock

An tOrd Gnó - Order of Business

Senator Regina Doherty: The Order of Business is No. 1, motion re the early signature of the Family Leave and Miscellaneous Provisions Bill 2021, to be taken on conclusion of the Order of Business, without debate; No. 2, Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018 - Committee Stage (resumed), to be taken at 1.30 p.m. and to adjourn at 2 p.m. if not previously concluded; No. 3, Residential Tenancies Bill 2021 - Second Stage, to be taken at 2.15 p.m. and to conclude at 4 p.m., with the opening contribution of the Minister not to exceed ten minutes, group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes, and the Minister to be given not less than six minutes to reply to the debate; and No. 4, Private Members' business, Quality in Public Procurement (Contract Preparation and Award Criteria) Bill 2021 – Second Stage, to be taken at 4.15 p.m. or 15 minutes after the conclusion of No. 3, with the time allocated for the debate not to exceed two hours.

Senator Fiona O'Loughlin: I support the Order of Business as outlined by the Leader. The first issue I wish to raise, which I have no doubt it is uppermost in the minds of all Senators, is the awful situation that began to unfold yesterday, culminating in an "RTÉ Investigates" programme broadcast yesterday evening from which we learned that various elements of Departments gathered and shared information relating to the families of autistic children in particular situations. As the story started to unfold yesterday, I was both appalled and in shock. Listening to Shane Corr outline last night what happened really added to the sense of absolute disappointment that something like this did happen. Apparently, it has been happening since 1996. To me, it is a complete breach of trust and abuse of power. The fact that information on siblings and parents was being collected is absolutely abhorrent. As Members are aware, the families of those with disabilities are particularly vulnerable and this practice preyed on that vulnerability. I ask the Leader to seek a completely independent investigation into this issue. It is important that we have such an investigation and that we have confidence in the systems going forward.

I also wish to raise an issue relating to Turkey. Turkey decided to withdraw from the Council of Europe's Convention on Preventing and Combatting Violence Against Women and Domestic Violence, known as the Istanbul Convention, at the weekend. Coincidentally, Turkey was the first country to sign it. It is a further blow to combatting violence against women, following the violent and brutal murder of Sarah Everard, in particular. Withdrawing from the convention leaves women in Turkey, who have faced increasing levels of violence over recent decades, very vulnerable. Abandoning this international accord under the cover of conservative values is deeply upsetting. We must show solidarity. I ask the Leader to write to the Minister for Foreign Affairs and to the Turkish Ambassador, as I have done, to outline our outrage at this.

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International Women's Day was two weeks ago. One of the most inspirational women I know is Ms Maggie Owens from Athy, County Kildare. Ms Owens, who is deaf, is a teacher in St. Joseph's School for Deaf Boys in Cabra. She has been a wonderful advocate for the deaf community and taught people in Athy to sign. When she contacted me about the school losing its speech therapist, I intervened with the Minister of State with responsibility for disability, Deputy Rabbitte. She agreed straightaway to ensure the retention but the HSE must follow through.

Senator Michael McDowell: It is interesting the People's Republic of China has decided to sanction UK Members of Parliament for criticising what has happened to the Uighur people and has banned them from travelling to China. Those of us in this House who have been strong on that issue have not come to the attention of the people in Beijing yet but nobody should be intimidated by this kind of behaviour. I have not forgotten about Mr. Richard O'Halloran and I will ask the House to consider the motion on the Order Paper in the near future.

We are in the run up to two by-elections to this House. It is small electorate of approximately 220 Members of the Oireachtas. Even though the electorate is small, it does not mean there is any reason to depart from what the Constitution and the law of the land require, that is, that there would be complete secrecy and people's capacity to vote in the election would be completely secret. I hope the Leader agrees with me that everybody is entitled to be confident that no pressure will be put on anybody to indicate how he or she has voted. It is a secret ballot. Although people can belong to different groupings and parties, they cannot be asked to disclose how they have voted. The Constitution and the law require they not be put under pressure to disclose how they have voted.

The Constitution states the ballot must be secret. The 1947 Act states it is serious criminal offence to put pressure on anybody to show or disclose how he or she has marked his or her ballot. It would be a serious matter if it were to happen. I hope it will not happen and I want to make the law clear to everybody in this House. Voting is different for by-elections to the Seanad from voting in elections to the Seanad following general elections but the same basic entitlement and duty of secrecy applies.

Everybody has the right to vote in accordance with his or her preference. Secrecy is a right and duty of every Member of the Oireachtas. Every Member can vote in accordance with what he or she considers correct with the guarantee it will not prejudice him or her.

An Leas-Chathaoirleach: While that is a reasonable admonition, it is clear it has not happened nor has there been any suggestion of it.

Senator Marie Sherlock: I too want to express my horror at what we learned in the "RTÉ Investigates" programme last night. It is important to remember that at the heart of all this are families with children, some of whom are the most vulnerable children in our State, and those families' quest to try to vindicate their children's essential constitutional right to an appropriate education in this country. Yet, last night, we heard an account whereby the Department of Health chose to spend valuable resources, time and money on an intelligence-gathering exercise on these families. These resources could have been better spent on trying to resolve the issues faced by these children. It must be an awful kick in the teeth to those within our health and education service trying to do their level best for these vulnerable children.

There are many questions here, but they boil down to why the Department was gathering

this intelligence to start with and what it was doing with that information. There is a broader question here about culture. How can a culture be allowed develop within a Department that if one goes up against the State, one effectively does so at one's peril? Why would the litigation unit of a Department gather information on family members' alcoholism, obesity and their overall mental state? These are only some of the references we saw last night.

It is important to say that this is not the first time we have seen Departments attempt to abuse their position of power and trust to undermine a person's case. Indeed, we have very many famous examples of that. It is also not the first time we have seen a Department attempt to use information about a parent to undermine the case of a child. Later today, the Seanad will debate the Committee Stage of a very important Bill initiated by my colleague, Senator Ivana Bacik, to give naturalisation rights to children born here.

I recall the case of a child I would much rather not talk about today, but it is important to remind the House about it. This child's family was threatened with deportation three years ago. During that time, officials within the Department of Justice leaked information to the media designed to damage and discredit the family. It leaked information on how the mother came into the country and on her passport application process. Thankfully, that child was granted leave to remain. However, we are at a juncture in this State at the moment where there are far too many challenges to its legitimacy from the far right. We cannot allow a culture similar to what we saw last night to continue.

There are many thousands of public sector workers and civil servants who are doing an excellent job, day in, day out. We cannot allow them to be stained by the activities of a tiny minority but we need to get rid of this culture.

Senator Niall Ó Donnghaile: I share the concerns of colleagues on the deeply shocking revelations in last night's "RTÉ Investigates" programme. I am conscious that Deputy Seán Crowe, the Chair of the Joint Committee on Health, is convening that committee this afternoon to consider how it will react and take next steps on this issue. I have no doubt it is something the Seanad will revisit in the coming period.

In my lifetime I do not recall a period quite like the one we are living through, in which the constitutional future of this country is debated with such frequency and fluency in so many different quarters. There is not a week that goes by that the popularity of a united Ireland is not tested in an opinion poll or reflected in an article in a newspaper, in academic research or across traditional and social media platforms.

The debate is correctly covering all aspects of society. These include: the need for an independent Ireland to be based on equality, inclusion and human rights; the need to involve the people of Ireland by holding referendums North and South; the setting up of a citizens' assembly to provide a venue to debate how we plan the future; the views of the unionist, loyalist and Protestant people and their place in a new independent Ireland; the economic benefits of independence and the importance of the economy being climate-centred; the future of the Irish language; the need for an Irish national health service now; and what kind of political structures there should be in a new Ireland. Should there be a single parliament based here in Dublin or a federated system with parliaments in Belfast and Dublin?

The debate has energy, vision, novel ideas and optimism. It is national and involves all ages and genders. Take as an example the past five days alone, where we got a glimpse of the energy

in the debate on the future of this country. We saw it on RTÉ's "Claire Byrne Live" when 90 minutes were devoted on national television to discussing the pros and cons of a united Ireland. We saw it in the Oireachtas at Tuesday's meeting of the Joint Committee on the Implementation of the Good Friday Agreement when the eminent legal experts Professor Colin Harvey and Mr. Mark Bassett presented their roadmap to unity. We saw it in the thorough and thoughtful speech by Deputy Jim O'Callaghan of Fianna Fáil, entitled "The political, economic and legal consequences of Irish reunification". Our colleague, Senator McDowell, has written similar papers. We saw it in the major conference, involving eight councils from Dublin to Belfast and all in between, promoting the Dublin-Belfast economic corridor. We saw it in the latest document launched by Ireland's Future, which explored the economic benefits of reunification. Just yesterday, we saw it in the shared island unit's discussion about the need for a citizens' assembly on this issue.

The nation is speaking about our country's future. Let us make our contribution to this debate. At a critical time when Brexit was threatening to destabilise the two economies on this island, the Seanad set up a committee to investigate the implications of Brexit. Its report made a valuable contribution to mapping a way calmly through threats and settling troubled minds across the country. The Seanad should set up a new Ireland committee to make its contribution to mapping a way calmly from where we are now to a new and independent society. That is a suggestion which resonated with the Leader of the previous Seanad as well as the leaders of other groups. This is a dynamic debate and we have a role to play. We should have a thoughtful exchange about how we play it.

Senator Eileen Flynn: I will be delighted to support Senator Higgins's Private Members' Bill when it is before the House today. It will put quality at the heart of the procurement process and is rightly being called a game changer.

I wish to draw the House's attention to a report that was recently published by Unite the Union, entitled "Hungry Bellies Are Not Equal to Full Bellies: Exploring inequality and deprivation in Ireland". This report addresses the real inequalities that still exist in this country and engaged with groups that worked with people who had been left behind. As we approach discussions later this year - it is actually just around the corner; we do not feel the year going by - on budget 2022, it is important that we know exactly what we are talking about. The report will be of interest to every Senator. I am sorry. I am a little bit nervous and I do not know why. The report was brought about by a comment made in this House during a debate on social protection. Senator Buttimer highlighted a newspaper article and other reports claiming that we were a richer and more economically equal people, but we all know that is not true. This report corrects the record.

When we discuss economic equality, we cannot refer to income alone. The Think-tank for Action on Social Change, TASC, lists seven factors: income, wealth, access to public services, taxation, the make-up of families, personal capacities and the cost of goods and services. When we discuss economic equality, let us talk about the two-tier health system, education, housing and the privatisation of people in homelessness and families in emergency accommodation. Let us talk about how Traveller women live 12 years less than women in the general population and Traveller men live 15 years less than men in the general population. Let us talk about the national childcare scheme, the lone parents and families in greater need, and the hundreds of people, including children, that voluntary organisations are feeding every day. Let us talk about how much money people have in their pockets at the end of the month. This year, people in Donegal once again have the lowest level of disposable income. I do not have time to finish.

The issue of economic inequality was brought before the House last December. We need to address some of these inequalities and look at the issue because it is so real. We are far from being an equal Ireland either economically or more generally.

Senator Aidan Davitt: I propose we consider catch-all legislation regarding the renewal of any business or profession that requires a State licence or certificate. During the Covid pandemic, many businesses have been closed and for a long time. The State still requires closed businesses to comply with regulations and standards. If a business has met required such standards in 2019, the least we can do in 2021 is to introduce a waiver through catch-all legislation. I spoke briefly to my good friend, Senator McDowell, and he concurred. It would be practical for everyone and is a measure we should look at. The people and businesses have had a very hard time. This is a small thing where we can meet businesses, business people and professionals halfway. Anyone, be he or she a publican, an auctioneer, a healthcare staff member or a builder, works to some State regulation or certificate. This suggestion should be looked at urgently and I ask the Leader to bring it to the Taoiseach from this House and progress it.

Senator Emer Currie: Lá lus an chromchinn sona daoibh. I hope everyone knows what that meant. I thank the Irish Cancer Society for everything it does. My mum had oral cancer over ten years ago and we are very lucky to have her. She lives with chronic pain but she is with us and she fights every day because she wants to see her grandkids grow up and she wants to give out to her own kids. She wants to be a typical Irish mammy. The Irish Cancer Society provides counselling, a support line, volunteer driving, research and so much. It is a lifeline to families like mine and others around the country.

Another organisation that has not stopped throughout the Covid pandemic is Foróige. Foróige in Dublin West is everything one would want youth services to be, they are enjoyable and empowering for young people. It has continued its targeted youth services and has helped incredibly vulnerable families and children. It has innovated through lockdown, it has planned new youth clubs including one with me for Carpenterstown, which I hope will start soon. If there is an opportunity when it comes to changing restrictions - I do not mean lifting them - we need to look at the programme groups and whether they can meet up. It has suggested meeting in groups of two or three with a staff member, just to have some sort of interaction. While Members will have seen how compliance is shifting, this would be an example of a controlled environment. Fine Gael as a party has discussed youth and whether we need a discussion on our youth. We know they are struggling. I am reiterating what I said on Monday about being conservative and compassionate, in that we can still have restrictions while also relieving certain pressure points.

I also wish to back up the remarks of my party colleague, Deputy Dillon, about maternity services in hospitals. If there are vaccines for front-line staff, can we consider the lifting of restrictions on partners in the hospitals?

Senator Catherine Ardagh: Lá lus an chromchinn sona daoibh go léir. It is Daffodil Day today. As my friend said, many of us have been touched with cancer. The Irish Cancer Society does an unbelievable job. When one is brought into the cancer realm, one's whole life changes. One is always asking questions and learning about blood and platelet counts. It is another world that many families across the country are living with. It is a hard world. The Irish Cancer Society makes it that little bit easier because its volunteers help by driving patients to chemotherapy appointments and it offers counselling supports. It is an unbelievable organisation. If people text 5300 and give €6 to the Irish Cancer Society, it is well worth it.

I also raise the issue of the “RTÉ Investigates” programme. It was harrowing and a kick in the face for all of the parents with children with autism spectrum disorder and the organisations that are fighting so hard for services for their children. We know that defendants in legal actions can share information but this goes much further. It is completely reprehensible, morally and ethically. It is illegal. The Leader needs to go back to the Minister to make sure this is no longer happening. It cannot happen again. These are parents who are fighting for a basic education for their children and this is all going on, secretly and surreptitiously, in the background. It is disgusting. I read that videos of children in a distressed state are being shared by private clinicians. The medical profession must also answer questions in that regard. I am appalled by this and hope that it stops. It was hard to watch and acknowledge that this actually happened. I hope it is not still happening.

An Leas-Chathaoirleach: I call Senator Craughwell, representing Senator Mullen.

Senator Gerard P. Craughwell: We should have informed the Leas-Chathaoirleach before the House sat.

An Leas-Chathaoirleach: The procedure is to inform the Seanad Office.

Senator Gerard P. Craughwell: I woke this morning to find that once again there has been a fiasco with respect to vaccines. I am talking specifically about the administration of vaccines from the Beacon Hospital to teachers in St. Gerard’s School in Bray. I see nothing wrong with vaccinating teachers and, indeed, I believe they should be up there with front-line workers. God Almighty, when there were 20 spare vaccines available in the Beacon Hospital, which is surrounded by GP surgeries within walking distance and public sector national and secondary schools, the hospital went ten miles out to Bray to find the staff of the private school that the children of the chief executive officer attend. It is absolutely outrageous. When one thinks about the people in this country who are going the extra mile-----

An Leas-Chathaoirleach: It would be inappropriate for the Senator to identify anyone.

Senator Gerard P. Craughwell: It is in the public media.

An Leas-Chathaoirleach: The Senator should make a broad point.

Senator Gerard P. Craughwell: I accept the Leas-Chathaoirleach’s point. I know a number of elderly people who are sitting at home desperately waiting for their turn. Dozens of them live in the Sandyford area, yet this is what happens. What control is there?

There was a load of spin about the matter on the radio this morning. It was not coming from the Government, but it was spin nonetheless. It is outrageous that this carry-on is allowed to take place. We are hearing about vaccine nationalism. Are we now getting down to the sectoral vaccine system where those with power and privilege in this country can decide who will and who will not receive a vaccine? There are Garda stations within walking distance in two directions of the Beacon Hospital. Those members of the Garda are all front-line workers. Why were they not considered? It is an absolute outrage. This requires the HSE to put a system in place so that if there are spare doses of the vaccine available, there should be a list available in every GP’s office of people who can be called in at short notice to receive one. We need the Minister for Health to make a statement about this matter today.

Senator Tim Lombard: Today, Daffodil Day, is important. In a normal scenario, we

would be seeing daffodils sold on every street corner. This day is an important day for society. We all have stories we could tell about what the Irish Cancer Society has done for our families and how great a support it has been to them. I would like to mention my brother Ger, who died of skin cancer at the age of 37. The Irish Cancer Society was a great support at the time and the nurses in particular were just amazing. It is important that we acknowledge their work and do our best to contribute today in these unusual circumstances.

We will have to start planning for what the healthcare system will be like when we move away from the Covid-19 crisis. We have many issues that need to be addressed. The backlogs and waiting lists are matters we have to start talking about now. Mental health will be major issue in both rural and urban areas. We need to start putting in place a strategy to work through this crisis and determine how the healthcare system will be able to provide for society.

During the week, I came across a case involving speech therapy for a three-year-old child. The individual is literally on Zoom calls for six weeks and then put at the back of the list again. He or she must start all over again. Trying to do speech therapy with a three-year-old child on a Zoom call is an unusual task, to say the very least. The staff are trying, however. They really are and they are doing their best but we really need to focus on determining the plan for the next 18 months so we will have all the services. There is a great need for the services because of the unfortunate crisis we are fighting.

Senator Rebecca Moynihan: I also want to raise the outrageous news that leftover vaccines from the Beacon Hospital were given to teachers at the private school of the CEO's children. Nobody wants to see vaccines wasted but it seems that people are treating vaccines in the way in which some might treat all-Ireland tickets; it is about connections and who one knows rather than priority and need. The news story, concerning a private school, a private hospital and connections, has all the ingredients of an Ireland that most of us want to see the back of. We certainly thought it was not in operation during this pandemic, when we have been told we are all in it together.

Senator Gerard P. Craughwell: Hear, hear.

Senator Rebecca Moynihan: The Beacon Hospital could have contacted a much nearer school, such as St. Michael's House, a special education school, or even category-4 Beacon patients who live nearby. We know from personal stories on social media today that the Beacon did not do so. One person whose father is receiving treatment in the Beacon for category-4 cancer has no information on when he will be getting his vaccination. Another cancer patient in the Beacon has no sign of a vaccine. I would like to know if every single cleaner and retail worker in the Beacon was vaccinated when the hospital authorities decided to go 14 km down the road to give vaccines to teachers at a private school. I have no objection to teachers being vaccinated but specially picking the private school that the CEO's children attend is a disgrace. It is disgusting.

An Leas-Chathaoirleach: We cannot imply anything or make a criticism. The Senator must be cautious in referring to somebody outside the House. It is not-----

Senator Rebecca Moynihan: I will but the matter is in the public media.

An Leas-Chathaoirleach: The Senator can make the broad point-----

Senator Rebecca Moynihan: The Chair is eating into my time.

An Leas-Chathaoirleach: -----but she should avoid mentioning people.

Senator Rebecca Moynihan: It is disgusting, immoral and antisocial. Vaccination should be based on need and risk, not on who knows whom. We should not tolerate what happened, especially when we have a lacklustre vaccine programme whose targets and dates are constantly moving. The CEO of the Beacon Hospital should come in and answer questions on what happened in this case. The Minister for Health needs to come in and address us on the issue of the vaccine programme.

An Leas-Chathaoirleach: I point out again, because it is important, that the Senator and all other Senators should be cautious in referring to a person outside the House who is not in a position to defend himself or herself. We adopted Standing Orders to that effect last December, namely, Standing Orders 49A, 49B and 49C. The Senators should note and be aware of them so as not to be in breach of them. Our next speaker is Senator Fitzpatrick.

Senator Mary Fitzpatrick: I will adhere to the Standing Orders but there is a consensus in this House that what happened is unacceptable, particularly if it happened in the way it is being portrayed in the media. The legitimate questions that are being asked must be answered. If the Leader, on behalf of the House, can ask those questions directly of the CEO of the HSE and the CEO of whatever organisation it is that operated in that way, which we all recognise as being certainly questionable but potentially-----

An Leas-Chathaoirleach: We are not saying they did.

Senator Mary Fitzpatrick: Absolutely, I did not mention it.

On a more positive note, normally I would be standing in Cabra collecting money for the Irish Cancer Society. I am delighted to be here. I wish I was standing on the streets like thousands of other people who give of their time voluntarily for the society and cancer research. This has been a hard year for all of us, and particularly hard for cancer sufferers and their carers, be they family members or professional carers. Cancer research is incredibly important. As a House, let us encourage everyone to support Daffodil Day today and cancer research.

We are all looking for a little hope. On a more positive note, the meetings that have been taking place and an indication that the target is to have 80% of the population vaccinated by the end of June give us all hope. We all want to cling to that hope but we also want to find a path to get us beyond where we are today. When the Cabinet sub-committee and the full Cabinet meet next week to decide, there will have to consider many just causes. Young people, in particular, have found this very difficult. Many of them are finding it hard to understand how they can be expected to sit in a classroom for eight hours with a mask but not allowed to engage in organised sporting activities outdoors. When organised outdoor sporting activities were taking place, more than 250,000 Covid compliance forms were being submitted every week. There is the construction industry as well. The housing crisis has not gone away and it is impacting our Covid numbers as well. The construction sector has proven itself to be safe and I ask the Leader to ask the Cabinet sub-committee to consider reopening it.

Senator Micheál Carrigy: I echo the comments with regard to what we have read in the newspapers this morning. The CEO of the HSE should answer whatever questions we have.

I want to raise an important issue in my area, which is turbary rights, Bord na Móna and all that goes with it. Many families in the midlands and throughout the country have such rights

and have cut turf for generations, and they are entitled to a just transition. I ask that Mr. Kieran Mulvey, who is the just transition commissioner, be brought in and asked to mediate on this issue and that he would be part of the peat consultation group. Mr. Mulvey has excellent experience in this area. Given he has been appointed as the just transition commissioner, I ask that that would happen.

Today, my children have left school. Many schools have closed at 12 o'clock today for the Easter break. I am aware that many schools are sending home their schoolbooks out of fear that with the rising Covid numbers, they might not reopen on 12 April. That cannot be allowed to happen. A strong message needs to go out that we must have a quieter Easter to ensure a return to school by all children, including those with special needs. This is the only country in western Europe where children were not at school and it is incumbent on Fórsa and the INTO to come out and strongly state that this will not happen again should any issue arise in our schools. It is extremely important. I have been contacted by parents, one of whom stated:

I think it would be impossible to quantify the amount of commitment and dedication required to raise a child with complex needs. All of us families do so without question, we love and value our children dearly. However to continue to do so for their lifetime we do need to retain our support systems, without exception

[The SEP programme, which was introduced] has been mostly unsuccessful. It has been near impossible for most families to engage in services of a teacher of SNA to deliver the programme. In-school learning is the proven best choice for our children [and that is the way it must be].

Senator Lynn Boylan: It gives me no pleasure to raise this issue. I thank my colleague, Senator Gavan, who was due to speak today and has given me his speaking time. On 12 February, I raised the issue of funding for the Stardust inquest. I spoke of how the Department of Justice had been warned repeatedly that the legal aid route was not the appropriate mechanism to address an inquest of this size and public importance. Those warnings were ignored. In its wisdom, the Department insisted on going down the legal aid route and called for the families' applications to be processed without delay.

The previous Minister for Justice and Equality, the current Minister for Justice and the Taoiseach are all on the public record giving a commitment that the necessary financial resources would be put in place so that all the families can seek justice for their loved ones. It has now materialised that the families are being subjected to financial eligibility tests to avail of legal aid. It appears that despite the provisions for a waiver in section 29(2) of the Civil Legal Aid Act, the regulations to provide for that waiver have never been enacted.

It now means that not only are some families being denied legal aid, but a distinction is being drawn between the families, which is causing considerable distress. It has brought back all of the awful memories they have of how shoddily the State has treated them; how, after the insulting findings of the Keane inquiry, families scrambled to try to find the money to sue the owners of the Stardust to get justice; and how they were threatened with losing their homes if they continued in that quest for justice. How cruel is it that 40 years later when their hopes had been lifted at the prospect of a fresh inquest, once again the State is putting up barriers to their access to justice?

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I ask the Leader of the House to write to the Minister for Justice, Deputy McEntee, asking that she bring forward the statutory instrument to address this matter without delay. Financial waivers are not exceptional. They exist in the North, in England and in Wales. However, the Stardust inquest is exceptional. The Minister has it within her gift to finally turn the page on how the State has treated these families.

Senator Malcolm Byrne: Today is the national independence day for Bangladesh; in fact, it is the golden jubilee of Bangladesh's independence. I commend the Limerick councillor, Abul Kalam Azad Talukder, on his organisation of a series of events today to mark the contribution of the Bangladeshi community here in Ireland.

We have often discussed in these Houses the impact of the Covid pandemic on young people and we have heard it again today. In our recovery it is essential that we hear the voices of young people. As part of our recovery, we should make this the best little country in the world in which to be a young person or to grow up. That means resourcing our youth organisations and the volunteers who work with young people but also encouraging and empowering young people who want to get involved in activism or politics. We need to look at strengthening our student councils, further empowering Comhairle na nÓg and hearing the student voice in the debates on education and leaving certificate reform.

I particularly salute the youth wings of all our political parties. Labour Youth played a significant role in the Bill relating to the naturalisation of minors which will be taken this afternoon. I know that Young Fine Gael is currently electing its new officers and I congratulate Art O'Mahony on his election as president. The Leader will not be surprised that I am going to celebrate the contribution of Ógra Fianna Fáil, which holds its national conference online this weekend where young men and women will debate issues and elect officers, and will influence my party's policies and those of the Government.

I pay tribute to the outgoing president, Tom Cahill, and all his officers. They have campaigned on issues such as period poverty, access to student grants for asylum seekers, the cost of motor insurance, and an all-island education and research system. They have also campaigned to reduce the voting age to 16 in European and local elections in 2024. I am happy to propose an amendment to the Order of Business that No. 10 be taken before No. 1. We need to look for ways to actively encourage young people to participate as fully as possible in our society, and giving young people the right to vote in the local and European elections in 2024 is a way to go about it.

Senator Pauline O'Reilly: I apologise for missing my slot earlier and thank the Leas-Chathaoirleach for fitting me into my colleague's place.

I thank the Minister of State, Deputy Madigan, who attended for my Commencement matter earlier. She used a significant amount of her time to discuss the Department of Education's position on the "RTÉ Investigates" programme that many of us will have seen last night. The programme has left many families with an awful lot of questions despite the statements by both the Department of Education and the Department of Health. I ask the relevant Ministers to engage with all the families concerned because they wonder whether they can trust people when engaging and collaborating with the schools their children attend. We must ensure that families have a sense that they can speak openly, rather than believing everything they say could be potentially used against them in a court of law.

In her response today, the Minister of State indicated that in cases involving litigants, it is reasonable to expect everything that may have gone on within a school to be looked at to see if an individual child's needs were met. While it is right to consider whether a child's needs were met, we must do that not from the point of view of how we protect ourselves and defend our institutions and Departments but how we give the child what he or she needs. We are here to serve the public and children and that must be front and centre, not how we defend ourselves in cases. I am not saying that is what the Ministers are doing but that, unfortunately, there is now a public perception that there is a lack of trust. It is not just a case that justice is done but that it is seen to be done in order that we regain the respect and confidence of families and young people with special needs.

Senator Barry Ward: Today is Daffodil Day and I acknowledge the enormous work done by the Irish Cancer Society. Every one of us has been touched by cancer. Today, I remember members of my family who have died from cancer and the work that the Irish Cancer Society did to support people in that regard. I encourage people to donate or buy a daffodil if they can.

I wish to talk about water safety. The seasons are moving from spring towards summer and I hope there will be a slight relaxation of restrictions, although I do not know whether that will happen. Increasingly, I see people swimming in the sea in Seapoint, the Forty Foot bathing area, Hawk Cliff and Killiney beach in my local area. It is important to note that Water Safety Ireland this week asked people to remember how cold the water still is, pointing out that we still have tides, bad weather and high waves and asking people to be extremely careful. I acknowledge the work done by my colleague, Councillor Lola O'Sullivan, in Tramore and her work with Water Safety Ireland. It is important to remind people that if they swim in the sea or are involved in water sports such as paddle boarding, sailing or windsurfing, there are attendant risks and they need to take precautions. They should let people know where they will be, wear the appropriate equipment and know the water and area so that they can protect themselves.

This week, the Royal National Lifeboat Institution, RNLI, in Dún Laoghaire reported that it has had an increase in demand for its services. In the last week, the RNLI had to rescue people who had been cut off by the tide in Sandymount. As incidents can easily happen, I appeal to people to be careful so that they do not require the help of the Coast Guard, the RNLI or other rescue services because when they do, these services may not be available to help somebody else. We can all take simple steps when in the water to be careful and ensure we do not get into difficulty.

Senator Eugene Murphy: Gabhaim buíochas leis an Leas-Chathaoirleach agus guím lá lus an chromchinn sona daoibh go léir. Is lá speisialta é.

An Leas-Chathaoirleach: Agus leat féin.

Senator Eugene Murphy: That means "happy Daffodil Day", as the Leas-Cathaoirleach will know given his good grasp of the Irish language.

Like many other Senators today, I dedicate the two minutes available to me to all cancer patients and families who have suffered because of cancer. I think, in particular, of mothers, fathers and many others, including people in my local area, who left us much too soon. They feature strongly in our thoughts today. I also want to talk about the Irish Cancer Society and its volunteers up and down the country. I speak about the fantastic medical professionals, researchers and nurses and the work they do in comforting and helping people. We must also

have a little bit of hope. Despite all the adversity I have spoken about, thousands of people are now living longer with cancer or surviving it completely. I think of all the volunteers in our own counties and of Jacqueline Daly of East Galway and Midlands Cancer Support. I ask the Leader to look at that organisation's website, to engage with that lady and to see what she has done for thousands of people throughout the country. There are many other people like her working in a totally voluntary capacity.

The Leader will agree with me that the important thing is to get all of the cancer services back up and running as quickly as possible. We have been told that these will start again in June but it will probably be the end of the year before they are all up and running. We should aim to get them up and running before the end of the summer if at all possible.

Senator Aisling Dolan: I raise today the issue of emergency accommodation for St. Teresa's Special School in Ballinasloe. There are only 115 or so special schools across the country. The challenge here is linked to an issue I have raised already in the House, an issue regarding Scoil an Chroí Naofa, the only DEIS band 1 school in Ballinasloe. It has no capacity to take on another special needs class so St. Teresa's, which handles children with moderate to profound complex needs, has been taking the flak over recent years. Its enrolment has increased from 11 students in 2011 to 27 last year. Despite this, it is operating in the same building. There is no space.

The school made an emergency application for two classrooms. I have engaged with the Department but I ask the Leader to see that this is accelerated. We are already at the end of March. Issues such as this are causing a lot of stress and anxiety for principals across the country. I know the Department and its officials are dealing with hundreds of applications and that Covid has had an impact and caused delays, but we really need a decision made on this. I know of ten students awaiting enrolment in September. There is nowhere in Ballinasloe for them to go.

It is not solely about this area of east Galway. The school caters for people from Roscommon as well. It has a huge catchment area. It has great staff who are doing great work. It opened its doors again only a few weeks ago. It was a joy for children to be able to go back, particularly when the closure of schools had impacted so much on their development. There are also great healthcare staff doing their best in the school. I hope to hear some sort of news in the coming weeks. It would be a relief to the principals to know that there is a plan in place for September.

Senator Erin McGreehan: I second Senator Byrne's amendment to the Order of Business. I will talk about the Irish Cancer Society. I pay tribute to all of those we have lost, those battling cancer and those who will, in the future, get a cancer diagnosis. There has been positive news on this island with the establishment of the All-Ireland Cancer Consortium. Last week saw the signing of a memorandum of understanding between the Northern Irish Government, the Irish Government and the US. This consortium is a research organisation which will drive cancer research forward and, it is to be hoped, save many lives in the future.

This year marks 20 years since the foot and mouth disease crisis. The Cooley Peninsula, north Louth and south Armagh were absolutely devastated by the disease. I come from a farming background and I saw the terror and saw our hills empty of flocks. Generations of breeding, going back hundreds of years, were lost and can never be reclaimed. I pay tribute to the farmers who stuck with it and who worked hard to restock our hills in the Cooley Mountains and south

Armagh. There are lessons to be learned in respect of the compensation offered. No allowances were made for consequential payments in the Department's Bill. I will also acknowledge a good news story. The Cooley Sheep Breeders Association is the biggest sheep breeders' association in the country. After 20 years of there being no sheep on the peninsula, we now have the largest sheep breeders' association. Every year, on the first Saturday in September, one of the largest sheep sales in the country is held. Perhaps next year, Senators will be able to visit the peninsula and see the finest sheep in the country.

Senator Regina Doherty: I thank colleagues for the variety of topics raised. To respond to Senator McGreehan, I wish the Cooley sheep breeders and farmers a very good year. It has been difficult for many people. I am happy to accept the Senator's proposed amendment to the Order of Business.

Senator Dolan raised the issue of St. Teresa's Special School in Ballinasloe. The best I can offer her is that I will write to the Minister for Education and ask for an update on the allocation and the negotiations to extend the accommodation of the school. I will send a copy of the response, as soon as it has been received from the Minister, to the Senator's office.

Senator Murphy, among others, talked about cancer services. The least we could do to honour all the people who are battling cancer is to resume cancer services, both day and long term, at the earliest opportunity.

Senator Ward raised the issue of water safety, with the hope and aspiration that some freedoms will be restored to us in the coming weeks and months. I encourage people to be safe and wish safety organisations such as the Royal National Lifeboat Institution, RNLI, continued success in their operations.

A number of colleagues raised the "RTÉ Investigates" programme that was aired last night. We need to have a debate on the subject and I have requested a Minister's presence to allow for that. I will propose later today an amendment to the Order of Business for Monday next. I apologise for doing so yet again. We should have that debate before the forthcoming two-week recess. People will probably be reluctant to listen to what we have to say before there is a full investigation but, given that the statement last night from the Department of Health indicated that there had been an investigation and that it is quite happy to stand over its actions, the least the Minister for Health or a Minister of State at the Department can do is listen to the concerns we will raise on behalf of the tens of thousands of families of children with special needs who were probably shaking with anger when watching the programme. I will revert to Senators later today when I have arranged for business on Monday to be rescheduled.

Senator Byrne talked about party youth wings. We all do as much as we can to encourage youth participation in politics, and one of the best ways we can do that is to allow them to have the franchise and to vote. I accept that some people are probably fearful of that but I do not think anyone should fear people being allowed to express their interest in the running of our country, whatever their age. I will support the Bill he mentioned and accept his amendment.

Senator Boylan raised an issue she feels passionate about. I am aware she has for many years been representing the families she referred to, as have many other politicians. My brain is screaming that I should not feel the need to ask a Minister to sign a statutory instrument. If a problem was unforeseen, it should be resolved, but I am happy to send a letter to the Minister for Justice on behalf of the Senator and the House. I will send a copy of the letter to the Sena-

tor's office.

A number of colleagues raised the issue of the misuse of vaccines. I will not refer to any individual or organisation by name. We have deprived the millions of citizens on this island of their liberty for the best part of 12 months, with no end in sight until we can vaccinate all our older and vulnerable citizens and front-line healthcare workers. The misuse and abuse of trust displayed yesterday and the sorry not sorry response given this morning are an absolute disgrace. I have written to Paul Reid and I know how angry he is, but anger is not enough in this case. This is not the first time this has happened but the second. I believe it has happened a second time because there was no retribution the first time it happened and we are still investigating that case. Sorry not sorry is not good enough. We cannot continue to erode people's trust. We have had a slow and relatively unsatisfactory start to our vaccination programme but we still have the support and good will of the vast majority of the people on this island. If there are further examples of abuse of power such as that which was displayed earlier, with the sorry not sorry response issued by the people who abused their power, we will soon find that we will not enjoy the trust and support of the vast majority of the people on this island. It is just not good enough.

1 o'clock

Many speakers this morning raised the fact that today is Daffodil Day. We would all probably be celebrating it in a much more active way than we are, which is why it is more important that each of us uses every action and stream of communication that we have, as most of us are on different forms of social media, to encourage people to support the Irish Cancer Society's virtual campaign. I do not think there is a family in Ireland that has not been touched either by somebody who has battled cancer or lost a battle with cancer. We all know the enormous contribution the volunteers and the people who work with the Irish Cancer Society extend to the people and their families who are going through that battle. It is one of the most worthy organisations that we have. I know it would be very welcome if we could encourage everybody to support and donate to it.

Senator Davitt referred to a piece of catch-all legislation, which I think would be very worthwhile. I will inquire today of the Taoiseach's Department how we could do something without having to go individually to every single registrar or licensee organisation to see if we can do a roll-over for a year. We had a debate a couple of months ago on the registration of nurses and there was seen to be some reluctance. It would be a really important signal for the State to send to those organisations and it would probably not cost an awful lot of money to say that we are all in this together and this is our part to play. I will follow up on the matter for him today.

In response to the issue raised by Senator Ó Donnghaile, I think this is an exciting time because there does seem to be momentum and energy building on the constitutional future of the island of Ireland. The debate is growing. I am very supportive of the suggestion he made this morning that we could perhaps make time available at our next meeting of the Seanad Committee on Parliamentary Privileges and Oversight, CPPO, to have a discussion about establishing a Seanad committee so that we can participate in that debate. What is more important than talking to ourselves, a real conversation needs to be had and we must set out a stall and future vision for a united Ireland. Those conversations need to be had in every single family, school, household, social group and in pubs when they reopen. That conversation needs to be had with every citizen on the island of Ireland. Perhaps we could schedule that at our next meeting of

the Seanad CPPO.

Senator McDowell raised the intimidation by China recently exposed yet again. Members are aware that the debate was rescheduled a number of weeks ago at the request of the family of Richard O'Halloran. I am happy to reschedule it, but we must wait for them to give us permission again. I thank the Senator for reminding people of their privilege and freedom in voting in the election in the coming weeks.

Senator O'Loughlin raised Turkey's recent withdrawal from the Council of Europe convention. Her colleague, Senator Chambers, mentioned it at the beginning of the week. I will again express the sentiments that I expressed then. I do not think the language in the statement that issued from the Council of Europe goes far enough. Actions speak louder than words. Our words and our response from a European perspective to Turkey withdrawing from the Istanbul Convention needs to be far stronger if our intent is as we hope it should be.

An Leas-Chathaoirleach: Senator Byrne moved an amendment to the Order of Business: "That No. 10 would be taken before No. 1". The amendment was seconded by Senator McGreehan. The Leader has indicated that she is prepared to accept the amendment. Is the amendment agreed to? Agreed.

Order of Business, as amended, agreed to.

Electoral (Amendment) (Voting at 16) Bill 2021: First Stage

Senator Malcolm Byrne: I move:

That leave be given to introduce a Bill entitled an Act to reduce to sixteen years the age at which a person is entitled to be registered as a European Parliament and Local Government Elector, and to provide for related matters.

An Leas-Chathaoirleach: Is there a seconder?

Senator Erin McGreehan: I second the proposal.

Question put and agreed to.

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

Senator Malcolm Byrne: On Good Friday, 2 April.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Friday, 2 April 2021.

Family Leave and Miscellaneous Provisions Bill 2021: 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 Family Leave and Miscellaneous Provisions Bill 2021 *changed from* Family Leave Bill 2021 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.

Sitting suspended at 1.05 p.m. and resumed at 1.30 p.m.

Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018: Committee Stage (Resumed)

An Leas-Chathaoirleach: I warmly welcome the Minister. She is almost resident with us in the Seanad these days. I thank her for being here for Committee Stage of the Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018. We will now resume the debate.

SECTION 1

Question again proposed: “That section 1 stand part of the Bill.”

Question put and agreed to.

An Leas-Chathaoirleach: Amendment No. 1, in the names of Senators Bacik, Hoey, Moynihan, Sherlock and Wall, is deemed out of order as it is in conflict with the principles of the Bill as read a Second Time.

Amendment No. 1 not moved.

SECTION 2

Question proposed: “That section 2 stand part of the Bill.”

Senator Ivana Bacik: I welcome the Minister to the House. I welcome the opportunity to resume our Committee Stage debate on this important Bill. I wish colleagues well for Daffodil Day. I know we are all wearing the masks that the Irish Cancer Society has so kindly supplied. I thank the Minister for coming in to deal with the Bill and for her very constructive engagement with me. I have been glad to engage constructively with the Minister and her officials since the last occasion we were in this House. Since Section 2 is the substantive section within the Bill, I know colleagues will have quite a good deal to say on it. I know the Minister also wishes to speak, in particular, about section 2(1). I thought it might be helpful if I brought colleagues up to date on what has been happening with this Bill and the context for it.

I acknowledge last night’s “RTÉ Investigates” programme. Journalist Conor Ryan is to be commended for bringing forward the experience of whistleblower Shane Corr and speaking

about the rights of children and their families, who were so affected by the sharing of confidential documents and reports. My colleague, Senator Sherlock, already linked that report with the topic of this Bill during the Order of Business.

This Bill deals with the rights of children in a different context, which is that of immigration and citizenship law. In this Labour Party Bill we are seeking to provide children who are born in Ireland to parents who are not themselves Irish citizens with an easier or more accessible route to citizenship through naturalisation. We come to this from the fundamental premise that two children born alongside each other in an Irish hospital, who attend school together, should not have a different legal status or entitlement to citizenship in Ireland by virtue of their parents' legal status. What we seek to do is in keeping with the provisions of Article 9.2.1°, which was inserted into the Constitution through the citizenship referendum on the twenty-seventh amendment in 2004, and which the Labour Party opposed at that time. That amendment states:

Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless provided for by law.

There has been a good deal of commentary about our Bill online. I stress that the text of Article 9.2.1° expressly provides the Oireachtas with power to provide for citizenship rights for children born in Ireland to non-national parents. It expressly gives the Oireachtas the exclusive power to legislate for citizenship entitlements for those children. That is what we are seeking to do in this Bill, particularly through section 2, on which we are focusing in today's debate.

The effect of the twenty-seventh amendment was to change what had previously been the case, in both the Constitution and under the Good Friday Agreement, that is, that it was the "... entitlement and birthright of every person born in the island of Ireland ... to be part of the Irish nation." The twenty-seventh amendment was implemented by subsequent legislation through the Irish Nationality and Citizenship Act 2004.

The principle of birthright citizenship is one which we in the Labour Party would like to see restored. We have made no secret of that. I commend our colleagues in Labour Youth and in particular our late colleague, Cormac Ó Braonáin, who very sadly died in 2019. He championed the "Born Here Belong Here" principle, which seeks to restore birthright citizenship to our law. What we are seeking with this Bill, which we brought forward in 2018, is not to overturn the referendum but to provide some incremental progressive change for children born in Ireland to non-national parents.

The Bill would make three changes to the naturalisation regime to make it easier for children born here to achieve citizenship. Section 2 is the crucial section for the changes we seek to make. At present, a child born in Ireland who is seeking citizenship through naturalisation must have five years' residence. We are seeking to change that requirement to three years and that is, in essence, what is provided for in section 2(1) of the Bill. The Minister has indicated that she will be making some commitment to change in this area. I welcome her commitment and constructive engagement with us on that matter.

The second change is again being made through section 2, in this case in subsection (2). It would decouple the minor's or child's entitlement to apply for naturalisation from that of the parent or guardian. The Minister may say something on that and has indicated that she will look

to see if it is possible to make some change in that regard.

The third change our Bill seeks to make is through section 3, which refers to the period of residency that is to be counted prior to applying for citizenship. We believe that the Bill would not only represent an incremental progressive change if it were to be implemented, but also a sensible and compassionate approach to regularising the position of Irish-born children who have spent years of their childhoods resident in this country but who currently face an uncertain future and, in some cases, the threat of deportation. The Bill has public support. A recent Behaviour & Attitudes poll showed that more than 70% of people believe that children born in Ireland should be entitled to citizenship. It was in this spirit that we introduced the Bill in 2018. We are also motivated by the case of Eric Xue. A young boy, he was born in Ireland, goes to school in Bray and he and his family live in Bray. Despite that, his family were threatened with deportation.

The Second Stage debate took place on 21 November 2018 and colleagues will recall that Fianna Fáil and the Green Party supported the Bill. It passed Second Stage despite the then Government's opposition. Committee Stage was debated during Labour's Private Members' time on 2 December 2020, but the debate adjourned on section 1 on the basis of the Minister's commitment, for which I thank her, that we would have some engagement in the interim to determine how we could make progress. To update colleagues, I have engaged with the Minister and her officials twice since then - we met on 16 December and 10 February - which culminated in some agreement on what could be done and how we could see movement, in particular on section 2(1). We welcome that. I thank the Minister for the statement she issued on 23 March referring to this Bill and our discussions and in which she stated that she would reduce the amount of time that children born in Ireland had to be resident in the State to become Irish citizens from five years to three years. Essentially, she will be inserting section 2(1) of this Bill into a Government Bill that is to be published later this year. However, I ask that she consider the Bill's other aspects. She has committed to exploring section 2(2) and whether, in light of particular difficulties, it would be possible for Tusla to apply for citizenship on behalf of older children. I appreciate that.

The Minister and other colleagues wish to contribute, so I will finish by saying that my party and I have been grateful for the support of many NGOs, including, among others, the Migrant Rights Centre, the Immigrant Council of Ireland, the Movement of Asylum Seekers in Ireland and the Children's Rights Alliance. The Migrant Rights Centre in particular has expressed disappointment that undocumented children will not benefit from the change the Minister has indicated she will make as a result of our discussions. The centre says that a child such as Eric Xue, prior to his family getting their status, would not benefit from this change. Thus, the centre is concerned that many children born in Ireland would still be left in a vulnerable position. It is seeking clarity on the Minister's statement about her proposed change only applying to the children of parents who were legally resident in the State. I echo the centre's calls.

I am disappointed that the amendment we proposed to section 2 has been ruled out of order, but Labour will continue campaigning on the born here, belong here principle. I look forward to further constructive engagement with the Minister on that matter. I know she wants to speak on the section.

An Leas-Chathaoirleach: Before I call Senator McDowell, does the Minister wish to respond now? I can then call Senator McDowell.

Senator Michael McDowell: I would have no problem with that.

Minister for Justice (Deputy Helen McEntee): If that is okay, I will speak as quickly as I can.

I acknowledge the work done by Senator Bacik and her Labour Party colleagues and thank them for it. Since we last discussed this Bill, I have had a good engagement with the Senator on a number of citizenship issues. I thank her for that ongoing engagement. During our previous debate on Committee Stage in December, I committed to reviewing the Bill. Further to that, I brought a memo to the Government at a Cabinet meeting earlier this week setting forth plans to amend some parts of the Irish Nationality and Citizenship Act as part of the courts and civil law (miscellaneous provisions) Bill, which we hope to progress and implement later this year. The general scheme of that Bill will include a number of amendments relevant to citizenship and immigration matters, but before I speak to those and to section 2 of this Bill, I will update the Seanad on a key development in this area.

I understand that the Labour Party's intention in introducing this Bill was to provide a solution, as well as certainty and clarity, for undocumented children in the State. I am happy to inform the House that the programme for Government commitment to introduce a regularisation scheme of the long-term undocumented is well under way. It has progressed since we last met in December. This scheme will be broad and I think it will be generous. It will provide a pathway to citizenship through legal reckonable residence for many adults and children in the State. It is still intended, as I set out, that this scheme will be introduced and launched in the third quarter of this year with a view to accepting applications before the end of the year in line with the commitment in the programme for Government that it will be done within the first 18 months. Thereby, it will provide us with regularisation and give permission to remain legally in Ireland to a significant number of individuals. Without fully knowing the number, it appears potentially more than 3,000 children will benefit from that and a significant number more of their parents and adults.

I wish to reiterate that Ireland is a diverse, open country and it welcomes many new citizens each year. Since 2010 just under 29,000 children, including 25,000 children of non-EU nationals, have become citizens in Ireland through naturalisation. This reflects existing citizenship requirements, which are very straightforward in comparison with other European jurisdictions and require no civic or financial requirements but legal reckonable residence in the State for five years in total. I outlined earlier in a Commencement matter how we have introduced a new system to deal with the fact we cannot have in-person citizenship ceremonies. We hope to address that and to reach in excess of 6,000 people between now and the end of June. That will deal with much of the backlog that currently exists.

One of the amendments I intend to introduce through Government legislation will reflect in part section 2(1) of the Private Member's Bill as discussed and as the Senator has outlined. This will reduce, from five to three, the number of years' residence required for children born in the State to become eligible for citizenship by naturalisation. This proposal will allow children who are currently on a pathway to citizenship to attain this status at an earlier stage. It offers greater security of status to a child who can acquire Irish, and thereby EU, citizenship more easily than is currently the case. With this proposed Government-led amendment, Ireland will be one of the most generous in the EU in terms of the years of residence required for foreign national children born here to gain citizenship by naturalisation. I look forward to further debate on this amendment as the Government Bill moves through the Houses in the Oireachtas.

I also understand that while giving effect in part to section 2(1) of the Private Member's Bill in a Government Bill, it is an important collaborative effort. As Minister for Justice, I understand that to reduce the number of persons who become undocumented in this State, improvements need to be made on a wider basis in the immigration process, in particular in the area of international protection. The recommendations of the Catherine Day report, which was published by our colleague, the Minister, Deputy O'Gorman, focuses in particular on progressing significant improvements in processing procedures and in timelines for decisions to ensure the system is adequately resourced and that backlogs are addressed. A White Paper setting out the proposed approach to transitioning from direct provision accommodation, for improved living arrangements and support for those who are in there or who would generally end up and that system was published on 26 of February. I look forward to further engagement with the Minister, Deputy O'Gorman, in particular, as well as other Ministers as we progress these matters. We have already received funding for 2021 to improve our investment in ICT to try and improve and speed up those systems.

I again give that commitment that I am progressing the proposed courts and civil law (miscellaneous) Bill which captures some of the aims of this Private Member's Bill, in particular section 2(1), in supporting children born in the State. Section 2(2) of the Private Member's Bill, removes requirement for an application to be made by a parent or guardian or a person who is *in loco parentis* to a child. I have agreed, working with Senator Bacik, to engage further with the Minister for Children, Equality, Disability, Integration and Youth, to whom I have spoken about this already, to explore providing Tusla with a legal power to apply for citizenship on behalf of a child in the State. There is still some further work that needs to be done before we can get that commitment, but a sense of belonging and identity is crucial for children, and it is my intention that all unnecessary barriers can be removed. This is potentially another barrier that we can remove.

It is also important to stress that in some cases the acquisition of Irish citizenship may not be in the interest of a child, particularly if there was a potential loss of certain rights or privileges of the child's country of origin. Naturally this is a complex space and that is why we want to take that little bit more time to engage further with Tusla and the Department of Children, Equality, Disability, Integration and Youth.

Again, I restate my gratitude to Senator Bacik to the Labour Party and recognise the contributions of the late Labour Youth chair, Cormac Ó Braonáin. His passion for public service is an example to all young people in Ireland and one we want to ensure we can fulfil so that we can live up to the huge commitment he made in his life. I acknowledge that and thank the Senator.

An Leas-Chathaoirleach: While it is not appropriate for the Chair to intervene, I want to identify with the remarks that have been made about Cormac Ó Braonáin. That is heartfelt, right across the House. His death was tragic. We all admired what he was doing and it is sad he left us so young.

Senator Michael McDowell: Cormac Ó Braonáin was a relative of my wife and a fine young man. To this day, I feel broken-hearted for his parents and grandmother. His loss was immense not only to his family but also to all of those who knew and admired him. It is fantastic to have in our society young people who are committed to political activity. The activism of young people in politics arose earlier today on the Order of Business. It is hugely important. I sometimes think back to the War of Independence and the circumstances that gave rise to it. We are becoming a somewhat aged society in terms of political participation. This country was

founded by people who were half the age of most politicians who are now serving the people as elected representatives.

I want to indicate that I supported Senator Bacik's Bill on Second Stage because I was very happy with the principle of the Houses of the Oireachtas availing of the amendment of the Constitution to recalibrate whenever they saw fit the circumstances in which somebody should become an Irish citizen. In that context, I have a few remarks to make of a more general kind. If Senator Bacik's amendment had been ruled in order, I would be standing here and speaking against it in the most resolute way, but since it is not in order, I do not have to do that.

I should explain a few things that need to be put on the record and that, sadly, have been ignored in this House in recent discourse on this general subject. I was Attorney General of Ireland in 2002 and became Minister for Justice in that year. In the early portion of 2002, it became apparent to the Irish State that a process was in being in England which later became known as the Chen case. The substance of it was that a well-to-do Chinese couple wanted to secure their long-term residence in the United Kingdom. They were legally advised that if they went to Northern Ireland and had the child they were expecting delivered in Belfast, that child would, by virtue of the Irish Constitution as it stood from the implementation of the Good Friday Agreement onwards, become an Irish citizen as of right and constitutional status. There was absolutely no doubt they were advised that by having a child born in Ireland, even though they resided in the United Kingdom and had no intention of residing in Ireland, they would create the circumstance as a matter of European law, because every Irish citizen was also an EU citizen, whereby their child would not be capable of being deported and they, as the parents of an EU citizen child, would accrue the right to live in the United Kingdom with their child. They had no connection whatsoever with Ireland. The law reports are clear on the fact the intention was to avail of the Good Friday Agreement in this particular way, with a view to attracting long-term residence in the United Kingdom.

That case was in progress and a reference to the European Court of Justice was taking place in the early part of 2002. Any analysis of what EU citizenship entailed and what the European Court of Justice was likely to do at the time led those who studied the matter to the conclusion that it was highly probable that the European Court of Justice would eventually rule that a child who was an EU citizen was, naturally speaking, entitled to remain in the EU, and that if such a child were completely dependent on his or her parents, as the child in question was, the parents could remain with that child as of right.

It should be said that, at the time, Ireland was the only member state of the EU that had such an absolute entitlement. Even France, which had a *jus soli* right of citizenship, did not have an absolute entitlement of that kind. It may surprise some that in my younger days as a barrister, I represented on a *pro bono* basis a family — their case, the Fajujonu case, and the fact that I was involved have been reported — in respect of whose case the Supreme Court considered the status of non-national parents of an Irish-born child. The jurisprudence that effectively arose from the Fajujonu case was that the State could deport the parents of an Irish-born child who was an Irish citizen but that, in those circumstances, there would have to be very strong reasons for so doing. The combination of the likely outcome of the Chen case and the Supreme Court's jurisprudence in the Fajujonu case made it almost inevitable that Ireland would be the only member state of the EU with a constitutional rule that guaranteed that people in the position of the Chens would effectively be able to reside anywhere in the EU as long as their child was born anywhere on the island of Ireland, not even within the Twenty-six Counties.

The reason I mention all that is when the Progressive Democrats–Fianna Fáil Government was established in June 2002, one of the terms of its programme for Government was that this issue would be addressed, at either legislative level or constitutional level. It was made very clearly part of the programme for Government at the time. Therefore, anybody who says — I will come to this later, if I may — that there was at the back of this some kind of racist impetus to address the question of Irish citizenship for electoral advantage in the local and European elections of 2004 is wholly and completely wrong. That was never the case. Two years prior to those elections, the question of constitutional change and the issue of consulting all the parties in the Oireachtas on the subject were clearly flagged in the programme for Government. Some people, in a puerile way, chose to describe the exercise of rebalancing the Constitution in the way it was done in Article 9 as a racist referendum. It was no such thing. It is untrue. I will not use the L-word in talking about it. It is untrue and it was never intended to have the effect described. It was purely because, if one puts all the pieces that were beginning to emerge-----

Senator Ivana Bacik: On a point of order, I just want to make it clear that the sort of language Senator McDowell describes has not been used by any of us in this House, and certainly not by my party, in the context of this Bill or section 2.

Senator Michael McDowell: It has never been used in the context of this Bill but it most certainly was used, twice. Senator Higgins and her colleagues-----

Senator Alice-Mary Higgins: As a proud anti-racism campaigner, I-----

Senator Michael McDowell: I am just saying I was not talking about Senator Bacik. I was referring to-----

Senator Ivana Bacik: Or the Labour Party, or this Bill.

Senator Michael McDowell: Or the Labour Party, or this Bill. I am putting it firmly on the record that the accusation is false. It is demonstrably false based on the record that existed. The then Government was dealing with an emerging and developing legal situation.

2 o'clock

We are running out of time.

An Leas-Chathaoirleach: I ask Senator McDowell to report progress.

Senator Michael McDowell: I will finish this sentence. The Government was dealing with an emerging situation. As it concluded, the matter had to be dealt with at a constitutional level and could not be dealt with at a statutory level. The issue was, when would a referendum be held and would it be a single issue-only referendum or would it be on an occasion when the people were going to the polls. The view at the time was that it would be most unfortunate to have this as a single issue-only referendum and that explains what happened in 2004.

An Leas-Chathaoirleach: I ask Senator McDowell to report progress.

Senator Michael McDowell: I have more to say on the next occasion.

Progress reported; Committee to sit again.

Sitting suspended at 2.02 p.m. and resumed at 2.15 p.m.

Gnó an tSeanaid - Business of Seanad

Acting Chairperson (Senator Pauline O'Reilly): I understand that the Leader wishes to propose an amendment to the Order of Business.

Senator Regina Doherty: I propose, notwithstanding anything in today's order, that No. 2a on the Supplementary Order Paper, a motion regarding the setting aside of Standing Order 29 on Monday, 29 March, be taken now.

Acting Chairperson (Senator Pauline O'Reilly): Is that agreed? Agreed.

Sitting Arrangements: Motion

Senator Regina Doherty: I move:

That, notwithstanding anything in the Standing Orders relative to Public Business, the Seanad on its rising on Friday, 26th March, 2021, shall adjourn until 10.30 a.m. on Monday, 29th March, 2021, in the Dáil Chamber and the following arrangements shall apply:

- (a) Standing Orders 29 and 30 shall stand suspended;
- (b) The Order of Business shall be proposed at 10.30 a.m."

Question put and agreed to.

Residential Tenancies Bill 2021: Second Stage

Question proposed: "That the Bill be now read a Second Time."

Acting Chairperson (Senator Pauline O'Reilly): I welcome the Minister of State, Deputy Burke, to the House.

Minister of State at the Department of Housing, Local Government and Heritage (Deputy Peter Burke): I am grateful to the Acting Chairperson and all of the Senators for facilitating debates under this very urgent legislation in Seanad Éireann before the Easter recess. I also record my thanks to the Chief Whip and to members of both the Business Committee and the Oireachtas Joint Committee on Housing, Local Government and Heritage for enabling the Residential Tenancies Bill 2021 to be read a Second Time here today.

The Bill is a timely and proportionate response to the continued elevated threat and impact of the pandemic. The time-sensitive nature of the Bill is an inevitable consequence of the con-

stant reassessment of the pandemic and its evolving nature. I thank Senators for facilitating its passage in the same co-operative spirit that has enabled similar Bills to pass swiftly since the Covid-19 crisis erupted.

This is the fourth Bill the Government has brought forward since coming into office to protect tenants during this pandemic. The virus has mutated and challenged us in different ways but we have responded to ensure the vulnerable are shielded from the unprecedented economic fallout. Today's Bill is a further important action to safeguard tenants in the face of an ever-threatening pandemic.

In light of this prolonged challenge, I ask Senators to pass the Residential Tenancies Bill 2021 to enable its early enactment to provide technical amendments to the Planning and Development, and Residential Tenancies, Act 2020 to extend the application of its enhanced tenancy protections for a further three months from 13 April to 12 July 2021. The Bill also provides for technical amendments to enhance the interoperability of the Planning and Development, and Residential Tenancies, Act 2020 and the Residential Tenancies Act 2020. Subject to the conditions and procedural requirements, the former Act currently protects tenants in rent arrears due to Covid-19 and at risk of losing their tenancy from eviction and rent increases during the period from 11 January to 12 April 2021. It is considered that the ongoing threats and impacts of the third wave of Covid-19 necessitate this Bill to extend the Planning and Development, and Residential Tenancies, Act's protections for a further three months until 12 July 2021. The three-month extension is a proportionate response, balancing constitutional property rights and the common good. While the numbers directly invoking this legal protection have been small, it has provided a strong safety net to vulnerable renters and sends a clear signal to the rental system that the State will protect tenants. In this context and because of strong direct financial supports, we have prevented huge turmoil in the rental system.

It is important to note that these protections are separate and distinct from the Residential Tenancies Act 2020, which provides for a moratorium on evictions taking place, with limited exceptions, during a period of 5 km travel restrictions in an area specified in regulations made by the Minister for Health and during the ten days following the lifting of such restrictions. In broad terms, the protections are on separate economic and health grounds, respectively. This Bill seeks to clarify that a 5 km travel restriction does not affect the legal obligation on a tenant to pay rent. Instead, tenants in circumstances where they cannot pay their rent due to the pandemic can avail of the separate protections under this Bill.

This clarification is required as the Planning and Development, and Residential Tenancies, Act already provides the necessary tenancy protections for any tenant in rent arrears due to Covid-19 and at risk of losing their tenancy. The Bill removes this duplication and potential confusion around obligations to pay rent. Importantly, significant and enhanced State income supports are available from the Department of Social Protection. I encourage any tenant who needs assistance to reach out early to the Money Advice & Budgeting Service and to seek every available State income support. For example, the enhanced illness benefit for Covid-19, the pandemic unemployment payment, rent supplement and supplementary welfare allowances can assist tenants to meet their legal obligation to pay rent. I also encourage landlords to show forbearance and to afford tenants the time to stabilise their income through State support, if necessary. It is in the interests of both parties to sustain a viable tenancy. Overall, the State has spent some €11.5 billion on Covid-19 welfare supports. We have not, and will not, be found wanting in supporting any tenants in difficulty.

At this point, the earliest possible expiry date for the current moratorium on evictions across the State under the Residential Tenancies Act 2020 is 15 April 2021, that is, ten days after the review date for the expiry of the 5 km travel restrictions. The Government will consider this matter in light of public health advice over the coming days. Regardless of that decision, this Bill will ensure protections are in place until 12 July for tenants economically impacted by the pandemic. The Government recognises that lockdowns are especially difficult for some people and that low-income tenants are disproportionately employed in sectors that are severely affected by Covid-19, such as hospitality and retail.

As I have said, the State is here to help and we will continue to provide immediate income support to families and individuals in private rented accommodation through the Department of Social Protection's rent supplement scheme. The scheme provides short-term income support to eligible people living in private rented accommodation whose means are insufficient to meet their accommodation costs and who do not have accommodation available to them from any other source.

The scheme ensures that renters experiencing a temporary loss of employment can continue to meet their rental commitments. The aim is to avoid any tenant going into rent arrears. That said, the Planning and Development, and Residential Tenancies, Act 2020 complements and supports the provision of rent supplement and other State supports by providing time and security for tenants while engaging with available State services in a bid to resolve their financial difficulty and meet their obligation to pay rent.

The Government also recognises that 70% of landlords own just one rental property, that 86% of landlords own just one or two rental properties and that Covid-19 has given rise to financial difficulty for some landlords. The 2020 Act provides the requisite balance between the rights and obligations of tenants and landlords in a carefully calibrated manner, recognising the legitimate interests of both. This strikes an equilibrium between property rights and the common good in the midst of a pandemic.

We have to continue to address the economic and social consequences of Covid-19, protect as many jobs as possible and ensure that families and businesses can manage financially. The economic consequences of Covid-19 are far-reaching but the hit for certain sectors and some tenants has been extremely challenging. The emergency measures introduced by this Government have prevented systematic problems in the rental sector. The rental measures proposed under this Bill will help further.

I will now outline the provisions of this urgent Bill. The Long Title and recitals of the Bill describe our policy aims and the policy context in which the limited restrictions on landlords' constitutionally protected property rights will serve the social common good for three more months to 12 July 2021. The Bill is technical in nature and contains just three sections, with section 3 being a standard provision outlining the Short Title and collective citation of the Bill. Sections 1 and 2 are the substantive provisions in the Bill and I have already given a good flavour of their intent.

Section 1 provides for a number of amendments to the Planning and Development, and Residential Tenancies, Act 2020 by updating various dates to reflect the extension of the "emergency period" defined in the 2020 Act to 12 July 2021 under this Bill. The proposed amendments to the Planning and Development, and Residential Tenancies, Act 2020 provide for its enhanced tenancy protections to continue to apply from 13 April 2021 to 12 July 2021, subject

to conditions and procedural requirements under that Act, where tenants have been economically impacted by Covid-19 and, consequently, are unable to meet their obligation to pay rent, thereby risking tenancy termination.

Section 1(a) extends the expiry date of the “emergency period” within the meaning of section 9(1) of the 2020 Act from 12 April 2021 to 12 July 2021. During this period, enhanced tenancy protections apply for tenants in arrears, subject to conditions and procedural requirements. Sections 1(b) to 1(d) provide consequential amendments throughout the Planning and Development, and Residential Tenancies, Act 2020 to reflect this extended emergency period. Section 1(e) will provide a technical amendment to section 16 of the Planning and Development, and Residential Tenancies, Act 2020 to provide that RTB tenancy tribunals need not be held in public until 12 July 2021. The aim is to continue the protection of the health and safety of participants in the proceedings and of RTB staff during the Covid-19 emergency period.

Section 2 will amend the Residential Tenancies Act 2020 to enhance its interoperability with the Planning and Development, and Residential Tenancies, Act 2020. Clarification is provided that the 5 km travel restriction does not affect the legal obligation on a tenant to pay rent. The legal obligation on a tenant to pay rent under section 16(a) of the Residential Tenancies Acts is a key protection for landlords who take the business risk of providing residential rental accommodation. The Bill clarifies that, similar to cases where tenants engage in anti-social behaviour, a landlord is not required to accommodate a tenant in breach of his or her obligation to pay rent and can proceed with a tenancy termination in accordance with the usual procedures. Tenants in rent arrears can, of course, make the necessary declaration to seek the enhanced protections under the Planning and Development, and Residential Tenancies, Act 2020. The Residential Tenancies Board is available to assist tenants in rent arrears to seek assistance from the Money Advice & Budgeting Service to avail of State income supports from the Department of Social Protection. Rent increases and tenancy terminations will be prohibited for tenants who are protected by the Planning and Development, and Residential Tenancies, Act 2020 until 12 July if the Bill is enacted.

The Bill is being introduced against the backdrop of the worst public health crisis in the history of the State and an economic collapse without comparison. I understand the anguish and frustration that citizens have experienced over these long months. As the evenings lengthen, however, and the vaccines are rolled out, we can look forward to brighter days if we stay the course. Until that time, the Government will do whatever it takes to protect the State and our citizens from the worst impact of the pandemic. None of us could have foreseen the fatal trajectory of Covid-19 on our island and globally when we debated the Planning and Development, and Residential Tenancies, Act 2020 in early December. As legislators, we need to continue to work together to react quickly to suppress the spread of Covid-19. Sadly, the virus has been at its most deadly since our previous debates. The Planning and Development, and Residential Tenancies, Act 2020 protects both tenants and landlords. The Government wants these protections in place for longer to respond to the continued impact of the pandemic.

I commend the Bill to the House and ask Senators for their support to help tenants stay in their homes.

Senator John Cummins: I thank the Minister of State for his presentation of the Bill to the House and for the urgency with which he and the Department have brought it before the Houses. I suspect there will be some criticism of the decision made last week by the Oireachtas Joint Committee on Housing, Local Government and Heritage to waive the pre-legislative

scrutiny process but it is important to state that decision was made on the basis of advice from officials to the effect that failure to do so would have put tenants who have protections until 13 April in jeopardy of having no protections after that date. It was stated that it would be reckless to leave them in such a position, so it is important to pre-empt any criticism of the fact that pre-legislative scrutiny of the Bill was waived.

I appeal to the Opposition not to distort the picture or in some way to present the Bill as something that will take away rights or protections from tenants, as was attempted yesterday by some in opposition in the Dáil. That will have the opposite effect to what we are trying to achieve, which is to protect tenants and make others aware that if they have been negatively impacted in financial terms as a result of Covid-19, there are protections of which they can avail. Negative commentary to the effect that the Government is somehow stripping away protections defeats the purpose of what all of us in this House are here to do, which is to protect people at the most vulnerable time of their lives, especially during the pandemic. It is not true to say that protections are being removed. Section 2 is being deliberately misrepresented because what we are actually talking about here is protecting tenants by means of section 1 and the previous iterations of the Bill, as we have done throughout the pandemic.

The Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, stated in the Dáil yesterday that if we are still in the situation in July, the measure will be reviewed by the Government and that we could look at introducing further protections, if necessary, at that point. While it may be easy for the Opposition to say we should disregard the advice of the Attorney General or test the legislation in the courts, the reality is that the Government must ensure that any legislation we pass is proportionate, legal, constitutional and is not open to challenge. The Minister of State and his officials in the Custom House have done that with this technical Bill before us.

Given what went on in the Dáil yesterday, it is important to state that even though there were amendments and votes on sections that were opposed, the Bill was ultimately passed without opposition. No vote was taken on the Bill in its entirety at the end of the debate. I suspect that is what is going to happen again here today. We will have votes on sections but, ultimately, people will not put the Bill, which will protect tenants' rights, in jeopardy and remove those rights. I look forward to votes on various sections and on the overall substance of the Bill at the end of the debate if members of the Opposition are strongly opposed to elements what is proposed. Members can then put their money where their mouth is in that regard.

I will not take all of my allocated time because I am conscious that other speakers wish to contribute. There has been talk about evictions and incendiary language about throwing people out on the street but in fact we have significantly extended notice periods in recent years. The previous legislation extended the notice periods by ten days post 5 April in light of the 5 km restriction. There is also a minimum requirement of 28 days' notice where a tenancy is of less than six months duration. We have notice periods of 90 days or three months if someone has been in a tenancy of between six and 12 months. We have a notice period of 120 days where someone has been in a tenancy of between one year and three years. We have notice periods of 180 days or six months when someone is in a tenancy of not less than three years but less than seven years and 196 days when someone has a tenancy over seven years in duration. This is not something that will come into play immediately even if somebody is in circumstances where he or she has not been paying the rent.

As the Minister of State indicated in his contribution, 86% of landlords in this country own

one or two houses. They too have bills and mortgages they need to pay on their properties. It is all about proportionality and balance. I do not know when we arrived at a situation where it is okay for a tenant not to pay rent. As a result of the pandemic, the Government has selectively catered for those who have been financially affected by Covid-19. We have put protections in place that are available to anyone who is in receipt of the temporary wage subsidy or illness benefit as a result of Covid-19. Those protections are available for anyone. Unfortunately, a large proportion of people in this country have the potential, if necessary, to engage with the protections in this legislation. Outside of that, we are talking about a small cohort of people who are not paying rents to their landlords for the properties in which they are *in situ*. I again commend the Minister and Department officials on bringing forward this legislation to protect tenants over the next three months up to 12 July.

Senator Michael McDowell: I thank the Minister for coming in to the Chamber today. I believe strongly that the rights of tenants need to be carefully protected at this stage. I am talking about the legitimate rights of tenants. Obviously, I agree with the previous speaker about somebody who is not paying his or her rent. There are, by the way, some extraordinary, egregious cases of people who have run up €30,000 in arrears and are coldly and callously blocking any effort by landlords to get rid of them. I accept they are a minority and there are people who do not have the money to pay at the moment. One cannot assume, however, that everybody who is not paying their rent is financially embarrassed. There are people who simply say they are not paying and that is it.

The big issue is that the property rights of landlords must be put into a balance with the circumstances that exist in respect of the Covid-19 emergency. I am always preaching and writing and speaking on the radio about how this is an emergency. I hope that everybody in government and the health system generally, including the National Public Health Emergency Team, NPHET, realise that the State is in an emergency. It is not purely a virus; there are all sorts of economic and social emergencies such as delayed cancer treatments and so forth. I make the point that this is an emergency and I am quite happy to extend periods because this crisis has turned out in a way which none of us quite expected last autumn.

This is not a lawyer's point. The emergency period provided for in this legislation is defined by the 2020 Act, which, curiously, describes the emergency as being a period in respect of which the 5 km movement limit is in operation. I spoke yesterday on the radio and my interviewer said he would bet that the 5 km will move to 10 km or whatever. I had not actually read the small print of this Bill because I can say with certainty that if the consequence of changing the 5 km and taking it out of operation is that all sorts of tenants will lose their rights, no such relaxation will take place. It was a mistake in 2020 to define the emergency period by so closely relating it to the 5 km movement restriction. We could still have an emergency with a 50 km or 20 km movement restriction. We are now stuck in the position that the Government cannot relax. When this Bill goes through, as it will today because there was an early signature motion for it, it will become law and all tenants will be protected. As a result, however, we will not be able to relax the 5 km restriction rule without the consequence of taking away these additional protections we are giving to tenants. That is an unfortunate piece of drafting. It is not the fault of the current Minister. It is a 2020 fault that should have been picked up now. What we are doing now is cementing in place the 5 km restriction on movement until that date in July. Nobody should be under any illusions; that is what we are doing here today.

Deputy Peter Burke: It is not.

Senator Mary Fitzpatrick: It is not the only-----

(Interruptions).

Senator Michael McDowell: The definition of the emergency period is one of a period where the 5 km restriction is in place. That is, unfortunately, what we are doing. It probably makes no difference, because at the snail's pace at which things are happening it probably will stay in place. I am just saying that anybody who thinks the 5 km will be changed in the next few weeks should read this Bill and the 2020 Act carefully because we are handcuffing tenant protections to the maintenance of that limitation. That is a big mistake.

Apart from that criticism, this Bill should be passed. I regret that it has this unexpected side effect that the protections, which as the previous speaker said are genuinely needed, will be handcuffed to keeping in place the 5 km restriction on movement. That seems wrong.

Senator Mary Fitzpatrick: I thank the Minister of State for coming to the House. Fianna Fáil will be supporting the extension of the protections for renters up until 13 July, as this Bill proposes. It is important that we are very clear with renters. I deal with people every day who are either homeless, at risk of becoming homeless or in inadequate housing. Unfortunately my constituency is one that has suffered from the decade of under-provision of housing. I know how valuable the protections this Government has, rightly, afforded renters during the pandemic are. At no time has home been more important than during this pandemic and the protections have provided those lucky enough to have a home with a safe place. However, the fact that the Government had to allocate more than €220 million for homeless prevention and emergency accommodation only underlines how real the housing crisis is for far too many of our citizens. The housing crisis has not gone away.

I have not been as far as the M50 since before Christmas. I would love to see the 5 km limit ended. I envy the Members who come from the countryside and I fantasise about stowing into the boot of their car and getting out of the city, much as I love it. In all seriousness, the indications from industry are that this delay and shutdown in construction is going to cost us about 10,000 housing units. The crisis is very real. This Bill will extend the protections for renters, which would have expired if we on the housing committee had asserted our right to conduct pre-legislative scrutiny. That would have had catastrophic effects - that is the exact term that was used - because the protections that are in place up until 13 April would have expired. Now we are extending them until 13 July. I accept the Minister of State's bona fides and those of the Department that they will continue to monitor this situation.

It is incredibly important that we also get a clear message to people outside this Chamber that the State and the Government have their back and are there to support them. I commend everyone in the local authorities, Threshold, the Money Advice & Budgeting Service, MABS, the Intreo offices and all those who have worked on the front line during this pandemic, who have supported people applying for the housing assistance payment, HAP, rent allowance, homeless HAP or supplementary welfare payments. They have provided invaluable support to individuals and families. Many homeless people are single. They are isolated and vulnerable, so they appreciate the support they have received, including from NGOs and their key workers, all of whom have been a lifeline to people in housing distress throughout this period. I look forward to a day when we can start to think beyond the pandemic.

We must use our time in the Oireachtas to leave something behind that keeps those who follow us from having to deal with the same issues. We need systemic change in the State's approach to housing. The Minister of State and the Minister, Deputy Darragh O'Brien, understand that. I commend them both on securing the largest housing budget in the history of the State at €3.3 billion, but we will need to go much further than that. There has been an under-supply of homes over the past ten years. The Minister of State and the Minister's jobs did not come with magic wands and the pandemic has hit them, too. As such, I appreciate that their backs are against the wall, but the dynamic must be changed for our citizens. The Government is introducing legislation that will prioritise the use of public land for the provision of public housing. That needs to be social and affordable housing. Our local authorities have been restricted to just social housing, but we need to prioritise the affordable housing Bill and the Land Development Agency Bill so that local authorities, AHBs and not-for-profit NGOs can, as soon as the pandemic is over, be put to work delivering affordable housing, not just social housing.

Affordable housing must be affordable to purchase and rent. As the Minister of State and I know, the proposed affordable rental scheme gives people great hope. It means that renters will only pay rents that cover the cost of maintaining and managing their homes. That is how it should be – secure, affordable and good-quality homes provided by the State on State lands.

We have gone through a shutdown and I am sure the Government has not been able to spend as much of its housing budget as was allocated. I urge the Minister of State to ask the Cabinet to consider increasing the allocation to the affordable rental scheme. I understand why it was set at that level, but circumstances change and we need to change with them. I call on the Minister of State to seek a doubling of the scheme's budget. It would be a sound investment and give hope to many renters.

I am conscious that my time is running out. The programme for Government commits to establishing a commission on housing. Whenever we discuss trying to implement protections so that every citizen has a secure and affordable place to call home, the Seanad and the Minister of State as a Government Member need to champion an amendment to the Constitution so that it is updated to reflect the current and future social ambition that we all share for each citizen to have a secure and affordable place to call home. Will the Minister of State take this message to the Cabinet so that, as we move forward over the next three years, we do so in the context of seeking a mandate from the people for an amendment to insert in the Constitution the right to housing and we can give expression to what I consider to be a current social value to which we all subscribe, that being, that every citizen deserves his or her own home?

Senator Rebecca Moynihan: I thank the Minister of State for once again attending the House to discuss residential tenancies and protections. We will support the Bill, but I will not respond to the macho posturing of being told to put our money where our mouths are and vote against the Bill. The Opposition is allowed to table constructive amendments and call out where the Bill falls down while supporting the overall protection of tenants. I will not have anyone tell me that we are not allowed to do that. This is the fourth time that legislation to protect renters has been taken in this Oireachtas. Each time the Opposition has offered constructive amendments, many of which would have provided renters with certainty and stability a long time ago. For example, Senator McDowell identified the issue with the 5 km limit. Given that he is one of the most eminent legal and political brains in the country, the Government would do well to listen to him when we talk about tying the eviction ban to the 5 km limit. The Opposition proposed many amendments on that when the proposal first came before the House. We argued against tying the State's hands by linking the ban to the 5 km limit and said the Minister

should decide on public health grounds whether the ban should be kept in place. The Government did not listen and decided to tie it to the 5 km limit, despite there being no good legal or political reason.

I remind the House that it is not the Attorney General who decides on the constitutionality of any measure. The Supreme Court is the only body that can decide the constitutionality of any Bill. If ever there was a time for a government to back renters and test a Bill before the Supreme Court, it is during the biggest public health emergency in 100 years.

This week, the Minister, Deputy Darragh O'Brien, said this legislation safeguarded tenants in the face of an ever-threatening pandemic and that the Government had prevented turmoil in the rental system. That is not the case. The piecemeal approach to private renters in the past year has left tenants and, indeed, landlords, of whose rights the Government is so clearly mindful, with stress and uncertainty.

The report published by the Residential Tenancies Board this week specifically noted recent research which indicated that households in the private rented sector suffered a greater economic hit relative to other tenures during the March to June lockdown due to a higher concentration of employment in sectors most severely impacted by the pandemic. Longer restrictions will, therefore, have a disproportionate impact on households in the rental sector. It is against this backdrop that we are here, yet again, talking about rights for tenants. While the Government spin is that it has taken drastic action to safeguard renters during the pandemic, it has done only the bare minimum every time. With each successive Bill it places before the Houses, it takes away protections it said it was putting in place. That is also the case with its proposal to insert a new section 2 in the legislation.

I will give a case study from Threshold which shows how people can fall into rental arrears without losing a job due to Covid. Marcella was receiving rent supplement when she was directed to transfer to the housing assistance payment, HAP. She set about putting the paperwork together and following up with the landlord for him to submit his documents. However, the landlord delayed doing this. Within three weeks, and before the HAP documents were submitted, the rent supplement was stopped. Marcella paid the rent herself for two months but could not afford to continue doing so. Despite the landlord having delayed the paperwork to have the HAP set up, he issued Marcella with a notice of termination for rent arrears. Marcella, not knowing what to do, left the home and slept in her car for a while before finding somewhere else to live. She contacted Threshold when the landlord pursued her for the rent arrears and it assisted her with the RTB. This is a case where someone could potentially be evicted under section 2, even though we are still in the middle of a pandemic. As Senator Fitzpatrick correctly pointed out, the pandemic has not only had an effect on the rental sector. It has also affected the construction sector. There will be a lag, extending into next year, for people who are now in private residential tenancies. For the sake of simplicity and for the security of renters, we should safeguard renters at least until 2022 and put in place strategies to try to counteract the slowdown in construction.

If we decide in April to relax the 5 km limit, which many people desperately want, no-fault evictions will return although we remain in the middle of a pandemic.

3 o'clock

Evictions to look after a wide circle of extended family members will return. Evictions for

potential sale will return at some point in the future. I have raised in this House on a number of occasions that I am not going beyond the 5 km limit. A family on my road potentially will be facing eviction if the 5 km limit is left behind. They are a married couple with two kids and they have a stay on eviction. The need for substantial renovations is the reason they have been given for their impending eviction and the only reason they have been able to be in their home with their kids, who I see every day, is because of the eviction ban. I also know of somebody else who has been told by her landlord that he is considering selling up and moving to Spain and she might have to start looking for somewhere else to live. The landlord is re-evaluating his life as a result of the pandemic. The lives of those two families will potentially be disrupted with no alternative in terms of moving into somewhere secure because we will still be in the middle of this pandemic.

Before the pandemic, it is estimated that one in ten households missed a rental payment due to financial difficulties. Nobody should be in any doubt that a higher proportion of people will miss payments in the next number of years. The procedures previously introduced by the Government for those in arrears are insufficient and have been described as overly complex by several stakeholders, including Threshold and the Simon Community. Furthermore, we know that the engagement with these procedures by renters has been very low. That is not the fault of the renters, it is the fault of the overly-complicated procedures and the criminal sanction attached to them. The solution for those renters who have been unable to engage in this complicated procedure is not to abandon those in the middle of a pandemic. Opening the door to evictions because of rental arrears will put many people and families in private residential tenancies at significant risk of losing their homes.

I ask the Minister of State to consider these circumstances. I ask him to make the case to Government that if it removes the 5 km restriction, it should consider extending the eviction ban for people in the private rental sector regardless. We are still in the middle of a pandemic. I ask the Minister of State to please give renters certainty that they will be able to stay in their own homes until we are out of this pandemic.

Senator Vincent P. Martin: It is good to see the Minister of State in the House again. I listened attentively to his opening remarks. The purpose of this Bill is, in essence, to help people stay in their homes. It is important not to forget that. We are legislators and are here to constructively criticise, and I hope the Minister of State will take the following points on board. At the end of the day, the Government's move here is to protect family dwellings to ensure families are safe.

Dispensing with pre-legislative scrutiny should be used on the most rare of occasions but this legislation might well justify it. Many months ago, I was at a meeting of the Joint Committee on Justice at which we were urged to dispense with pre-legislative scrutiny in respect of the Personal Insolvency (Amendment) Bill and it did not come before the House for several months afterwards. We dealt with that Bill a few weeks ago. It introduced remote meetings and other small amendments deemed urgent enough to dispense with pre-legislative scrutiny, yet it took several months. I do not ever want to see an overuse or abuse of dispensing with pre-legislative scrutiny but I accept that this legislation is time sensitive. I also accept the Minister of State's point in respect of property rights. It would be a very foolish lawyer who would advise a person in a private dwelling about the wonderful, pre-eminent constitutional protection for a dwelling without looking closely at other rights that are in play in the Constitution, such as property rights. One cannot but consider them. An eradication or severe attack on the property rights in the Constitution would cause thousands upon thousands of landlords to run to the hills, and I

say that as someone with a background in standing up for householders.

It is a very challenging and delicate balancing act and, of course, one has to be proportionate. It is a question of whether the period could have been somewhat longer than three months rather than - I hate to say it - bringing us all back possibly in three months' time. We have seen this before in the House. Our ultra-conservative steps, for fear we will trespass or engage property rights in a negative way, are tying at least one hand behind our back at times as legislators. We have countervailing rights in the Constitution but we should not be ultra-deferential towards them. We should work as hard as possible to determine whether we can stay within the remit of the constitutional provision and yet do as much that is positive as possible.

I am concerned about the 5 km stipulation. Even the Independent Scientific Advocacy Group, which is the advocate of zero Covid, has said it is open to flexibility and some latitude. I am opposed to the blanket rule on the 5 km radius throughout the Republic of Ireland. My constituency and that of the Minister of State have both urban and rural parts. If I spent a day canvassing in some of the beautiful, panoramic areas of rural Kildare North, within a radius of 5 km, I would not get to very many houses, yet, even within a 5 km radius in a highly densely populated area, it would take me days to get through the houses. It is not comparing like with like. I am concerned and I fear Senator McDowell is correct in this regard. Is the policy going to shatter hope if we are handcuffed until 12 July? People might have only five friends or encounter five dwellings within a 5 km radius and many of their close family members and friends may be beyond that. If a journey beyond the radius is not to do an essential duty or offer an essential service, it may not be taken. Are there any assurances that the Minister of State can give us in respect of what I fear might be the unintended consequence of supporting this measure?

I will use my remaining time to make a point I have made previously: there is a requirement for a consolidation of the legislation. Experts find it so difficult to navigate through it. It is not accessible to non-experts. We really have to consider consolidation, demystification and simplification to make the Act more accessible and facilitate implementation. It is all over the place at this stage. If there were ever a need for a consolidated Act, it would be in this area.

I commend the Department on the improved website. For years, it was little short of an embarrassment. I am aware I am not comparing like with like in saying that while taxing one's car on the website has been so easy to do, navigating the old RTB website was at times so challenging for many of the stakeholders. Therefore, I welcome the improvement.

I am aware that the Department and board of the RTB can decide to have one-person tribunals. The relatively recent legislation no longer insists that there be three people on a tribunal, despite its obvious name "tribunal". I am a great believer in the three-person tribunal. Three heads are better than one. It involves a quasi-judicial role. The members are not trained, expert judges, yet there is so much at stake. I accept that in certain circumstances, a one-member tribunal would save money if there were a very simple issue.

I welcomed a number of years ago the introduction of the slip rule. Since the role of a member of the tribunal is quasi-judicial, there is rigid statutory interpretation by members and adjudicators in the first instance. Before the slip rule was introduced, it was farcical. Before it came in, it was farcical. People, tenants and landlords, were losing their cases almost because a "t" was not crossed or an "i" was not dotted, there was a digit out of place in the year or there was a misspelling. I ask the Minister of State to give that feedback to the Department which I am sure has good data on that. That slip rule has really been a Godsend, and also instills more

confidence in the RTB.

The phone mediation service is going exceptionally well at present. For the first time, the RTB can deal with cases remotely. My prediction and hope - maybe the Minister of State will confirm this - is that the remote hearings will survive the pandemic. There were only seven or eight venues throughout Ireland, but many of these matters can be dealt with effectively and most efficiently by remote hearings, which, I hope, are here to stay.

Senator Fintan Warfield: I welcome the Minister of State here today to discuss issues relating to the protection of renters. It so happens that two weeks ago Sinn Féin introduced a Private Members' motion in the House. I and my colleagues argued for increased protections for renters and immediate steps to be taken to reduce rents and prevent an increase of rents for three years. During that debate, I was assured by Government Senators that Sinn Féin had got it wrong and that the Government was busy working away on a raft of legislation that would strengthen protection for renters. A Senator said that the Government parties understood the crisis and that they would tackle it, "not through sloganeering or motions, but by doing the hard work of legislating". To be honest, what dawned on me in that debate was that I was one of the few people here whose friends were all renters. The Government amendment talked about legislation for tenancies of indefinite duration and the Housing for All policy which will be launched later this year.

Then we get this Bill which is rushed and unambitious. If one were to ask any renter if he or she would prefer the measure in my party's motion two weeks ago or more of this type of legislation from Government, I wonder what the renter's preference would be. It seems strange that the Government says it is listening to the concerns of renters yet it misses the point every time it brings forward legislation on this subject.

Put simply, this is the latest dilution of the initial protection measures introduced in the first lockdown last year. Since the Minister was appointed, he has picked away at protections in a rushed and unco-operative manner. All Stages of this Bill were rushed through the Dáil this week. It will be finished here in the Seanad on Monday but our amendments were due to be in before the Second Stage debate. Pre-legislative scrutiny for this Bill was mentioned. That was waived by a vote of Government parties at the committee last week. The last time housing legislation was introduced in the Seanad, it was done in order to bypass pre-legislative scrutiny at the committee. Many in the Seanad felt that was a disingenuous move to outwit the committee.

The Bill deals with a series of deadlines everybody was aware of. The most urgent is the protection for renters who are in arrears because of Covid-19 with that protection due to run out at the end of April. We knew this deadline was approaching yet again we waited until the last minute to do anything. This is unfair on officials in the Department, on staff in the Oireachtas, especially in the Bills Office, and on the committee, and it reduces the calibre of debate and discussion that can take place.

I wonder why the end of July was chosen as the date to extend the eviction ban. Most people who have lost employment because of restrictions are unlikely to see their situation improve before then. They are unlikely to return to employment. These are the type of questions that could have been asked of officials and of the Minister and the Minister of State had the necessary pre-legislative scrutiny taken place.

Of course, I want to see the deadline extended and I have submitted amendments to do

this. Why did the Minister not introduce a Bill to extend the Covid-related protections to what are a small group of people and have another Bill deal with the more general issue of arrears? We are talking, in section 1, about a very small group of people. According to the RTB, tenant self-declarations number 407. That is the number of people we are dealing with in section 1. According to the RTB, a small group of people have availed of this protection. In reality, the Bill protects a very small number of renters and strips protections from many more. The Government is taking away protections from many more people than it is extending them for.

Rent arrears are real and the issue is not going away. A total of 2,401 warning letters have been sent to tenants in arrears since August 2020 according to the RTB. Does the Government have any plans to introduce legislation to deal with the issue of arrears in general?

Sinn Féin wants to see the extension of the ban on evictions and rent increases for tenants in arrears due to loss of income and on a Covid-19 social welfare payment until the end of the year, at least.

Rent in Ireland rose by 2.7% in last year to an average of €1,256 per month. When the pandemic eases, the issue of rent will still need to be addressed. The Minister's record does not instil renters with much confidence, and it is little wonder that renters increasingly see Sinn Féin's plan as the only viable strategy to give renters a break.

Senator Eileen Flynn: I thank the Minister of State for coming to the House today. This debate allows us to express our opinions on all sides. This is why we are all in politics. We all have a different story and we are all looking at things from a different perspective.

I share concerns that section 2 of the Residential Tenancies Bill 2021 will leave some tenants at risk of eviction. Threshold, the national housing charity, has raised these concerns. Provisions in section 2 of the Bill that deal with people in rent arrears will allow them to be evicted. We all know how difficult it is for people to get a house in Ireland these days. We have a housing crisis and have had for many years. We are in the middle of a pandemic when people have been asked to stay as close to their homes as possible. Not only are these changes a bad decision but they come at the very worst time in the middle of a pandemic.

I understand the Planning and Development, and Residential Tenancies, Act 2020 includes measures to deal with rent arrears. However, the scheme is complex and uptake has been low. There is no guarantee that all private renters in arrears will be able to take advantage of this scheme. We are talking about a lot of people. Before the pandemic, it was estimated that one in ten households had missed a rent payment because of financial difficulties. What would it mean for these households if they faced losing their homes in the middle of a pandemic when they are forced to find a place to live during a housing crisis?

Section 1 of the Bill extends protections for renters whose income was affected by Covid-19. I welcome these protections but we are forgetting about renters who are in financial difficulties for other reasons. They also deserve the attention of the Department.

Threshold believes the changes in section 2 are not necessary and I agree. Threshold believes that the Residential Tenancies Act has been very successful in preventing homelessness. We should listen to organisations that are working on the ground with tenants. We should also listen to these organisations that have suggested solutions to the problem of rent arrears. As we have all heard, Threshold has stated that broader consultations with stakeholders are needed before any changes are made to the Act. I strongly agree.

The Minister of State indicated that the State was here to help. Why would we want to change an Act that has helped to prevent homelessness? We need to do all in our power to prevent homelessness; that is common sense. On Monday, my colleague, Senator Alice-Mary Higgins, and other members of the Civil Engagement Group will propose amendments to change the reference to a 5 km limit to a 20 km limit.

I ask the Minister of State to listen to NGOs and other organisations that work with people on the ground. For once, when we talk about accommodation and homelessness we must listen to the people, especially during a pandemic. If a Roma woman and her family were evicted in these times, they would face a harder challenge to get a house, not only for money reasons but because of discrimination, racism and who they are. We need to have bigger conversations. Right now, we have asked for very little. I ask the Minister of State and his Department to listen to the organisations that work with residents and tenants.

Senator Eugene Murphy: I do not intend to dwell on this issue for too long as my colleague, Senator Fitzpatrick, has expressed our party's views.

I welcome the Minister of State. While we will always be issues with tenants, the Minister, the Minister of State and their Department have shown no hesitation in ensuring that tenants are looked after and are not wronged.

I recognise the right of every Senator to make their views known or have reservations. However, one sometimes gets the impression from Dáil and Seanad debates that there is no protection for tenants in this country. We have nine different Acts covering the rights of tenants. I do not have copies of them here but they include the Landlord and Tenant Act, the Planning and Development, and Residential Tenancies, Act 2020 and many more. I have not read them all but I know they all give protections to tenants in some way or another. The reason I raise this issue is that I dealt with a case last November where an individual who had listened to a Dáil debate on housing concluded that he could face eviction in two or three weeks. That view also appeared on social media as well. That is wrong and untrue, unless an issue arose with anti-social behaviour, which is a different situation altogether.

The fact that we are back here for a fourth time debating legislation shows how engaged the Department is, that it is concerned about people's rights and that it wants to ensure that people are protected. As a Senator, I receive representations from all over the country. However, as I live in County Roscommon, most people who contact me are from the Roscommon and Galway region. I have kept in contact with people whom I knew were in trouble during my time in the Dáil and I helped sort them out. Those who are renting are satisfied that they are protected and they do not have many worries at the moment.

Perhaps we could some clarification on the 5 km issue raised by Senators McDowell and Martin. They are two very intelligent men and I know both have dealt with housing issues and tenants' rights for many years. On the other side of it - and Senator Cummins mentioned this issue - I know landlords who have one or two houses. They did not buy them with the intention of being landlords. Family circumstances were involved - a house was left to them or whatever. In a small number of cases, because of unruly and poor behaviour, those people have ended up in debt. That is not right either and it should be noted.

In general, I am quite satisfied that the rights of tenants are being protected. I reiterate that we are back here for the fourth time in a short period. This pandemic has gone on and on. We

did not think it would go on so long. The very fact that we are back here shows that the Department and the Government are going to look after tenants. I would tell any tenants who are worried not to be. They will be looked after and cared for. They will not be tossed out of their homes.

Senator Jerry Buttimer: I welcome the Minister of State. It is important that, in a debate on housing, there is a degree of listening and understanding. There is no silver bullet. I hear members of particular parties claiming in the House to have the answer to everything and that they are the only ones to understand people but that is not true. We can all relate to, understand and know the situations of a great many people who are in rented accommodation or trying to buy a house. To be fair to Senator Cummins, my interpretation of his remarks is that he was not referring to Members of the House but was talking about the allegation that rights are being taken away when they are not. As Senator Murphy rightly said, we are trying to protect people. All of us in this House are working to do that. I do not own a suite of houses. I am not a landlord. I know one thing, however; the Government and the party I stand for and represent want to protect all citizens and to give them the right to buy their own house or the right to an affordable or social house. We do not discriminate in our work as parliamentarians and policy-makers. I hope we do that.

This Bill is about protecting people. It is about ensuring that those who are negatively affected by Covid-19 are looked after and supported. That is what we are doing. It is about time that we had a real and honest debate in respect of housing. People may smirk and laugh, but that is the reality. Let us put all the policies on the table and have a real debate.

We all welcome the further protections for tenants provided for in the Bill. The current protections are absolutely necessary. In the context of extending the emergency period, we need to get the construction sector back into operation. The Economic and Social Research Institute produced a report this week which states that there has been a decrease of 25% in the number of houses being constructed. That is not going to have a hugely positive impact on the number of houses completed.

In lifting the 5 km restriction from 5 April, which we should do, we need to offer protection to tenants and those who rent. Even in my own office this morning, I was dealing with people who are in precarious situations as a result of personal matters or the council. A practical, commonsense approach must be taken by everybody.

In the context of the Land Development Agency, we need to see the supply of affordable housing ratcheted up as a matter of urgency. The banks are not playing fair with people. I will not name the individual involved but I have in my hand documentation from a bank in which the State is a shareholder. This bank is refusing to meet the person to whom this matter relates regarding legacy matters. I have been in contact with the Financial Services and Pensions Ombudsman. There is a need to work with people and not pursue them, especially in the midst of a pandemic. If the Minister of State reads the thread of remarks in these emails, he will see the frustration, fear and worry of a mother being threatened with having her home taken away from her, and she cannot work because of the pandemic. I appeal to him to tell the people in the faceless banks that they must engage properly with people. We must ensure we protect people at all rungs of the property ladder.

I will support the Bill. We must give hope to people who rent that they can buy property. We must provide private housing and social and affordable housing as well. All of us, I hope,

aspire to owning our own home and we cannot take that away from people. I commend the Minister of State on his work in the Department. He has been positive and resolute and I wish him well in his remaining term in office.

Senator Gerard P. Craughwell: I welcome the Minister of State to the House. I commend him and the Government on how they have responded to so many citizens since the pandemic started. They are to be commended on the speed of action and the compassion shown. That extends to every Senator. I would not set anybody apart. As Senator Buttimer said, we are all working together for a common cause and that is the way we have to proceed.

The Bill will provide a great deal of confidence and support to those who are receiving the Department of Social Protection's Covid payments, but the cut-off date of 12 July is too soon. I am rather sorry that the provision is not open-ended and that we in both Houses are not trusted to close it off as soon as it is the right time to do so. The people right now need certainty. Will we be back in the House on 1 July with a further amendment to the Bill to extend its provisions for a further three months and see where that goes?

My colleague, Senator McDowell, and members of the Government parties have pointed out that section 2 is flawed. The 5 km rule places golden handcuffs, as it were, on the Bill.

Senator Eugene Murphy: On a point of order-----

Senator Gerard P. Craughwell: If the Senator wants to speak, he should speak through the Chair.

Senator Eugene Murphy: On a point of order, we did not say the Bill was flawed. I said I would seek clarification on the basis of what Senators McDowell and Martin had said. In case Senator Craughwell was referring to me, I point out I did not say the Bill was flawed.

Senator Gerard P. Craughwell: I would not dream of it. I am not sure that was a point of order.

Various housing charities such as Threshold and Simon have pointed out there is a flaw in section 2, as has an eminent lawyer. Accordingly, I will accept that Senator Murphy did not say it; that is fine. I do not know whether the Minister of State can do anything about the 5 km rule at this stage but if he could reconsider it, I would appreciate that. I want to support the Bill and the Minister of State as he brings it forward. I will not vote for the hell of it nor push anything to a vote. What is most important right now is that we protect citizens.

On the wider housing issue, what has gone wrong in this State? In the 1950s, when we did not have a red cent in this country, we built the finest social housing. I recall my father telling me that if a piece of timber with a knot in it arrived where social housing was being built, they would have to take it away. It simply would not have been acceptable. From that point of view I am concerned that we are devolving social housing to housing agencies. We have approximately 500 housing agencies in this country, each with its own chief executive officer and chief financial officer. I admit that these organisations are trying to provide housing for needy people, but do we need 500 of them? Is it time that we stepped back and looked at the State's responsibility to provide social housing for those who are in need?

It causes me great concern to see the Committee on Legal Affairs and Human Rights of the Council of Europe say there is no legal framework for the right to housing for families in

Ireland, and there are no statistics on the condition of local authority houses. One of my colleagues made the point that we should have the right to a home in the Constitution, but I do not believe we can put it into the Constitution until such time as we are in a position to provide homes for the needy in this country. We are not in that position right now. I fully support what the Senator said about putting it into the Constitution, but we must find the wherewithal to do it and we must have the resources to put it in place.

I could go on, but you have been rather kind to allow me to go on, Acting Chairperson. I apologise to my colleague, Senator Murphy. I was not indicating that he or anybody else saw a flaw in the Bill, but Members of the Government parties have said there is a flaw in the Bill and let those who said it step forward; those who did not are fine.

Senator John Cummins: I do not know what the Senator is referring to.

Senator Fiona O'Loughlin: I thank the Minister of State, Deputy Peter Burke, for being present. The Bill is welcome. Unfortunately, due to Covid, it is the fourth time that we have had to introduce legislation to protect tenants. It has been necessary to extend the period of emergency rental protections and to strengthen the supports provided to tenants at risk of eviction. That gives comfort to tenants. I know the legislation has only had to be called on a number of times, but that is possibly because it is robust legislation and there are those who know there is no point in trying to contest it.

The Bill amends the Planning and Development, and Residential Tenancies, Act to extend the protections to 12 July 2021. It is unfortunate that it is necessary due to the ongoing impact and threat of the third wave of Covid-19. It is a proportionate response that balances constitutional property rights with the common good.

The best way that we can protect people who do not have their own house, and who are living in rented accommodation, is to provide them with home ownership. It is regrettable that in the past decade home ownership in Ireland has slipped to become one of the lowest in Europe. That is the real challenge that we have. It is important that those who choose to rent have the opportunity to do so, and to have security of tenure and cost, but many tenants wish to live in their own house and to avail of a social or affordable house. They are the people we must help and give them the opportunity to be able to do that.

I commend the Minister, Deputy Darragh O'Brien, on what he has introduced in his short time in government. For example, the first action the Department took was on the voids right around the country. The target was exceeded, and more than 2,500 vacant social homes were brought back into use. That was hugely important. The help-to-buy grant was also increased to help thousands more get on the housing ladder. It has helped more than 19,500 to buy their own home. Thankfully, the scheme has been extended to the end of 2021. The repair and leasing scheme, for which an increase in maximum funding was announced before Christmas, is important. The cost rental scheme is a very good initiative but it could have been more ambitious. The scheme proposed 390 cost rental houses to be delivered in counties Dublin and Cork and a scheme was planned for Leixlip in north Kildare. To be able to deliver that number of houses in the calendar year was really important. I know a scheme is ready to go in Newbridge, for example. I would like to see more progress on that.

In terms of the affordable housing Bill, again, affordable purchase on local authority land and the affordable purchase shared equity scheme, as well as the cost rental scheme I mentioned, are

extremely important. A number of initiatives, therefore, have been brought in to help support those who need to and are working. We need a little bit of flexibility from the banks, which play a really important role in this regard. The Government needs to flex its muscle regarding banks supporting those who are working and who should be able to get a mortgage.

I believe we also need to look at other areas. I mentioned previously those who are renting in co-operative schemes and are not able to buy out their own houses. We need to bring in a scheme that enables them to do that. Much work, therefore, needs to be done but we are proceeding both at a local and national level to try to make up for the deficits over the past decade.

Senator Mary Seery Kearney: From the outset of the Covid-19 crisis, the Government, under the Fine Gael leader and then Taoiseach, Deputy Varadkar, moved to protect tenants affected by the unavailability of the opportunity to move property and, more crucially, their inability to work. Crucial protections were needed against people's inability to pay their rent brought about by the Covid-19 crisis. That is the origin of today's legislation.

The Bill before this House extends all those protections that have been repeatedly extended until April. Today's Bill extends those protections and goes further, however, and decouples those protections from the need for us to be in level 5, particularly for people who are in arrears due to the Covid-19 crisis.

The protections will, therefore, still be in place for those who are adversely affected by the financial impacts of Covid-19 and are unable to pay their rent. The protections for tenants financially impacted are extended until 12 July. Nothing about that prohibits us from coming back in. While in the grips of a pandemic, it is right that we are proportionate and responsible in how we deal with extended and enhanced protections for any sector of any market. Those in arrears are more likely to be in low-income industries or those industries most affected, such as hospitality and retail. They have been disproportionately impacted and their protections have now been decoupled from the level 5 requirement.

This Bill does not protect tenants who refuse to pay rent but can, or tenants who engage in antisocial behaviour, making the lives of people around them miserable. Tenants who are in arrears due to the financial impact of Covid-19 can make a declaration that puts them on the road to enhanced protections that were made before Christmas in the 2020 Bill. According to Threshold, that brings in anyone in receipt of the temporary wage subsidy or any social welfare payment or State support paid because they lost earnings due to Covid-19, including the pandemic unemployment payment, rent supplement and supplementary welfare allowance.

This Bill seeks to balance the rights of those who own properties and rent them out with the rights of tenants. Landlords include a large cohort of people who are landlords by accident and some who have invested in one property as a pension plan. Their property rights cannot be disregarded altogether. If we are to maximise the property market choices, we need private landlords as well as the State and the approved housing bodies. Many of these private landlords are relying on income from rent to earn their own living and pay their own bills. It would be reckless of this Parliament to bring forward a Bill that does not balance those rights and that relies on an Article 26 reference to the Supreme Court by the President. That would be an abdication of our role as legislators.

Outside these enhanced protections, if tenants fall into arrears their landlord must serve them with 28 days' notice to quit and if they do not address those arrears in a mutually agree-

able fashion, they get a further 28 days' notice. There are protections in place. If the landlord does not validly serve the notice or act in accordance with the statutory requirements, the tenant can refer these matters to the RTB. These rights are supported outside of Covid and were there prior to Covid. Where arrears are not involved, the length of notice is directly proportionate to the length of the tenancy and ranges from 28 days to just over six months. In addition, we have rent pressure zones and a prohibition of rent increases of more than 4%.

Let us be clear: it is not ideal to be renting. Tenure does not last long enough, despite the provision of six months' notice. We need additional housing and approved housing. I am optimistic about the changes that will come from the Land Development Agency and the affordable housing Bill. Fine Gael has presided over increased housing supply while in government, although it entered office when the country was in a ruinous position. Senator Fitzpatrick seems to have selective amnesia about that matter in light of her constant digs about the lack of housing, which was due to the lack of money for the first number of years when Fine Gael was in government.

I welcome the Bill. It restores rights to where they were prior to Covid and it also keeps in place the enhanced protections for people who are in arrears because of Covid.

Acting Chairperson (Senator Erin McGreehan): We have three speakers left and not much time. Would Senator Conway share time with Senator McGahon, particularly as Senator Ward is not in the House? They will have two and half minutes each.

Senator Martin Conway: That is fine. Hopefully Senator Ward will be here by then. If not, I will give way to my colleague. The Minister of State is very welcome.

This is an important Bill but I agree with other colleagues that a clear message needs to go out from this House that there are protections for tenants. There are significant rights in place for tenants. Tenants being thrown out of the places in which they are living is not tolerated in this country. It does not happen and should not happen. When Covid hit, we introduced legislation to ensure that evictions would not happen during the pandemic. Our being back here today is testament to the fact that this Government takes its housing responsibilities seriously, wants to protect tenants and does so.

I also agree with my colleague, Senator Seery Kearney, and others regarding incidental landlords. These are people who probably should not be classed as landlords. They bought properties with every good intention and their rights need to be respected and protected as well. It is called fairness and it is a very simple thing. The system has to be fair to everybody, protect people and be fair to people. It should protect tenants and citizens who happen to have a second home, which they make available and rent to tenants. It is about equity and fairness. The Minister of State does what he can and he and his predecessor have done what they needed to do to protect tenants. I think Senator Ward is here now.

Senator Barry Ward: Cuirim fáilte roimh an Aire Stáit. I will quickly raise two matters relating to the Bill. On the whole, it does good and important things in the context of the current challenges. Both matters relate to the protection of renters who find themselves in difficulty. I am acutely aware that St. Helen's Court in Dún Laoghaire in my area saw the eviction of a number of tenants from a development. They were not in non-compliance with any of the conditions of their tenancies, they were not behaving badly and they were not in rent arrears. Rather, the owner of the apartments decided to select fewer than ten apartments to be renovated.

Those people now find themselves with nowhere to go.

I wish to discuss two particular circumstances, the first of which relates to tenants who are in dispute with a landlord for whatever reason and going before a tenancy tribunal of the RTB. Landlords who appear before that tribunal are much better resourced than tenants in terms of legal advice, legal aid and assistance generally and are often represented by some of the country's larger law firms. Conversely, many tenants come to the tribunal bewildered by the process and unaware of their rights. I am aware that the board is obliged to provide them with documentation in that regard, and I am sure it does, but the difference between providing someone with a leaflet and explaining to someone what he or she can and should do is significant. I have submitted a Committee Stage amendment on the question of whether we should provide an access-to-justice mechanism and a legal aid fund for those people. As with anyone who comes before the courts and avails of civil legal aid, tenants could avail of legal advice via a fund set up through the RTB. This important access-to-justice mechanism, which is absent currently, would allow tenants to perform better before the tribunal and in how they deal with the issues before them.

My second point relates to how, as far as I can see, the legislation places the evidential burden on the tenant rather than the landlord. In circumstances where a landlord is proceeding under section 34 to remove a tenant because the former intends to sell the property and move on, the Bill appears to suggest that any evidence from the landlord to the effect that he or she is going to sell the property is sufficient for the board's tribunal to take into account. That is legally wrong. Indeed, it has been found to be so by the High Court. The Minister of State should make it clear that, while a sworn statement, statutory statement or statement to the effect that the property is going to be sold is evidence, it is not sufficient evidence to uphold a decision under section 34 for a perfectly valid, hard-working and conforming tenant to be removed from a property.

Senator John McGahon: I wish to make a couple of points, the first of which relates to housing maintenance and housing transfers in my county of Louth. The county council's problem is that transfers are essentially non-existent. This is because it does not have proper funding to do up the houses. The cost of doing up a house is between €8,000 and €10,000 approximately. The council cannot effect transfers if it does not have the money to do up a house to a good standard for a new tenant. I plead with the Minister of State to consider this funding issue for Louth County Council. It is an important matter.

Under the HAP scheme, the rent limit for an adult in Louth is €575 per week or €650 for a couple. These limits are too low when rents in the Dundalk area are €1,200 or €1,300. I would appreciate it if we could review HAP and increase the limits for single people and couples.

Eviction notices have been mentioned. I do not know whether it is just my part of the world, but there are some chancers among landlords. I have seen more eviction notices served to people in the past two months than ever before. Tenants are coming to me in a panic and I am telling them that there is an eviction ban and setting out the story.

On Monday and Tuesday mornings, I almost become an estate agent because of the number of people from my town who come to me about not being able to find housing to rent. That is because people are sticking in their houses and not moving around. Every Monday and Tuesday, we go through *daft.ie* and to every estate agent in Dundalk to try to get people housing, but it is difficult. However, there is a positive in this. At the minute, the housing waiting list in

Louth is flying. I am not being dramatic. People are flying off the list because we are building so many houses on the outskirts of Dundalk. That is good, as any politician in Dundalk would say regardless of whether he or she was in opposition or government. The key to this success is supply. If we build, we will sort out the housing crisis.

Minister of State at the Department of Housing, Local Government and Heritage (Deputy Peter Burke): I thank the Senators for contributing on this very important Bill and acknowledge their contributions. I acknowledge the speed at which the joint committee allowed us to go forward with the Bill and apologise as I know it is not ideal. However, the threat of Covid-19 and the trajectory of the pandemic means nothing is ideal about the circumstances in which we work, unfortunately. I value all contributions made in the House. It is important when we go forward with a Bill, that it is stress tested and that we do articulate all the views from all the different backgrounds in the House. I genuinely appreciate that from all the Senators.

Senator Cummins articulated what the Bill is about. In no way does it water down the rights of tenants. There is not one line, word or letter in the Bill which does that. It increases the rights of tenants, to try to protect them, some who may be economically challenged. The 5 km limit relates to different legislation, it is not in this Bill. This Bill is purely an economic Bill. The vote on it this evening and on Monday is only on an economic basis and has no relevance whatever to the 5 km rule. I want to be clear on that for Senator McDowell and others. That is a different regulation set by the Minister for Health to a different Act. It refers to the Residential Tenancies and Valuation Act 2020, as he rightly said. This is a totally different Bill. It is important that we get the right balance. Senator McDowell did articulate that point well about the Constitution and the protection of very vulnerable people during a pandemic.

Senator Fitzpatrick rightly raised supply and the work of NGOs. When asked, the key issue Threshold raised with us was rent arrears. That is its biggest worry about the crisis. That is why this Bill covers that with all the actors working with the supplementary welfare allowance and community welfare who are turning around applications within three days. That is key in supporting people who are in very vulnerable situations and we need to continue to do that.

I acknowledge the scale of the budget for housing of €3.3 billion. Affordability must be at the heart of it which is why we have two Bills before the House, the Land Development Agency Bill, which will be a game changer in providing supply of affordable houses, and the Affordable Housing Bill which contains key initiatives. Help-to-buy was already mentioned. There is also the shared equity scheme which I believe will shape the supply of the new starter homes which are so badly needed in the market. One third of first-time buyers are buying new homes and two thirds are on the second-hand market. A decade ago it was the reverse. That is why we need to shape that supply.

As regards Senator Moynihan, I want to acknowledge that all views are much appreciated. We are all trying to achieve the same goal, that is, to protect the most vulnerable in society through the biggest crisis the State has ever faced for our people. We know how frustrated people and communities are and we have seen many livelihoods challenged. I value the joint committee. We provided it with oral and written briefings. It is not ideal but I appreciate the committee giving us the opportunity to go forward with the Bill. That brings me to Senator Martin's comments. I acknowledge that we are under pressure here, without doubt. I will take up the points he raised about the board with the Minister.

26 March 2021

One of Senator Warfield's points was 100% wrong. The passing of this Bill does not water down tenants' rights in any shape or form and it is so unfair for anyone to say otherwise, because it does not do so.

4 o'clock

Senator Flynn mentioned non-governmental organisations and the most important areas they raised. That is why we have listened to what Threshold have had to say. Its key point was that it was concerned about rent arrears. We have the statistics on warning letters. A warning letter does not necessarily mean that someone will be evicted. We have the supports in the State to try to work with the people affected and prevent that from happening. It is important for people to engage, as I said, with community welfare officers who are turning applications around quickly. We have the supplementary welfare allowance. Supports are there and we must be careful and ensure people are aware of them. We all have a job to do in that regard.

Senator Buttimer articulated how important it is we increase supply, although the construction industry is largely closed at the moment. We know the challenges and implications that has for society. I hope decisions that are made in the next few days unlock that. Many Senators have mentioned the financial, family and mental health sacrifices people are making. We must be careful about the longer effects down the road. There will be risks along the way. It is important we get construction back up and going again.

Question put and agreed to.

Acting Chairperson (Senator Erin McGreehan): When is it proposed to take Committee Stage?

Senator John Cummins: Next Monday.

Acting Chairperson (Senator Erin McGreehan): Is that agreed? Agreed.

Committee Stage ordered for Monday, 29 March 2021.

Sitting suspended at 4.01 p.m. and resumed at 4.18 p.m.

Quality in Public Procurement (Contract Preparation and Award Criteria) Bill 2021: Second Stage

Senator Alice-Mary Higgins: I move: "That the Bill be now read a Second Time."

The Minister of State, Deputy Ossian Smyth, is very welcome to the House. I thank him for his engagement on this legislation. As many colleagues across the House will be aware, procurement is an issue with wide implications. To give a sense of the Irish position, in 2019 we spent €12 billion on public contracts for goods, services and works. Over the next few weeks, the expenditure will increase very significantly. As we heard earlier this week in the Seanad, from the Minister for Public Expenditure and Reform, Deputy Michael McGrath, there will be at least €116 billion in capital works expenditure planned under the new national development plan. How we spend that money and the way we do the procurement really matters, and we owe it to members of the public to be sure we are getting the best possible outcomes from their

money when we spend it. If we cut corners, it can cost more in the long run. We can see this in scandal after scandal and in many of the smaller disappointments and missed procurement opportunities, many of which may never get headlines but which each of us will have encountered and of which we will have many examples. It is not enough that we respond to each new controversy; it is about changing the policies, systems and practices around procurement in a meaningful way.

This legislation is not just a very strong instrument to avoid some of the mistakes we made in the past; it is also a very positive proposal on how we can raise the level of ambition, do more and derive wider public benefits of every kind from how we spend our public money, be those benefits social, environmental or associated with innovation. The key to that is making quality the heart of the public procurement process and strengthening the way we think about quality in public procurement.

This is an issue I have been very passionate about since I worked with the National Women's Council of Ireland. There I worked with 180 organisations. They were very different. Some were service providers and some were service users, and others were unions or business groups. There were so many examples of frustration with procurement. Very often, people were told that is just how it is, that it is a matter of EU law and that there is little that can be done. I decided to investigate. We found there is a large amount of space in the EU directives on procurement. There are many opportunities. There is space to do really positive social and sustainable procurement. That has now increased and it has been increasing since the 2014 directive, which recognised explicitly procurement as a key economic tool in delivering the Europe 2020 vision of smart, sustainable and inclusive growth and achieving the EU's collective goals in areas such as education, the environment, poverty reduction and equality. The EU directive states: "This Directive clarifies how the contracting authorities can contribute to the protection of the environment and the promotion of sustainable development, whilst ensuring that they can obtain the best value for money". The mandate from the EU is, in fact, to do more and to be more ambitious about procurement. This Bill is not just compliant with the EU laws; it will, in its implementation, bring Ireland closer to the spirit of those laws.

At the time of transposition, there were opportunities that Ireland did not choose to take. One example is that under the EU procurement laws, contracting authorities, when they prepare a call for tenders, must decide whether they will be awarding the contract on the basis of the lowest cost only, whereby the lowest bid will get the contract, on the basis of the best price-quality ratio, whereby both price and quality are thought about when making the decision on awarding the contract, or on life cycle costing, whereby one thinks about the input, the life cycle and the disposal of what one is buying. Life cycle costing is very often combined with the best price-quality ratio. At the time of transposition, the EU directive recognised that there are dangers when we opt only for the lowest cost, and member states were offered the opportunity to exclude lowest cost only arrangements. Ireland chose not to take that opportunity and to keep all three options open. However, what we have seen in the past seven years, unfortunately, is the lowest price being used time and again, far too often, and not enough weight being given to quality.

I address this in a few ways in my Bill. There are four very practical measures, the first of which is limiting the use of lowest price only contracts by making the best price-quality ratio the standard practice, either on its own or combined with life cycle costing. Let me give an idea as to where and why this matters. Having regard to the CervicalCheck scandal, the Scally report directly identified the fact that a lowest price only contract was one of the reasons quality

issues were not identified early enough. We have seen examples of where companies with very high risk ratings are given public contracts. That is because as a result of that early decision the contracting authorities did not give themselves the space to prefer a better quality option since they had decided it would be lowest price only and they did not have the grounds to refuse a company that displayed clear dangers in terms of its risk rating.

The Minister for Public Expenditure and Reform has acknowledged that more thought earlier leads to better outcomes. This Bill tries to put that into practice. We do not exclude lowest price only as an option. The discretion of contracting authorities is still respected. However, if they go for lowest price only, they need to publish an explanation from a senior official that states why. That is incredibly reasonable. That is also part of our accountability to the public. Effectively, the Bill does is say that one needs to either think about quality or think about why one is not thinking about quality. That is the least that the public can expect from those spending their money.

This is based on Dutch legislation which is incredibly successful. Their projects are coming in on time and benefiting. A review of that 2016 Dutch legislation which does exactly this had two interesting findings. The first is it is not always that more expensive. A total of 73% of contracts still went to the company that had made the lowest bid but that company had proven itself also on quality. They had won on two dimensions. The other interesting finding was that the cost was 3% higher at the early stage of the procurement process but the benefit was 2.4 times more - doubling the benefit from public money - by getting those extra dimensions in. The core of it is that switch or shift in culture in what we do first.

The other part is that we need to do even more on the large national infrastructure projects. We cannot afford to get it wrong. Regarding the children's hospital, it was 75% on price and only 25% on quality and an underbidder won it with a visibly unrealistically low bid. My Bill would say that when we spend in excess of the EU public works threshold of €5.35 million, we should have a minimum of 50% quality criterion. I would like it to be higher. Many would like it to be higher. Often it will be, but that should be a minimum. That is really important. The discretion is still there to go, on a €5 million project, with price only but it will require a senior level explanation.

The final two provisions in my Bill relate to how do we help the procurement office because I see this as empowering legislation for those doing procurement. It is around the Minister providing guidelines, not only the information note that we have from the Office of Government Procurement, OGP, but around the other parts of public policy and how, if one were designing a tender, one might want to fit them in, for example, the UN Convention on the Rights of Persons with Disabilities. This would be a tool that would support contracting authorities to ask how they think about that when they are putting out a contract for a public park and how they reflect that. It would be an evolving guideline that would help. That has been done very effectively in Scotland.

It is important to remember quality is not only about sustainability and the environment. It is also about design and, for example, delivery dates and employment. The EU directive is clear that there is a wealth of ways to measure quality. They are concrete and measurable. It can be done and its being done elsewhere.

My legislation would ensure that the public duty on equality and human rights, which is an obligation of every public authority and every Department, would be reflected by them in their

public procurement and that they report on how they are reflecting it in their public procurement.

I will get to respond to the debate. I look forward to the Minister's engagement. This is a constructive and positive proposal. It is long past time for the State to send a signal about what it values, what it recognises and what it rewards in best practice.

Senator Lynn Ruane: I thank the Minister for attending.

I am delighted to formally second the reading of the Bill. I pay tribute to Senator Higgins for her hard work in this area both in this term and the previous one. This is a complex area of public law. It involves much jargon, legalistic language and terminology that are often not instantly accessible. It may not be instantly clear to persons reading the Bill what practical effect the percentage changing of certain price and quality criteria in a public procurement contract or tendering process might have on their day-to-day life. However, in many ways this Bill could be one of the most consequential that we will debate in this Seanad in terms of actually causing policy and culture shifts that improve the quality of people's lived experiences for the better.

Public procurement is everywhere. Where the State does not or cannot step in to directly fulfil a need or provide a service, an intermediary must be sourced. As we engage that intermediary to fill this space on the State's behalf, we have a responsibility to ensure that service is delivered in accordance with the exact same quality, equality and human rights principles and in the furtherance of the common good that rightly underpins and guides how our public service bodies deliver services and perform their functions.

No one in Ireland should ever be disadvantaged by a public decision to outsource a service or to purchase a product from the private sector. It is in pursuit of this important goal that the real importance and need for this Bill are clear because unfortunately ordinary citizens are required to pay the price for failings in public procurement and also due to a culture that allows the quality of the service to matter little compared with one that can be delivered at the lowest cost.

People have paid through their contribution to public moneys, following supplementary financial claims made after unrealistically lowball initial bids have ballooned to hundreds of millions of euro. They have also paid by having lower quality services and products that have not been delivered at a standard that reflects our ambition or even our baseline domestic and international human rights commitments.

Every Senator will have countless examples of when they have seen public procurement go wrong, when issues that were not aired at initial tendering and contract drafting stages went on to cause serious systematic problems later in the process. If a contract does not need to compete on quality, then we all pay the price. The obvious example is the national children's hospital, where decisions on how to tender for its construction have now resulted in its likely being one of the most expensive hospitals ever built.

The most heartbreaking is the scandal of CervicalCheck which arose from a price-only contract. The most personal for me was my daughter attending a school built by Western Building Systems and being sent home in 2008 because there were concerns about the structural integrity of the physical building in which she was educated and which we were informed might collapse. This is what happens when we get public procurement wrong; public money is wasted, public health is jeopardised and public confidence suffers. We need this Bill to restore public

confidence.

This Bill will create a new default approach to public procurement that would ensure that price and quality receive equal attention in deciding between bids for public contracts. Furthermore, for those once in a generation large capital projects when we will not get a second chance to get it right, it is fair and reasonable to expect that at least half of the decision-making on procurement would be determined by quality. Public procurement cannot and should not be just about how to spend as little money as possible in the here and now. It should be about building a process that can look 20 years into the future.

The Bill would require that the responsibility of public bodies to exercise and promote human rights under the Irish Human Rights and Equality Commission Act would be further reflected in the contracts that such bodies signed for the delivery of goods and services to people in Ireland. When the State spends €12 billion a year on procurement and has such a dominant role in many economic markets, the embedding of human rights and promoting that approach in service delivery really has the potential to revolutionise these sectors and ensure that the State, its bodies and the services it contracts are leading by example.

The Bill is expertly drafted and is considered balanced and timely. I ask all colleagues to support its passage through Second Stage. If they have issues, we can deal with those by debate and amendment on Committee Stage. That is what we have all been elected to do. I urge the House to send a strong signal today that it rejects the sometimes catastrophic mistakes of past procurement failures. We must say to people watching that there will never be a repeat of what happened with CervicalCheck and the national children's hospital, and that the Oireachtas is acting to place the well-being and quality of life of people living in Ireland at the centre of all future public contracts.

I wish to address the amendment the Government has tabled, which would delay the Bill's passage for 12 months. While I accept that legislative change takes time to debate and consider, particularly in between the formal debates that occur in these Houses, I struggle to see what justification the Government has for a further delay of 12 months when we already have engaged in a process that is now several years old. I will end there because I am out of time but I confirm that we will look to address the delay in amendments later on.

Senator Aidan Davitt: I welcome all the good work that Senators Higgins and Ruane have done on the Bill. They have spent quite a bit of time on the legislation and not even small details were omitted. Senator Higgins spoke passionately about the legislation and to the point, which was great.

Contracts are never simple and basing procurement on quality would not guarantee that we know the final price. Over the years I have been involved with a lot of contracts so I know there are always extras and add-ons. The devil is in the detail at that stage and nothing is ever straightforward.

I have discussed this legislation briefly with Senator Higgins and the Bill's general drive has a lot of merit. I also have spoken briefly to the Minister of State and he will outline his position, as discussed. I thank the Senator and wish her the best of luck with her Bill.

Senator Eugene Murphy: Like Senator Davitt, I compliment Senator Higgins and her colleagues on putting a lot of work into the legislation. This is an issue that we should discuss and this is an important debate because there are several aspects of procurement that need to be

thrashed out. It is obvious that the Senators have done a lot of work and research on their Bill. I believe the Minister's proposal to put this back for 12 months to facilitate further discussion or whatever is not the worst suggestion in the world because a lot of discussion is required.

I seek a little information on the legislation and perhaps the Senators will be able to answer. If I am not here then I ask them to come back to me at some stage with the information. There is a proposal that calls for an Accounting Officer or CEO to make a declaration on every procurement procedure where price is the only award criteria. A few things struck me about that aspect. Would that not be very onerous? Is it necessary? Finally, would it not create a significant administrative burden that could delay important contracts from proceeding? I remind the House that there are more than 7,000 contracting authorities in Ireland, including schools and health agencies. Having so many contracting authorities reporting to the Houses of the Oireachtas each year at the scale outlined in section 7(2) could be onerous and could have a negative effect. Again, I only seek clarification in this regard.

The Bill proposes to introduce legislation to compel the Minister to issue guidelines concerning qualitative, environmental, social, human rights and equality considerations. Again, there is a concern that the Bill could have an impact on the climate Bill. Has that been considered by the Office of the Attorney General? The Bill further compels contracting authorities to comply with these guidelines. This would, in my view, create additional regulations further to existing procurement regulations under SI 284 of 2016. In addition, the Office of Government Procurement has developed the national procurement guidelines that are intended as a toolkit for public buyers and a reference guide for economic operators. I understand that those guidelines will shortly be updated to give further prominence to strategic procurement, which included environmental and social considerations. Those are my queries. I have nothing against the Bill. It is a good discussion to have. As I have said, Senator Higgins and her colleagues have put a lot of work into this and I am sure that only good will come out of it.

I will mention one final issue which I am sure Senators have come across. When major public works are being done in a local area, small local firms often feel they are excluded by the procurement process. They often get angry when they see a firm from England, Germany or somewhere else getting work and point out that they employ 20 people and do work to an excellent standard and say that they should get a fair crack of the whip. I often point out to such people that, on the other side of the coin, there are Irish firms getting work in London, Rome or wherever. There are two sides to the coin. It is, however, an issue for smaller firms. At the moment, there is a very significant amount of working going on in respect of road renewal and urban renewal. Smaller firms in these localities are losing out because of the procurement process. Perhaps we could discuss that as a group again. I know there are a lot of EU rules involved, which we must stick by, but smaller firms sometimes feel they are excluded. This discussion we are having today is really good.

Senator Seán Kyne: I move amendment No. 1:

To delete all words after "That" and substitute the following:

"the Bill be read a second time this day 12 months to allow for comprehensive consideration of the implications of the Bill."

I welcome the Minister of State. I thank Senator Higgins and her colleagues for their work on this very important Bill. One only has to look back at the record of any of these Houses

over a period of months to see the amount of times the issue of procurement is raised, whether in relation to the engagement of consultants, procurement frameworks, the procurement, management of oversight of projects, or procurement processes to appoint a design team. We all use that language very often with regard to the range of projects in which we are interested and which we want to pursue. Those who watch as much TV as I do will see the issues that arise in other countries with regard to corruption, the way contracts are awarded and all that goes with it. I would like to think that does not happen in this country. Perhaps I am being a little naive in some regards but I believe we have very high standards in our processes with regard to procurement. The Office of Government Procurement does a very important job on behalf of the State in achieving value for money and in ensuring fairness. If there is one thing most people do not like to see, it is an unfair process in which people reap the benefits of favouritism.

Transparency is very important in any system. The transparency in the Irish system has led to the business sector's acceptance of the whole process. The sector regards it as well-run. Efficient businesses are rewarded and corruption is reduced.

We do, however, need to make the process easier for small businesses who wish to tender regionally. This issue has been raised numerous times. I refer to regional procurement rather than national procurement. We have heard stories of local suppliers who were excluded because of their scale and because they do not have the requisite level of turnover to qualify for a job. They may have the requisite level for regional projects but not for national projects. That should be taken into account because we want to see local suppliers and SMEs being given a fair crack of the whip with regard to procurement.

The Minister of State has been engaging with Senator Higgins and the Senator has engaged with the Office of Government Procurement with regard to the Bill. It is a thought-provoking Bill and there is a lot in it with regard to ensuring contracts are not assessed on price only. There is merit in that but that is not to say there are not issues with the Bill. I note this is the reason a timed amendment has been proposed with regard to the reading of the Bill.

I know from the 2018 public service spend and tendering analysis report published by the Department that 11 of the 16 procurement spend categories remain predominantly SME, which is heartening. It is up to a 53% share of the spend, although that varies with the category. For example, in plant hire or fleet plant hire, the proportion that won by SMEs is above 80% or even 90%. Minor building works and civils, marketing, print and stationery are all a high gain in terms of the share of the spend at above 70%, which is important. Some of the lower ones are those one might expect, such as those involved in defence utility contracts, which have a much lower share for SMEs. There is scope for SMEs to secure a tender.

I welcome the line in the programme for Government regarding the SME working groups to promote the engagement of SMEs in public procurement. That group includes representatives of the Irish Business Employers Confederation, the Irish SME Association, the Construction Industry Federation and the Small Firms Association as well as chambers and key public officials within the Government. That is very important to ensure that SMEs know about the processes and have a fair crack.

I spoke earlier in the week about the national development plan, NDP. All of this is inter-linked in the delivery of the NDP. We all want whatever projects are listed in the NDP and future projects to be built on time and within cost in order that people will have confidence in them. While there is the OGP, we could do with a unit or agency to oversee and deliver large

projects in particular. I do not mean it would decide on the desirability of projects but rather that it would be involved in the drawing up of tenders and managing contracts and the development. The unit would draw on expertise relating to project delivery from the OGP, identify areas requiring attention and troubleshoot at the early stages of projects. That could be of benefit in this regard.

The Bill is important. There are many thought-provoking and worthy elements to it in regard to the social contract and to ensuring that we are cognisant of minorities and people with disabilities, and in order that groups that tender for projects take notice of that. I hope that in the time before amendments are debated, we can work with Senator Higgins to ensure the delivery of what she promoted.

Senator Victor Boyhan: I warmly welcome the Minister of State to the House. We soldiered together for a few years on Dún Laoghaire-Rathdown County Council so I know of him. We have not been in the Chamber at the same time during his ministerial term, so I wish him well and congratulate him on his appointment. The Bill is an important part of his work and it is an area in which he has experience, so it is appropriate that he has responsibility for it.

I thank Senators Higgins, Ruane, Black and Flynn for introducing the Bill. It is important and timely, not least in the context of the NDP. Senator Higgins raised that with the Minister of State the other day when we were talking about the national development plan. I note her many references to the Dutch model in regard to the Bill, and that is an important yardstick by which to judge it. There is so much best practice in respect of these issues, as the Minister of State will be aware.

I do not accept or support the Government's decision to defer this matter for 12 months. Senator Kyne will be familiar with the programme for Government, which he mentioned. What it says about procurement should not come as news to the Minister of State. It states:

We are committed to evaluating and managing the environmental, economic, and social impacts of procurement strategies within the State. During the lifetime of this Government [quite frankly, we do not know how long that will be, although I take it that it is envisaged to be five years], we will develop and implement a sustainable procurement policy. [I would expect nothing less, particularly from the Green Party in government].

The policy will;

- Ensure strong value-for-money for the taxpayer.
- Seek to minimise the environmental impact and optimise the community benefit of products and services procured.
- Support innovation in supply markets to increase the availability and effectiveness of sustainable solutions.
- Encourage suppliers to adopt practices that minimise their environmental impact and deliver community benefit.
- Work in partnership with suppliers to achieve common goals and continually improve performance over time.

We will task the Office of Government Procurement to update all procurement frame-

works, in line with green procurement practice over the next three years.

That is all very laudable, and I do not think anybody has an issue with it, but when one looks at the reality of the situation, we spend billions in this country on contracts for goods, services and construction. All of us in public life have a responsibility to hold people to account in regard to procurement contracts. We talked about transparency and openness in how we do our business. We know that in the past the Government awarded contracts to the lowest bidder, which does not always mean it is the best job or that it is best practice. Senator Higgins used the example of the national children's hospital and the absolute scandal of the overrun and issues relating to procurement. One would think no one was in government for the past five or ten years. Who was supporting the Administration? Who allowed all this to happen, and on whose watch did it happen? Many of the same people are sitting at the Cabinet table. They are certainly in government and in the parties that were in government. Then they come in here and tell us that the Bill will be debated in a year's time. Have we learned anything from what has happened, in particular with the national children's hospital? It is an absolute disgrace. I do not agree that we should support the Leader's proposal on behalf of the Government, because I do not think it is right. If a Minister said six months, we could understand that and say it was a reasonable approach, but not 12 months. What does that indicate about intent? If one has a problem, one could come back to the House in six months and explain it. That is fair enough, but not to suggest that we are going to kick this down the road for 12 months. The Government may not be here in 12 months. That is the reality of politics and a tripartite administration. We all have to live with that. We read about it every day in the newspapers.

In my remaining time I wish to speak to sections 5 to 7, inclusive. Section 5 provides for the contracting authority to take account of human rights and equality issues under existing EU and national legislation. I do not see a problem with that. I do not see how it would take 12 months to come up with some solutions around that measure. Section 6 states that the Minister for Public Expenditure and Reform shall issue guidelines concerning "qualitative, environmental, social, human rights and equality considerations" that arise from contracts governed by public authority contracts regulations and how these might be included in the preparation and procurement of such contracts. I do not have a difficulty with that. Likewise, I do not understand why it would take six months to come up with something around that.

Section 7 refers to a requirement for the Minister for Public Expenditure and Reform to prepare an annual report and lay it before the Houses of the Oireachtas. That is all about transparency and accountability. The proposals in the Bill are excellent. I again thank Senator Higgins and her colleagues for the work they have done on it. I read to the Minister of State, Deputy Ossian Smyth, the objectives on procurement in the programme for Government. I do not see what the problem is here, because everything that is in the Bill falls into the general tokenism or suggestion of what the Government may do in the programme for Government. I do not doubt that the Minister of State, Deputy Ossian Smyth, is not on board. I support the Bill and, more importantly, I would like him to indicate whether we could see greater and quicker progress within six months not 12 months.

Senator Mark Wall: I too welcome the Minister of State, Deputy Ossian Smyth. I also thank Senators Higgins, Ruane, Black and Flynn for bringing this important and timely Bill to the Seanad. The Labour Party is very pleased to support the Bill. There is an onus on us all in this House to ensure the Government operates best practice, given that the State is the largest procurer of services and goods. The onus must always be on best practice in labour and environmental standards while achieving the best quality standards. The need to examine

public procurement and public authorities and utilities under the contract preparation and award criteria is a very timely topic. We have only to look at recent awards, including the national children's hospital, to acknowledge how important such examinations are. This should not be about the cheapest way of getting things done because, as has been said. We should always strive to achieve a quality product or service. We are all very aware of the adages that if it seems too good to be true then it is too good to be true and of being penny wise and pound foolish. That is how we should approach public procurement. I know this Bill tries to address this and I welcome that fact.

Too often, lists are presented where the only option is the contractor with the lowest price. Unfortunately, to our cost and in too many recent cases, this method of selecting and awarding contracts has left this State with a bigger cost, and ultimately, the taxpayer ends up paying these additional costs. We must address quality over price.

I am aware that many of those waiting on tenders to return are wishing that a particular contractor or contractors do not come in with the lowest price. This is simply because they know that if they are forced to accept that contractor and its lowest price, this will lead them to finding faults and spending additional time on follow-ups and time-consuming inspections, given the history and experience many have with this type of procurement. That said, thankfully we have many reputable contractors. There are, however, differences in the quality of their work and their ability to deliver quality projects and services within specified timeframes. There is certainly much merit in looking at a system which does not use the principle whereby the lowest tender wins, regardless of any contractor or its previous record.

It is my understanding that the State spends €12 billion per annum on public procurement. There can never be any question or doubt that a robust procurement system is vitally important to the running of this country on a day-to-day and future basis for the benefit of all communities. We are all unfortunately aware, however, that the State has suffered because of the consequences of the current low-price procurement process. From screening programmes to school building programmes, we have seen the results of what many describe as a system with many flaws. The children's hospital process, which I understand was weighted on the lowest price versus quality, is the latest example of the need for reform in this area.

It is true that many public sector bodies, and many of those with whom I have spoken who are involved in procurement over the last number of years, recognise the need for stronger criteria for change and for greater emphasis on quality in determining the procedures involved in how we award public contracts. Many of those who deal with the tendering process now seek more emphasis on quality with much more emphasis on the economic outcomes of the project for which they have drawn up a tender, rather than, as they see it, a race to the bottom based on who can provide the lowest price to win the same contract.

We believe this Bill, as introduced by Senator Higgins and her colleagues, will point us all in that direction. To that end, we welcome that inclusion and proposed change. We believe this will make a change in how those tendering for these contracts view the process and concentrate their minds on quality and sustainability, rather than how using certain materials or reducing some processes may win a contract which is weighted more on price.

At the outset, I stated that I felt this Bill was timely. I will use part of my contribution to back the calls by my union, SIPTU, in calling on the Minister for Social Protection to reverse her recently announced market-driven approach to local development companies. The Minis-

ter, Deputy Humphreys, in the opinion of many is heading down a road of privatising community employment services, including the local development companies involved in job creation and support for the unemployed. SIPTU commented that this proposed process has created a real and genuine concern among its members that the wholesale privatisation of the community sector is the ultimate endgame for this Government. Local development companies are constituted on a not-for-profit basis and the proposal to change these essential services to a cost bid rather than a cost met model will not serve jobseekers, staff or communities well. SIPTU goes on to say that this move may ultimately facilitate these important services being sold off to private companies with little or no positive outcomes for the communities its members serve.

The timely aspect of this proposed announcement is the emphasis again in the Government on cost, rather than the quality and environmental outcomes of the changes in public procurement, as proposed in Senator Higgins's Bill. I am aware of the terrific work being carried out all over the country by local development companies, particularly in my home county of Kildare. We must not make the mistakes of the past and put price before community benefit.

We note the Bill does not propose introducing mandatory green public procurement criteria. We agree with Senator Higgins, however, that it should lead to more consideration of the importance of reviewing green criteria and how we view the future of our tendering process from a green environmental perspective. We must ensure the future procurement process includes sustainable products and services.

I look forward to this Bill progressing. Once again, I thank Senator Higgins and all her colleagues for introducing it. We must learn from the mistakes of the past to build and secure and sustainable infrastructure and services that will last into the future and give us all value for money.

5 o'clock

Senator Pauline O'Reilly: The Government has no intention of going anywhere, the Senator will be glad to hear. If the Senator read the whole piece from the programme for government he would see that it states we task the Office of Government Procurement to update all procurement frameworks in line with agreeing procurement practice over the next three years. It is quite generous to state we will look at this in the next 12 months. I can also see the Minister has worked very closely with Senator Higgins, and she would agree with this, and with all of the other Senators involved.

I very much welcome that we would come back to the Bill and it is correct that it is a timed amendment. We need to be practical about things. We could just put in a timed amendment for tomorrow but if, in looking through what needs to go into it, we came back tomorrow and it was not green and did not protect workers' rights, then there would be no point to it. The proposal for 12 months sounds very decent and I hope everybody will join with me in supporting it. It is important that we do not throw around nonsense figures that would not be achievable. What is very clear is that the Government put a Green Party Minister in this area so it does show it is very important to us. There is quite a significant amount in the programme for Government that also shows it is really important to us.

People are probably sick of hearing about what I did in my past life but I did work in procurement for a few years as well as everything else. Sometimes what happens is that procurement is done behind closed doors. We need to have robust systems in place because sometimes

it is the person with the most money or the lowest contract that will get it. Sometimes it feels like a box-ticking exercise. We have to make sure there are enough boxes to cover every eventuality and make sure everybody is protected in it. Procurement does not hit the headlines until something goes wrong. Nobody is watching. The systems need to be in place but they need to be robust systems. I welcome everything in the Bill and it is coming from a very good place. The fact that Senator Higgins has worked with the Government to change the previous iteration shows a good working relationship and I hope it continues.

Senator Paul Gavan: It is good to see my comrade, Senator Warfield, in the role of Acting Chair. I congratulate Senator Higgins for this excellent well thought out legislation. I am quite taken aback by the comments made by Senator Pauline O'Reilly. She spoke about throwing about nonsense figures. The only figure mentioned was by Senator Boyhan, who suggested six months rather than 12. To make a comment such as she did shows either she was not listening or not showing respect to the very hard work done on the Bill.

Like others, I am frustrated about the 12 months. We have heard from most people that this is a very good well thought out Bill. Senator Murphy made some constructive points that need to be addressed. Six months is more than adequate in which to do so.

What I like about the Bill is that it highlights the real untapped potential of public procurement. We spend €12 billion but we have an extremely narrow set of criteria about price and price only. Many people have referred to the disasters that can unfold under this process, such as the children's hospital. I suspect all of us would agree on this. The Bill also blows out of the water the myth that social clauses must be restricted because of the EU rules on procurement. This has been really well called out by Senator Higgins, not just in the Bill but in a series of meetings we have had in the run up to it.

With regard to public procurement, the European Commission states, "Public authorities can engage in socially-responsible public procurement by buying ethical products and services, and by using public tenders to create job opportunities, decent work, social and professional inclusion and better conditions for disabled and disadvantaged people." This is what was allowed when the directive was put in place in 2014. It is a real tragedy the Government at the time ignored all of this and went in with the minimum possible requirements just on price. It is hugely disappointing. We now have an opportunity to change it.

What I particularly like about the Bill is that it fits in well with Sinn Féin's policy of community wealth-building. This is about anchor institutions talking to each other across every locality. In Limerick, for example, it would involve University Hospital Limerick, the council and the university. It would get core principles applied across those anchor institutions in how they go about procurement, as well as look at issues like low-carbon footprint, a living wage and recognising the right of people to join and be represented by trade unions and awarding points on those. That would be transformative to people's lives.

Canteen staff in a Galway hospital who work for one of the biggest multinationals in the world have been in contact with me. They are front-line workers serving meals for people in the hospital but are paid just the bare, miserable minimum wage. What happens to anyone who steps out of line, talks about wanting to join a trade union or take action? They do not get work the following week. That is how public procurement works at the moment. There is something fundamentally wrong and broken with the system. The point is that it can be changed. This Bill points to the way in which we can do that.

I am very taken by the fact that in 73% of contracts in the Netherlands, there is no additional cost. Again, we see how it can work better. Senator Murphy is correct about local builders missing out. The procurement game does not work well enough for small local builders. I spoke to a councillor in Limerick earlier who told me that small builders have missed out on the work relating to 150 local authority housing voids. The big contractors are incredibly slow at doing the work meaning we lose out in terms of the results because of the way procurement is currently stacked. We need to do it differently.

In 2015, the Irish Congress of Trade Unions called on the Government to do much more with the original directive. Of course, it was not done. Now we have this amendment to extend it for 12 months. Does anyone remember the last time we were told about kicking it out for 12 months? What was that about? It was about Seanad reform. Everyone knows where we are going with Seanad reform under this Government. It is not going to happen.

Where is the Green Party making a difference? We know what to expect from Fianna Fáil and Fine Gael. In fairness, they are open about the fact they are conservative, right-of-centre parties. The Green Party was supposed to make a difference. The way the Minister of State can make a difference is by not waiting 12 months and kicking the can down the road. He can make a real difference, with the huge amounts spent each year, to people's lives and working conditions by building decency in public procurement. Why does he not at the very least take up the sensible response put forward by me, Senators Higgins and Boyhan and others and buy into a period of six months? Six months would give us plenty of time to do the additional work. It should not be forgotten that Senator Higgins has done work on this Bill for the past several years, including in the previous Oireachtas. The idea of this conversation only starting is not the case. This is the fruition of that work. It is a really well-thought out Bill. We believe it is legally sound. We would prefer to do a little bit more in terms of being more specific about workers' rights but that could be done on Committee Stage.

Right now, we have to make a decision collectively. Do we move forward with this Bill, take a six-month timeline and come back to make those changes in order that we can make real differences at the end of this year for the coming year? Do we make a real difference to procurement or do we kick the can down the road? If we choose the latter, that would be a huge failing. It would be another example of where the Green Party said it was going to make a difference but then basically faded away into the background doing what the civil servants told it to do. I want to put on the record that I believe there is an ideological issue at the heart of this. In the Department of Public Expenditure and Reform, there is a real resistance to building in decency, particularly in the context of collective bargaining and a living wage. That is a fundamental problem we need to overcome. The Minister of State can do better. I implore him to do better today.

Senator Joe O'Reilly: I congratulate my good friend and colleague, Senator Higgins, on this legislation. She is a particularly reflective individual and a very hard-working Senator. The Bill is the product of much assiduous work. It has led to a good debate about procurement and how to legislate properly for it. The Senator has made a great contribution to the House on this matter and is to be commended for that. She displays tremendous patriotism and commitment to all of these matters, as well as great dedication to the Seanad.

There is approximately €116 billion worth of contracts in the national development plan. That imminent expenditure, which is wonderful, brings into focus this whole question. I had a relation in Cavan who had a healthy thriftiness, a condition that is much caricatured by Niall

Tóibín, of course, incorrectly. This particular relation of mine had a certain thriftiness about him but he would always buy everything new at a time when the culture would allow for buying second-hand things. He was asked by a neighbour why he bought everything new, given that he had this other attribute, and he said the reason was that the new article was the cheapest article. This is the basic fundamental principle that is at issue here. Sometimes, what is a little dearer may be the cheapest in the long term because of the overall holistic impact. I will mention a cautionary tale in that regard shortly.

The question of sustainability arises in the context of the climate change Bill published yesterday, which is wonderful legislation and is to be applauded and welcomed. Sustainability and green energy-proofing will have to be part of procurement into the future in areas like low-cost energy, clean energy and the use of products arising from clean energy. The social impact is very important. We have known cases down the years of exploited foreign workers in this country, and there were some shocking examples back in the Celtic Tiger days of Turkish labourers in Ireland and how they were being treated on building sites. That sort of thing has to be addressed in the context of the procurement process. Decent employment standards have to be addressed, as well as the whole human rights agenda. I believe that is all sustainable.

The cautionary tale I want mention to Senator Higgins and the Minister of State is that we have to watch that this would not provide a smokescreen for fiddling. By that, I mean that if there were wrongly and properly accepted tenders, for wrong and corrupt reasons and for favouritism and insider trading, the pretext could be that such tenders could represent a supposed social advantage. Therefore, we need very strict criteria. I sat on the tenders committee of a county council for a number of years and I know where this could come into play. One would be rejecting the lowest or cheapest tender and doing it on the premise that there was more social equity in the manner of operation of the other one. I ask Senator Higgins and the Minister of State to take care that we avoid corruption being used as a smokescreen, albeit a right and laudatory exercise in the first place.

There is interesting issue that arises in the school system locally and across the country, although, naturally, I know my local examples best. Schools are constrained by the national procurement framework in that they cannot support local businesses. They would wish to support local businesses and tradespeople who sponsor them and events in the school but they cannot do that because of the national procurement model. Sometimes that is not a good thing. The metric in the national procurement model is cost alone and, thus, might preclude local tradespeople from being involved.

There is an interesting thing that happens in the Border region. I am all in favour of and I speak at the Brexit committee and all of my other committees about the need for cross-Border co-operation, which there is, should be and must be. However, one of the little by-products of the Border in my area is that, because of lower wages and different laws in the North in regard to employment rules and so on, it is possible for Northern people to come to the South, where they are very welcome. The issue is that they can tender at an artificially low rate because they come from a regime of lower wages, more casual employment, no unionisation and so on. That is an issue along the Border. I notice my good friend, Senator Davitt, nodding because he knows that terrain as he lives near the Cavan border. This is a real issue in my area. Contracts for the building of local community schools and various other public facilities have been lost to people who are entitled to tender under EU law but who should not be able to come in with a different regime and be considered to be on an equal playing pitch. Therein lies the kernel of the problem. As has been mentioned, there are 7,000 agencies in the country doing this, which

makes it a very complex business.

I forget who made the point about persons with disabilities, but it was well made. That is very important. The Scottish model was cited as an issue. There is a bonus, as it were, being given in the Scottish model of procurement for the employment of persons with disability. We all know from practical experience that we will not be able to increase the ratio of persons with varying disabilities employed without having it built into the procurement process as a bonus. Otherwise, if one were to opt for the lowest price in a blanket way, one would miss that element.

I am going over time so I will conclude by genuinely congratulating my colleague, Senator Higgins. It is extremely deep and reflective legislation and it is worthy of serious consideration. However, if it takes a year to get it right, we should get it right, so I would not quibble over the few months if I were her.

Senator Mary Seery Kearney: I wish to speak briefly on this legislation. I begin by commending Senator Higgins on it. It is positive and good and “reflective” is a very good word for it. It shows the Senator’s tremendous passion and insight. It stands as a challenge to the Government, from which we would benefit to listen to and take on board.

While the most economically advantageous tender and cost is a very attractive and obvious metric to use in determining the outcome of a tender process, it does not always take cognisance of all the elements and issues that need to be considered. I appreciate the Government’s concerns and I do not want a situation whereby supply chains become laboriously bureaucratic but we must consider the metrics that are used in considering and determining a tender process to ensure they are fit for purpose and test what should be tested. All projects should have an assessment to establish whether the criteria that assess the outcome of the tender process are suited to ensuring that the intended beneficiaries of the process get the maximum out of it.

In recent years we have seen the tendering of the work of partnerships around the State, resulting in the consolidation of services and the consolidation of more managed services with a client and community focus. That has lent itself to innovations in services in a positive way. In some instances, I have seen the creation of new services by the people who did not get the tender. They were able to be freed up to do other areas of work. The recruitment industry has been brought into the provision of jobseeker supports. I believe this is another positive development which was gained through the greater use of the tendering process of the State.

The eTenders system for advertising tenders has been very effective and efficient. I know that from my business in the past. I still receive the email every morning and glance through it. I have done so for years, as do many small companies. However, not all small companies are able to tender for the work. Many companies have to retain the services of a person to write tenders, because they are so complex and there is so much required in them. From my experience, the tendering process requires an assessment of competence and capability of the applicant, as well as taking account of the experience of similar work. The applicant must reference other completed projects as well. For companies that are starting off and getting into the system, that can be a difficult thing to do and quite an ordeal, so I wonder how much innovation and positivity we lose from that process due to the hesitation of companies that find it onerous. We need to ensure that the process of tendering for work takes cognisance of that and allows for small and big. I would be anxious to see that bureaucracy removed.

In preparation for today’s debate, I read the public procurement guidelines for goods and

services published by the then Minister for Public Expenditure and Reform, Deputy Donohoe, and the then Minister of State at that Department, Deputy O'Donovan, in 2019. Those guidelines deal with a wide range of issues, including the necessity to take environmental concerns into account and, in the context of the labour market, to ensure that employment standards are maintained. In our employment law, we have a “transfer of undertakings” provision which is a protection to ensure that the terms and conditions of employees are not reduced when tendering comes into play. I note the level of assurance this provides, having been involved in the due diligence process in that regard, where staff transfer when tenders are won by different parties. We have in-built standards already, in terms of industry standards, EU standards and ISO standards. The published public procurement guidelines are very helpful as they set out to actively engage SMEs in the process and elaborate on those minimum standards. The guidelines also deal with the issue of abnormally low tenders and the need to ensure that there are audit trails. They provide guidance on the exclusion of competing parties and set out the grounds under which this can be done.

We already have systems in place but there are enhanced systems within this legislation that I would very much recommend. Taking time to ensure that we come out with the best possible process is to be commended and I support that approach. I welcome this Bill and the fact that it ignites the conversation around reviewing and reconsidering our procurement processes. That said, I also agree that we should pause and allow time to ensure that we have the best possible outcome.

Senator Malcolm Byrne: I thank the Minister of State for being here for this debate on procurement. I also join colleagues in thanking Senator Higgins for bringing this legislation before the House because it is very important that we consider the principles raised therein. It is unfortunate, however, that Senator Gavan has used this debate as an opportunity to attack the Government again. He referred to what centrist parties had done and then asked what difference the Green Party has made in government. We must ensure that we build environmental protections into our procurement processes and in that regard, the Climate Action and Low Carbon (Development) Bill, to which all parties in government are committed, will make a real difference and I pay tribute to the Green Party for that legislation. This climate action Bill will make a real difference in the long term. Comments were made about the number of projects being procured under the NDP and that too is where the parties in government are making a difference to all of our communities. Investment is taking place under the NDP and that is because we have a vibrant economy. The Government parties also believe it is important to talk about protecting workers' rights. It is bizarre to listen to Senator Gavan regularly citing Cuba and Venezuela as model countries when their record on workers' rights is certainly nothing to brag about.

Prior to my election to the Oireachtas, I worked for the Higher Education Authority, HEA, and was involved in a number of procurement projects. I frequently looked at how procurement was carried out, particularly the principle of the most economically advantageous tender. That works well if one is ordering a large consignment of paper clips, for example, but when it comes to things like web design, IT systems or design contracts, other factors must be taken into account. Too often we simply assume that following the most economically advantageous tender, MEAT, formula is best but it is not. We must look at quality criteria, as Senator Higgins and others have said. I am not opposed to the idea of 50% of marks being given to quality and building in factors. We must debate that and it is certainly something very important.

In looking at public procurement contracts, I often consider how the public perceives what

is happening. One of the difficulties is so often there is a perception the public sector is not able to get good value for money. We must look at ways to ensure we can address that, and this legislation goes some way to helping to do that. There is a perception, which is not true, that many public projects always end up running over time and budget. We must consider how we can ensure from very early on, as part of the procurement process, we can give certainty to all our citizens that, either with national or local government, we know spending will be tracked.

I will cite an example where I am from, in Gorey, County Wexford, that is mind-boggling to people in the locality. This is the redevelopment of Gorey town park. It went through a public procurement process and was originally meant to come in at a cost of €1.2 million and be completed 18 months to two years ago. The current cost is running to approximately €2.7 million and it still has not been completed. In spite of commitments to have a clerk of works appointed, that has not happened. There are many good projects with which Wexford County Council has been involved but people in the House can cite projects in local authorities throughout the country where there have been cost overruns and they have run late but nobody seems to be held to account. Whatever we do with public procurement, the public must have confidence the system will deliver on time. Of course there are times when projects run over for very good reasons, but once the contract is awarded, its stipulations must be followed.

I am glad the Government is not opposing the legislation. I agree with a number of the points raised by Senator Seery Kearney and the Bill asks some very important questions. I hope the Minister of State in his response will take the contributions of all Senators on board.

Senator Frances Black: I move amendment No. 1 to amendment No. 1:

To delete “12 months” and substitute “6 months”.

I welcome the Minister of State to the House. I am in wholehearted support of this quality in public procurement Bill and I begin by commending my colleague, Senator Alice-Mary Higgins, on her hard work and ongoing commitment to tackling the numerous flaws in the public procurement and expenditure areas. This Bill is clear, concise and strong, and the aim is to strengthen the national legislative framework for sustainable public procurement with a well-mapped, four-part approach. We have an historic opportunity to overhaul our outdated public procurement regime and pass legislation that delivers for our communities and our businesses.

In 2019, Ireland spent €12 billion on goods, services and construction and the national development plan states €116 billion of public funding will go towards major capital work projects. This huge amount of Government spending must be leveraged to play its part in Ireland’s economic recovery, opening public contracts to more small businesses and social enterprises to innovate in public services delivery. Introducing legislation like this Bill would support that aim. The people have a right to know our money is being spent wisely and efficiently on the public services from which we all benefit and enjoy. To do this, legislation such as this quality in public procurement Bill is essential to create a carefully thought through model in standards and performances.

When State agencies consider tenders for projects, they do not have to select the lowest price.

In setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value for money that includes social value. This Bill will help us to improve public procurement, which will not only save the taxpayer money but drive

social, environmental and economic benefits in our country. Awarding the right contract to the right supplier is the cornerstone of public procurement and the litmus test for an effective procurement regime. To have the best public services we need the best suppliers and the regulatory regime must support contracting authorities in selecting those suppliers.

Achieving value for money in public procurement must continue to be about securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought. That includes the whole-life costs, quality aspects and the economic, social and environmental aspects of a contract. Departments do not have to select the cheapest bid and they can take into account the wider economic, social or environmental benefits.

This legislation would introduce a price quality ratio as the default approach to awarding contracts. That would mean that if authorities chose to award a significant contract based on the price only they would also be required to publish an explanation from a senior official on the reason that contract was awarded, which would ensure transparency and accountability. This Bill would ensure that any contracts worth more than €5.3 million, or otherwise known as contracts over the EU public works threshold, would set a target of 50% quality criteria. That has massive potential in terms of shifting the culture around the public procurement process and sends a signal to businesses, including small and medium enterprises, SMEs, that we care about their track record and the quality of what they do. It also sends a clear and important message that if they put in the work to raise their standards and lead best practice in an area they would be rewarded when it comes to securing contracts.

I am happy to support this legislation as there is no doubt that the benefits of having the awarding of contracts based on best value and also best quality will benefit everyone. As the awarding of contracts is the spending of public funds it is imperative that these contracts are both value for money and of the highest quality. We must ensure that the tendering process is open and transparent. I am very disappointed with the Government's amendment to defer the Bill for 12 months. All the work can get done within the six-month period. I encourage the Minister of State to think about that because the Bill is a phenomenal piece of work and my colleague has put so much work into it. I encourage Members here today support the proposal for a six-month rather than a 12-month deferral.

Acting Chairperson (Senator Sharon Keogan): Do we have a seconder for Senator Black's amendment?

Senator Alice-Mary Higgins: I will second it when I respond.

Senator Martin Conway: The Minister of State is very welcome to the House. I commend Senator Alice Mary Higgins on what is very prudent legislation. For too long procurement has been price driven. The rule of thumb is 15% in terms of quality and 85% in terms of price but that is not reflective of a modern world where we want and deserve quality. I refer to one of the well known examples that is in the public domain, namely, the children's hospital. If a different approach to the tendering was operated for the children's hospital there would have been a far different outcome. That is one example but there are hundreds of examples that we are all aware of where contracts were awarded to outfits that should not have had those contracts awarded. There have been schools which turned out to have defects and the quality was questionable, to say the least, so the need for this legislation is urgent. We need to get it right but I am not quite convinced that a 12-month deferral was necessary but I bow to the Minister of State's better judgment on that. He is starting into a very interesting brief. If he believes

that in 12 months' time we will get it right, I will take his word on that, but I would like to be back in 12 months' time when we have got it right. There are many examples of where we have not got it right.

I also want to talk about the phenomenal number of cost overruns that have taken place on projects over the past 20 or 30 years. The only projects that have come in on time and under budget have been motorway projects. Practically all other projects have gone over budget because they were awarded to the cheapest tender, which was not always necessarily the best. In many cases the quantity surveyor, QS, work did not identify issues that emerged. Who ends up paying at the end of the day? It is the taxpayer, the people of Ireland. That would not happen if we had a different approach to procurement.

Senator Seery Kearney spoke about the guidelines that were introduced in 2019. Considerable work went into those guidelines and they are by and large a good set of guidelines. While this debate is necessary, action is critical. I sincerely hope we can address this because ultimately it will save money. Ultimately, there is a better chance at least we will be able to stand over the quality of the work that will eventually be done.

I would like to know what happens internationally because we seem to get it so wrong so often, yet in other countries they do not get it as wrong. It cannot be rocket science. In the upcoming 12-month period, the Minister of State might investigate what is happening internationally and see if we can learn from it. Senator Higgins always comes up with Private Members' Bills that are very thoughtful and very responsive to societal need and I commend her on this one. I sincerely hope the Minister of State will engage with her. She had similar legislation in the previous Seanad. I have no doubt what is before us now is a much-improved version of that. If the Minister of State can engage with her, I am sure what will emerge as the end product will save money for Ireland and will improve the quality of public works for decades to come.

Senator Rónán Mullen: I command my NUI Seanad colleague, Senator Higgins, on introducing the Bill which I support. I welcome the Minister of State.

We have a serious problem with value for money in this country. It arises in part because of the quick-fix nature of Irish politics and public administration and the constant desire to seek out easy answers to difficult problems, often for electoral reasons. Flowing from this is the notion that when it comes to public procurement, the cheapest option would have surely delivered the best value for money. However, we have learned from bitter experience that is rarely the case. Anyone running a household knows the lowest priced goods or services are rarely those of best quality or indeed the best option for their circumstances and needs. Even households that are struggling to make ends meet will sometimes need to strike a balance by paying a higher price for improved quality for a product which might last longer, ensuring better value in the long run. Surely the same ought to apply to public procurement and public projects involving the spending of taxpayers' money.

The practice of lowest price tendering has often led to contractors undercutting each other, deliberately, but perhaps understandably, presenting unrealistic costings of projects to secure a deal. In some cases, it has led to contractors and developers collapsing because the project could not be completed based on original unrealistic projections. Quality and reliability are rarely properly considered. Once contracts are signed, the reality is the taxpayer assumes all the risk because the State often cannot allow key projects to fail. It is too late at that point to go back to the drawing board to review contracts or to address any deficits in the plans. Ultimately,

this may lead to the State having to throw good money after bad to bail out failed contracts or failing projects. Ultimately, choosing the lowest price contract ends up costing the taxpayer much more. Surely we should be looking at this as a prudent householder would. Instead of choosing the lowest price, we should choose the best value price. I suspect that Senator Higgins would not be Margaret Thatcher's greatest fan but Mrs. Thatcher's obsession with value for money was brought home to me when my sister gave me the first volume of Charles Moore's excellent biography of Thatcher for Christmas. Reading it, I discovered that Mrs. Thatcher passed her driving test before managing to take two lessons that she had already paid for. Having passed her driving test, she took the two lessons anyway, which Moore described as an almost inhuman thirst to get value for money. Others would say it was because she still had not mastered the U-turn, as she never did.

Senator Lynn Ruane: Is that a gendered joke?

Senator Rónán Mullen: I am proud to be accused of finally saying something gendered. I had wondered for so long what that actually means.

Some €11 billion per annum is spent by the State on public procurement, which is 13% of our entire public spending. This shows the vast amount of money at stake here and how much there is to be misspent. It also shows the purchasing clout of the State and what should be an ability to demand the best value for money. We are all too aware of situations where seeking the lowest price rather than the best price has led to poor outcomes for the State and its people. Senator Higgins's briefing note on the Bill mentioned the CervicalCheck scandal where low cost was a priority, leading directly to misdiagnoses of scores of women and in so many cases to sadness and justified indignation. The Senator's point was a welcome reminder and an astute illustration of the problem.

I have raised the issue of the national children's hospital many times in recent years. Clearly, the tender accepted for that project was unrealistically low and this has led to endless increases in costs. A project that was tendered at €432 million in 2017 was valued at €1 billion in 2019. When push comes to shove it will probably exceed €2 billion by the time it is finished. One must wonder, genuinely, how this was possible. Clearly, the factors included woefully inadequate oversight at a political and Civil Service level within the Department of Health and a hands-off attitude by the former Minister for Health, Deputy Harris. Inadequate and unrealistic estimates were clearly made at the tendering stage. Was achieving a lowest price a factor in this? I think perhaps it was.

My reading of the Bill is that it would introduce a greater concept of what is referred to as best value pricing, BVP. I understand this was originally an American concept but that it has spread to Europe. In the Netherlands it is known as *prestatie-inkoop* - I have probably pronounced that terribly - which means performance-based procurement. We should support the adoption of this practice in Ireland.

The Bill also binds the State to ensuring its obligations under the European Convention on Human Rights are factored into public procurement. This, surely, should be uncontroversial. The Bill introduces concepts of social considerations into procurement. I would be interested to hear more about what kinds of social considerations might be taken into account here and what these would look like in practice. I often wonder whether large construction projects, for example, the renovation and redevelopment of 1950s council housing in Dublin city, employ many people from the communities where the developments take place? There have been huge

developments in the Dublin docklands and Grand Canal area in the past decade, most of which were in the private sector admittedly. I get the impression that despite relatively high unemployment in these areas, very few local people were employed in the construction of these office buildings or indeed in the multinational business that later occupied them. Perhaps this is also the case in publicly-funded projects. Whether this issue could be taken into account under the heading of social consideration seems to be well worth considering.

I thank the Acting Chairperson for the latitude shown during my contribution.

Acting Chairperson (Senator Sharon Keogan): Before we return to the Minister of State, I thank Senator Higgins for bringing the Bill to the House today. My daughter in the UK runs a public procurement platform for social enterprises. I am pleased, therefore, that section 6 deals with social enterprises and social inclusion.

Minister of State at the Department of Public Expenditure and Reform (Deputy Osian Smyth): I thank Senator Higgins for her detailed engagement with me and my office over recent months on this legislation. I also thank all Senators here today. I found that the contributions were instructive, thoughtful and constructive, and I am delighted to see a consensus emerging across all parties.

I will explain the reasons the Government has tabled a time-limited amendment of 12 months to allow for comprehensive consideration of the implications of the Bill. Strategic spending should play a key role in responding to societal, environmental and economic challenges. Sustainable procurement practices with a continued focus on qualitative criteria in line with the national procurement guidelines represents the future of public procurement in Ireland. The Government has set out a number of commitments in the programme for Government in relation to public procurement, including evaluating and managing the environmental, economic and social impacts of procurement strategies in the State. The intentions behind this Bill are well considered. The practical implications require comprehensive consideration, particularly the ability of the State to seek value for money, the potential impact on businesses and the legal implications for Ireland with respect to EU public procurement directives.

The proposed legislation goes beyond the minimum obligations under the procurement regulations. The Bill would add an overhead of additional procedures to the sourcing of vital goods and services. It is my duty as Minister of State responsible for public procurement to accurately weigh up the costs of this additional administration against the probable benefits. I will not prejudge this exercise. The national public procurement policy framework provides the framework to allow more sustainable and better public procurement practices and significant work has already been undertaken by the Office of Government Procurement, OGP, in this regard. The implications of this Bill need to be thoroughly thought through. Previous generations of EU directives were criticised for their lack of flexibility. The 2014 directives, transposed into the 2016 regulations, afforded flexibility to public buyers to obtain procurement that fits their individual needs. Government policy has not changed in this regard. The aim and the challenge is to leverage public procurement to achieve wider societal benefits while retaining the flexibility afforded by the regulations.

The method by which we deliver change must also be fully considered. While it is essential that the State achieve quality outcomes for citizens through public procurement, I wish to point out that the reform of the public procurement function remains driven by the need to obtain value for public money in procuring goods, services and works. It is essential that value for

money is not adversely affected by the inclusion of overly prescriptive quality-price balance requirements and administrative and reporting procedures. I know that is not the intention of Senator Higgins's Bill.

The OGP has been actively engaged and proactive on environmental and social issues. It published its circular 20 of 2019 promoting the use of environmental and social considerations in public procurement in October 2019. The circular highlights the potential for Departments to deliver wider social and environmental aims through public procurement, including in relation to employment and training opportunities for disadvantaged groups, disability access, promoting social inclusion and social enterprises. This circular was the latest in a series of measures following publication of the information note on incorporating social considerations into public procurement in December 2018. That information note assists policymakers and practitioners in understanding how public procurement can be used to facilitate the advancement of existing social policy objectives as well as the wider context and implications of including them in particular public procurement projects.

The OGP has also established the cross-departmental strategic procurement advisory group, bringing together officials from policy Departments with procurement practitioners to share best practices and to facilitate the process of incorporating social and environmental considerations into public procurement. These developments promote and facilitate the inclusion of social considerations in a structured manner and are aimed at helping policymakers and procurement practitioners to understand how procurement can be used to support advancement of existing social policy, the wider context and implications of including them in procurement projects.

By way of context, I will outline the significant successes in the area of public procurement that have been achieved so far. In particular, I highlight circular 10/14, an administrative means of implementing Government policy that has had a significant impact on facilitating SME participation in public procurement. I recently chaired a meeting of the SME advisory group where industry representatives complimented the impact that circular 10/14 has had on facilitating and promoting the participation of SMEs in public procurement. That circular, which was developed in consultation with SME representative bodies, sets out a number of measures that contracting authorities should implement to assist SMEs in competing for public contracts. Major successes included improved market analysis to understand the specific capabilities of SMEs; the subdivision of contracts to facilitate access of SMEs; encouragement to SMEs to avail of consortium bidding; more use of open rather than restricted tendering; the use of proportionate capacity, turnover and insurance requirements; and a requirement for public bodies to advertise contracts for goods and services valued above €25,000 and work-related services worth above €50,000 on e-tenders.

The circular also recommends that the buyer, where appropriate, take into account not just the current but also the whole life cycle costs. The term "where appropriate" is key. The circular recognises that public buyers need to retain an element of flexibility to make decisions at the coalface. It is this flexibility that this Bill will have the consequence of limiting. The feedback from the SME advisory group is that Circular 10/14 had a tangible and immediate impact of removing the primary barriers to SME participation in public procurement. Improving access for SMEs to public procurement opportunities, which was achieved without the need for legislation, remains a priority. The Government and the OGP continue to work with industry and public buyers to enhance our suite of support measures through non-administrative means. I will liaise with my officials in the OGP and will engage with SME representatives further in this regard.

The Environmental Protection Agency will shortly publish guidance on green procurement. This will focus on a number of sectors. It updates its previously published green procurement guidelines from 2014. I am looking forward to reading those.

I will take the opportunity to discuss the merits of some proposals in the Bill and those proposals which the Government has concerns with, which we think need further work. The European directives give member states discretion in specific circumstances not to use price or cost only as the sole award criterion. This provision was not transposed into the national regulations to avail of and support a degree of flexibility in tendering procedures for contracting authorities. Accordingly, it remains open to contracting authorities to decide themselves as to which categorisation of award criteria best supports the effectiveness of their tendering process in pursuance value for money in public contracts.

The directives allow member states to prevent the use of price-only or cost-only criteria where particular national agencies or market conditions would require or merit such a provision. A consultation taken in advance of the public procurement directives did not identify any significant demand within the public procurement community, including from economic operators, to apply such a restriction. Additionally, in 2018, the European Commission found that the majority of member states opted not to transpose this provision, in line with the approach which was adopted in Ireland. Of the remaining states, the prohibition was limited to specific categories of public bodies or contract types. There are many stages before award criteria in the procurement processes where contracting authorities may gauge the merit of a tender on characteristics other than price. In the case of generic or commonly-acquired goods or services, this reasonably leaves the contracting authority in a position to decide to award based on price in cases where all other conditions provided for in earlier stages of the process have been met.

The provisions in section 3(4)(b) and 3(4)(c), prohibiting the use of price criteria accounting for greater than 50% of the criteria for contracts above the European threshold for works may be inconsistent with the provisions of the directives. This provision could increase the administrative burden on suppliers to satisfy the responses to qualitative criteria. It also introduces a quality weighting that might be disproportionate to the added value that the tendering field can bring to the contract. For example, in the case of a construction project that is comprehensively defined, with high performance standards already set as a minimum requirement, so I will seek legal advice on this issue.

Since an extension of the procurement provisions in national regulations could require consultation with the European Commission to assess whether such national provisions are consistent with the directives. The potential impact of this Bill on the remedies regulation will also require consideration by the Office of the Attorney General.

The medium-term strategy for the procurement of public works projects includes a review of the capital works management framework. This review involves, among other things, consideration and consultation on the creation of a best price:quality ratio in the awarded contracts. The outcome of the review process should be known before considering any prescriptive legislation in the area. The proposal to require an Accounting Officer or chief executive officer to make a declaration on every procurement procedure where price is the only award criterion has a cost in time and money. We would need to ensure that it does not delay the award of contracts. Any potential impact of this Bill on the remedies regulation will be considered by the Office of the Attorney General. There are over 7,000 contracting authorities in Ireland, as several Senators have mentioned, including schools, health agencies and so on. Having up to

7,000 contracting authorities reporting to the Houses of the Oireachtas each year at the scale outlined in section 7(2)(a) to (f) would have an administrative cost. This cost would need to be weighed up against the possible benefits and whether alternative methods of achieving the same goals could be deployed.

The Bill requires the Minister to issue guidelines concerning qualitative, environmental, social, human rights and equality considerations that may arise in contracts governed by the public authority contracts regulation. The necessity of this proposal will have to be assessed in view of the fact that guidance in this area is progressing without the need for legislation in line with the programme for Government commitment to evaluate and manage the environmental, economic and social impacts of procurement strategies within the State.

As part of the national procurement policy framework, the Office of Government Procurement has developed the national procurement guidelines, which are intended as a toolkit for public buyers and a reference guide for economic operators. The guidelines will be updated to give further prominence to strategic procurement that includes environmental and social considerations.

The Government considers that this Bill may require a money message. The Bill, which deals with the fundamental aspects of how the State procures, has not undergone a regulatory impact assessment yet. It places an additional administrative overhead on contracting authorities.

The Government appreciates the intention behind the Bill. However, it is important to take the time to ensure that the legislation is workable and sound, and that procurement policies in the programme for Government are included where appropriate. Accordingly, the Government has tabled a time-limited amendment for 12 months to allow sufficient time for legal advice to be provided by the Office of the Attorney General and for full financial consideration of the implications of the Bill to be considered. I thank Senators and I thank Senator Higgins in particular for all her detailed work on the Bill.

Senator Alice-Mary Higgins: I formally second the amendment. While I am glad to see the Government supporting the Bill passing Second Stage, I would rather that it would be deemed to have passed after six months rather than one year. That is important because, as we have heard, the decisions are going to be made in respect of that €116 billion in the next two to three years. I do not want us to have spent €50 billion and then come back and say that we should have done it better. In terms of time, I have engaged on this issue since 2014. I have engaged with Office of Government Procurement officials since that time. We engaged very intensively in the last period with the Department, officials and with the Attorney General. Any feedback from that engagement has been incorporated into the streamlined Bill and I am most confident that it is excellently reflective of the law. I would like to pay tribute to the Office of Parliamentary Legal Advisers, which has done tremendous work, and David Dodd, Ciaran Mooney and Kate Bulter in particular, who did drafting and work on both the previous legislation and this new refined legislation. I also thank Dr. Deirdre Halloran and other academics who have contributed to this work.

There has been wide engagement and there is an appetite for this Bill. I have spoken to unions, including Fórsa and the public service unions, the Royal Institute of Architects, service providers, small firms and IBEC. There is a wide understanding of the need for a shift towards a stronger quality focus. Even one of the former chairs of the Construction Industry Federation

described lowest-cost bidding as a plague on the industry. Therefore, we must be very clear that there is a strong momentum and desire for action on this issue. That is why I want us to move forward and I am seconding the motion that we should return to this legislation in six months. I thank the Minister of State for indicating that if the Bill does come back to the House in six months or one year, Government time will be given to it. That is welcome.

In the small bit of time remaining, I want to address some of the many very interesting points and questions that were raised and to perhaps provide some clarification. There is no prohibition in this Bill; discretion remains. There is greater accountability. This goes to Senator Murphy's question on whether the system will be onerous. It will not be. There will be accountability. If procuring authorities go with price quality, they do not need to approach any senior accountable officer. The Bill is designed directly to encourage this. A question was asked as to whether the legislation will make it harder for procuring authorities to basically go with price only. It will. The Bill absolutely respects the discretion that authorities have to do this, but it does make it something that must be considered further.

6 o'clock

I would not make apologies for that. That is one of the key reasons this Bill will work. It is important we encourage and reward best practice. The Office of Government Procurement, OGP, guidelines have been mentioned extensively and they are good. I engaged extensively with the OGP and recognise some of the language from my previous engagement in the last Oireachtas in those guidelines and I am aware that this is an area in which there is movement. Those guidelines are fine and good but there needs to be more and the State cannot outsource its political and policy responsibility to show and send that key signal that it wants bodies to think about quality, and not just hopes that some bodies will happen to take up best practice. That is what the message is from this Bill. It is important in that regard that we send that signal through this legislation to all of the procurement officials and to the contracting authorities, that it is almost an *imprimatur* to think about quality.

It also sends a very strong message to small and medium-sized businesses and to others to say that we value and that we will recognise and reward leading standards, best practice, innovation and new ideas. It encourages an ecosystem of better environmental sustainability and, indeed, social and employment standards right across the board. For small businesses, which I believe were mentioned, that is a significant concern.

Of course, this is EU-wide and we need to look at it in that way, but this Bill will help in three ways. When one talks about quality, it will work against bundling of the very large contract based on one big figure. It will support less bundling and it will give a competitive advantage to companies which are doing very good and important things and doing them well. It will give them a competitive advantage that they could not have simply in terms of scale and also the financial piece very large companies have. It also encourages good quality supply chains. This is going to have a knock-on effect where those who win contracts will also think about their supply chain, which may also be SMEs themselves. That is why it is very important and takes us forward.

We always say we know a contract runs over, but it does not need to run over. We do not need to have millions of euro in supplementary claims. That is not normal or standard and in other countries, like the Netherlands where there are these policies, that does not happen. We can do more and are not restricted but are empowered by those EU directives. This should be

a positive opportunity.

I hope the Minister of State will support the six-month amendment and I look forward to further engagement on this, on green procurement and on other employment issues because this is one part of the wider picture of transformative public procurement.

Amendment No. 1 to amendment No. 1 put and declared lost.

Amendment No. 1 put and declared carried.

Motion, as amended, put and declared carried.

Acting Chairperson (Senator Sharon Keogan): In accordance with the Order of the Seanad today, the House stands adjourned until 10.30 a.m. on Monday, 29 March 2021 in the Dáil Chamber.

The Seanad adjourned at 6.05 p.m. until 10.30 a.m. on Monday, 29 March 2021.