



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Máirt, 13 Iúil 2021*

*Tuesday, 13 July 2021*

Chuaigh an Cathaoirleach i gceannas ar 9.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **An tOrd Gnó - Order of Business**

**An Cathaoirleach:** We have a tight agenda today so I ask Senators to stick to their allocated time.

**Senator Regina Doherty:** The Order of Business is No.1, motion regarding the arrangements for the sittings of the House on Thursday, 15 July and Friday, 16 July 2021 to be taken on the conclusion of the Order of Business, without debate; No. 2, Finance (Covid-19 and Miscellaneous Provisions) Bill 2021 – Committee and Remaining Stages, to be taken at 10.45 a.m. and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 60 minutes by the putting of one question from the Chair, which shall, in relation to recommendations, include only those set down or accepted by the Government; and No. 3, Companies (Rescue Process for Small and Micro Companies) Bill 2021 - Committee and Remaining Stages, to be taken on the conclusion of No. 2 and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 12.45 p.m. by the putting of one question from the Chair, which shall, in relation to amendments, include only those set down or accepted by the Government.

**Senator Lisa Chambers:** I propose an amendment to the Order of Business to move No. 18 before No. 1 on the Order Paper. I wish to bring the Non-Fatal Offences Against the Person (Amendment) (Stalking) Bill 2021 to the House today. I have been working on this Bill for the past number of months with Eve McDowell, Una Ring and Catherine O’Sullivan from Stalking Ireland. Ms McDowell and Ms Ring bravely spoke about their personal experiences a number of months ago. Both were victims of what I consider to be an offence of stalking but it does not exist in Irish law. Both women came close to losing their lives and had horrific experiences. Ms McDowell is from Sligo and Ms Ring is from Cork. They both went through the justice system and got what they said was partial justice because of the inadequacy of the law in this area. This Bill seeks to introduce a separate stand-alone offence of stalking into Irish law, similar to that in existence in the UK. This is also a recommendation of the Law Reform Commission. I intend to bring that Bill before the House in the next term.

I again raise an issue I raised last week, that of the Alzheimer's day care centres that still remain closed throughout the country. I will focus in particular on the day centre in Castlebar, County Mayo. I have been working with the Minister of State at the Department of Health, Deputy Mary Butler, who has been excellent in providing information and is doing her best to get these centres open. Unfortunately, it appears that the Alzheimer Society of Ireland has classified its locations or premises into three separate categories: those that will open in the next couple of weeks, those that will open in September or October and those with no date for reopening because the building or location is no longer fit for purpose. Unfortunately, Castlebar falls into that third category. We do not have a date for reopening and we do not know when we will get these vital day services back.

I understand that HSE officials are working on this. They have set up a group to look into this deficiency in services in County Mayo and they are trying to put something together to replace the loss of that vital service. I ask the Leader to use her good offices to reiterate to the HSE the importance of these services. It has been pointed out to me by people who use this service, and their families, that we spend a lot of time, understandably, talking about the reopening of pubs, coffee shops and hospitality. That is important as it impacts on so many people because of jobs, in addition to just living and socialising, but we do not spend a huge amount of time talking about the vital services people rely upon to keep their loved ones at home for as long as they possibly can. It is a priority for Government, and for the Minister of State, Deputy Butler, to ensure that people can remain at home for as long as they want to and get the full supports to do so. This is a significant support that people rely upon to get a break and some respite for their families. For the service user, it improves their quality of life and standard of living and it is an important service. It is important that we acknowledge in this House that there is still a lengthy backlog for services in day care centres, and outpatient appointments, that are impacting on citizens' rights throughout the country.

**Senator Seán Kyne:** I will raise the issue of the south Kerry greenway, which I am sure is an issue close to the Cathaoirleach's heart. The reason I raise it is to welcome yesterday's High Court decision decreeing that the planning permission granted by An Bord Pleanála to Kerry County Council is valid and upholding the council's decision. It is important because this was viewed as a test case for greenways throughout the country. Some magnificent sections of greenway have been built in Connemara as part of the Connemara greenway. Sections have been built between Recess and Clifden, but we want to see the greenway completed as far as Oughterard and from there into Galway city. Greenways were initially viewed as being only for tours. While they clearly will be used for that, and will be very important in regenerating parts of rural Ireland, they are also being used by local people for exercise. Indeed, we have a vision for the greenway between Oughterard, Roscahill and Moycullen, through Bushy Park and into Galway city, to be used for commuting, because it will go through the grounds of the National University of Ireland, Galway and will be in close proximity to the hospital in Galway, Galway-Mayo Institute of Technology, GMIT, businesses and industries. There is great potential for commuting along that section of the greenway once it is constructed. It is a case of when it is constructed between Oughterard, Roscahill, Moycullen and Galway city.

The issue that has stalled and stymied development of greenways is access to lands to allow the completion of environmental reports and to lodge planning applications. That is why the decision of Kerry County Council to pursue a compulsory purchase order, CPO, on lands in Kerry and to get validation in the courts has been hugely important as a test case for greenway development on private lands throughout the country. Heretofore, projects in County Mayo and

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elsewhere have been successful to a point but we need certainty on the issue of land. We want to see completion of the greenway from Recess to Clifden in Connemara and the buildout of the remaining section. This is a hugely important issue for regional Ireland and, therefore, I welcome the validation by the High Court yesterday. I hope that Galway County Council can now power on with the planning application in Connemara to build a world-class greenway to allow tourists, locals and commuters into the heart of Galway city. I welcome yesterday's decision. I want to see county councils in Galway and elsewhere move on with developing and rolling out greenways, lodging their planning applications, completing their environmental reports and providing something for which there is significant popular support in the community.

**Senator Gerard P. Craughwell:** I am blue in the face speaking about the search and rescue contract over the past 12 or 18 months. That contract is likely to go to tender over the summer so this is probably my last attempt to say anything on it. We were told in 2010 by the then Minister for Transport, Noel Dempsey, that Ireland had signed a contract for a fleet of new Sikorsky S-92s. In 2014, the then Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, announced that the new helicopters, which come at a retail price of €40 million each, were being leased as part of the CHC helicopters package. We did not get new helicopters. We got two that were built in 2006, two that were built in 2007 and one that was built in 2011. Did we pay for new helicopters? I believe this is a legitimate question to ask.

I have also asked questions about neonatal transfers. Part of the future helicopter study group was to provide transfers for the HSE, one of the most crucial of which is neonatal. That is not available today with the S-92s. At the time the contract was being put together, the Coast Guard stated that the Air Corps AW139 helicopters were not suitable for search and rescue operations and no money could be saved by putting the Air Corps into that role. Geoff Russell of AgustaWestland, the manufacturer of the 139 helicopter, told the *Sunday Independent* that a headline in the newspaper stating the Air Corps was not equipped to provide rescue services was misleading. He said it did not help any government to make decisions on search and rescue services if such an important decision was made within incomplete or inaccurate information. That might explain why I have constantly pursued this issue.

Regarding the issue of night vision goggles, the junior Minister at the Department of Transport informed me only a few days ago the reason the goggles were not in use was that the training was not yet completed. They got the hardware eight years ago.

On the question of the contract signed in 2012 with CHC, it was suspended from search and rescue where it was preferred bidder with others in 2011 in the UK because the consortium member, CHC Helicopter, had commercially sensitive information regarding the Ministry of Defence and the Department of Transport. I have received three letters, two from Ministers and one - a copy - sent to me by Mr. Ken Spratt, Secretary General of the Department of Transport. In all three letters I have been threatened. They say, as professionals, the companies involved which they contacted to tell them what I was saying will not take any action at this time. What sort of a relationship has the Government got with a private contractor when Ministers are contacting contractors to advise them of what I have said in this House? It is outrageous. It suggests a relationship which is repugnant to any sort of public procurement. We have had Ministers visit search and rescue sites in Dublin, which is repugnant to any procurement process. I have said from the outset this process needs to be examined fully before it goes ahead. The chances are this procedure will go ahead when we go into recess and we will not be able to speak about it again but, by God, I promise I will follow this to hell for as long as I am a Member of this House and if I find something is rotten at the bottom of it, I will expose it.

**An Cathaoirleach:** The Senator's time is up.

**Senator Gerard P. Craughwell:** Finally, I thank the Cathaoirleach, the Leader and staff of the Seanad as we head into the summer recess. Senator Doherty has been a very good Leader and responsive to anything I have asked of her and I wish her well for the summer. I also wish Cathaoirleach and his staff and Martin Groves and his staff well.

**An Cathaoirleach:** I thank the Senator. I call Senator Boylan.

**Senator Lynn Boylan:** I would like to raise the ongoing lack of clarity regarding the Government's position on the importation of fracked gas. We were told the programme for Government contained a commitment to a ban. When Sinn Féin brought forward an amendment to a Private Members' motion we were told the reason it could not be supported was that legislation was currently being worked on. Then, during pre-legislative scrutiny of the climate Bill we were told its inclusion would delay the Bill. Then, in a public meeting when the Minister, Deputy Ryan, was asked when the ban would be introduced, his response was that it was legally complicated. Finally, in May, the Minister produced a policy statement on the importation of fracked gas, not legislation as was promised in the programme for Government but a watery policy statement. The excuse for the failure to introduce a ban was, lo and behold, the one we always get from the Government that the Attorney General says "No." It is like a bad episode of "Little Britain" whenever there are calls for progressive policies in this country it seems the Attorney General always says "No". Allegedly, the Attorney General's advice is that a full legislative ban on the importation of fracked gas is not possible because Ireland was bound by EU energy market rules. I am not buying it because the Irish Centre for Human Rights has produced a 40-page legal opinion outlining exactly how we can have an ban on any importation of fracked gas and, not only that, I have it in correspondence, in black and white, from the EU legal service that it is entirely up to a member state what energy mix it chooses to have.

I would like the Minister, Deputy Ryan, to come into the House and clarify something for us and for the benefit of those non-governmental organisations, NGOs, he worked closely with before entering Government and to whom he promised a ban was in the programme for Government. He needs to answer a very simple question regarding the Attorney General's advice and it is as follows: was the caution that was urged by the Attorney General because of the investor clause in the energy charter treaty? It is a simple question. On the face of it, I would say New Fortress Energy would feel very confident it has a very strong legal case for compensation of millions of euro if the Government decides to proceed with a ban. I suggest the refusal of the Minister, Deputy Ryan's Department to release the correspondence I requested under freedom of information legislation between the Department and the New Fortress Energy is that the Government has most likely received legal threats of the consequences of such a ban. Why would Ireland be the only member state to be spared from a compensation claim when all across the EU fossil fuel companies are availing of the energy charter treaty to stop climate action? The Minister, Deputy Ryan, needs to be honest with the people. Is the energy charter the reason this Government is not banning the importation of fracked gas?

**Senator Lynn Ruane:** I want to raise an issue I raised by way of a Commencement matter yesterday to ensure when we resume after the summer recess we can have a real conversation about the expulsion of kids with special needs from schools. I have spoken about autism and special needs many times in this House but every time I read a newspaper article or get an email and read the words "violent", "behavioural challenges" or "not suitable for the school" I cannot seem to wrap my head around why that is an acceptable thing to say. I read a story in *The*

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*Irish Times* a few weeks ago about another school, Stepping Stones Special School. I am not sure where it is based. A mother, Lourdes, spoke eloquently in that newspaper article about the experience her family has had of their 16-year-old boy, Conor, being expelled from the school. I cannot understand how an educational setting, established to meet a particular set of needs, frames things as behavioural challenges or deals with things in a punitive way. Kids are literally expelled from schools that are supposed to be set up to meet their needs. It is framed that the schools were not a suitable placement for those children. How can we say a school is set up, resourced and its staff trained to work with children with additional needs but when they present with those additional needs, they are told they have too many additional needs or their meltdowns are too much for that school? It is framed as if there was a breakdown in communication or a breakdown with the family or with the school when we have not levelled enough of the blame on the schools. They cannot continue to claim to be schools that specialise in these areas and then expel kids for the very reason that they are there. Meltdowns vary and manifest themselves in different ways. They can be very physical, loud, include lots of crying or lashing out. The answer in some schools is to expel those kids for the very thing that they do most naturally to calm down and to manage a sensory overload and the situation in the school. If our schools are set up supposedly to meet the needs of children like Conor, how can schools expel such children? How does that make sense? We need to start to have a real conversation about the fact that if a school is set up to meet additional needs and expels a child, that school cannot meet the criteria of being that type of school.

We need to address this as we go into another academic year to ensure no more children become collateral damage due to our inability to create educational systems that can meet their needs. When we resume after the recess in September, I would love if we could have a conversation on meeting the constitutional right of children to be able to access education.

**Senator Fiona O'Loughlin:** I fully support Senator Ruane. I was going to raise that issue. Like her, I was horrified when I saw how Conor had been treated. It is so wrong. His mother eloquently spoke about how he looked out the window waiting for the bus to collect him to bring him to school every single day but, as of now, he has no place to go. It is appalling. No child in this country should be in that situation.

I second Senator Chambers's stalking Bill. We must seek to make our country a safer place for women and for all. That Bill certainly would be another piece of the armoury.

I thank the Minister, Deputy Donnelly, for his sanctioning the drug, patisiran, at the weekend. Members would have heard me speak about Pat Tinsley and his need for this lifesaving drug. Only this day last week I raised this issue in the Seanad. I was thrilled to get a phone call from the Minister over the weekend advising me that this drug was going to be sanctioned. It is literally life-saving for Pat and his peers.

The main issue I wish to mention here is the 12-month ban on gay men donating blood which I raised some time ago. Two weeks ago, the Irish Blood Transfusion Service announced that it was importing a bulk consignment of blood from the UK for the first time since the late 1900s due to a current shortage of supply here in Ireland.

This 12-month ban does not exist in England so gay men who were willing to donate blood in the UK would very possibly be donating blood to us in a situation where gay men here cannot donate blood unless they consider that they have not had sex with another man for 12 months. This is a blatant discrimination and inequality. I commend Tomás Heneghan for highlighting

this and for his campaign. PrEP is a medication taken by HIV-negative men and is available through the HSE free of charge. I recommend that the Minister and the Department of Health would look at a situation where if they can prove that gay men are taking PrEP that they would then give blood. This is a discrimination and an inequality that should be addressed. I thank the Cathaoirleach.

**Senator Paddy Burke:** I congratulate and wish the former Member of this House and Senator, Deputy Bacik, the best of luck on taking her seat in this Dáil Chamber today. She will be a great loss to the Seanad Chamber but will be a very good gain for the Dáil and I wish her well.

I also propose a vote of sympathy for the late Dr. Seán McCarthy from Tipperary, a former Deputy, Senator, Minister and gold medalist in his education when he did his medical exams. I extend my sympathies now to his family.

I raise the issue of social media abuse online. We have seen how the English players who did not score the goals in the penalty shoot-out were subjected to tremendous abuse on social media. I ask the Leader to arrange that this House pass a motion to call on the European Parliament to bring in some sanctions or legislation that would cover the area of faceless people on social media and to provide that a person would have to have a name and to be person in order to have a social media account. This is the only way forward. We as a country and as a Parliament here can do a little but can do something. As a European continent, however, we can do a great deal and have great power. We should bring those social media platforms to book on this because the local media, be it the print media, the national media, or the local or national radio stations would not get away with this. It would be libellous on all counts and I do not see why it should be any different for those social media platforms. I ask the Leader to arrange that we bring forward a cross-party motion in this House calling on the European Parliament to bring in some legislation in this regard. I thank the Cathaoirleach.

**Senator Rónán Mullen:** Gabhaim buíochas mór leis an gCathaoirleach. There are two Bills on the Seanad Order Paper on the problem of gambling. One is Senator Wall's Bill which would ban broadcast and non-broadcast advertising and then there is Senator Ward's Bill which would ban betting on the national lottery. Both of those are very welcome. It was a happy coincidence that President Higgins took the unusual step at the weekend of issuing a statement reiterating his comments at the Tiglin facility at the end of June, in time for Senator Wall's Commencement matter, as it were.

Normally I would prefer that the President would be seen to defer verbally to the role of the Legislature on such matters but what he said was important. He talked about the saturation of the media landscape with sports betting advertising and he warned against and criticised the tokenistic small print warnings and invitations to be responsible. He is completely right in that regard.

There are aspects of Senator Wall's Bill with which I might not fully agree. I would be concerned if the likes of the *Racing Post* would be able to continue to carry gambling advertising and I might allow a carve-out there. However, I am not sure if I would allow such a carve-out for the sponsorship by gambling organisations of sporting events.

**An Cathaoirleach:** I apologise for interrupting the Senator but when referring to the President he must be aware of the separation of powers between this House and the President.

**Senator Rónán Mullen:** Indeed I am and I was speaking about the separation of powers

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even while referring positively to his comments.

**An Cathaoirleach:** Criticism or any reference to the President should be done in a proper manner.

**Senator Rónán Mullen:** That reference was proper.

In conclusion, the Government has promised legislation on this issue and Senator Wall has welcomed that. He is right to do so but we need to be careful as to how the vested interests might act in the interim. The figure from 2019 is that some €90 million is being raised in gambling advertising revenue which is double what came in the year before. As we know, the betting tax is used to fund the horse racing industry and this industry is very important. We only had to see, however, the saturation of gambling advertising during the recent European soccer championships, with the use of drumbeats with messages of solidarity and crowd happiness to see how seductive and clever this whole industry is at manipulating people's emotions and feelings. We will need to watch out for the influence that they will seek to play in advance of this promised Government legislation. We will have to watch it like hawks to ensure that it is effective and curbs things like the advertising of sports events by gambling organisations because we have a ballooning problem in this country and we must act in the public interest and combat it.

**Senator Timmy Dooley:** I thank the Cathaoirleach. I am conscious that this is the last week of business before the recess and the Order of Business matters are fairly much taken up by now. I ask the Leader if she might organise a debate at the earliest opportunity when we return after the recess with the Minister for Health on the area of dental services for persons with medical cards. It has come to my attention for a considerable period of time that for whatever reason a lower number of dentists are now accepting patients with medical cards. I do not want to suggest that it is the fault of the dentists and there may be some issue within the system. However, young people in particular are being greatly affected. Quite frankly, the cost of dental services for people on low incomes or on medical cards generally is too high. We know the importance of dental hygiene and of people taking care of their dental health. We have to get to the bottom of this as quickly as possible.

A town like Killaloe up until recently had access to a dentist who accepted medical cards. That is no longer the case for whatever reason. That is not good enough and is affecting many people in the area who will now have to travel perhaps to Nenagh or Limerick. For some, particularly those on low incomes and medical cards, that is too far. We know that in situations like these people who cannot afford the private services will unfortunately opt to feed their children or spend the money on other very essential services and their dental health will be left behind. We are also aware of the damage that can do to one's health generally and we certainly know that children who do not have good dental hygiene from the early stages, or do not have access to a check-up on a regular basis, suffer later in life. This is one of those very important issues which we need to focus on. Perhaps the Leader could organise a debate in September. I thank the Cathaoirleach.

**Senator John Cummins:** I thank the Cathaoirleach very much. I use my time on the Order of Business this morning to welcome the pathway which has been created to reopen indoor hospitality. I do so with reservations. As a 34-year-old who is receiving his Johnson & Johnson vaccine today, I have reservations about younger people, in particular, and those who are unvaccinated not having the same ability to access hospitality venues. We need to roll out the use of antigen testing to give people that option.

*10 o'clock*

When faced with the option of keeping hospitality premises closed, especially those without outdoor areas, until the end of August or September or putting in place such a system, I know which side I will support. I understand that changes made to that draft legislation yesterday now allow premises to be prescribed in regulation as opposed to primary legislation, which will make it much easier for the Minister to add other indoor areas. I impress on the Leader and the Minister the importance of considering other community venues, including bingo venues, in the next phase of the reopening process. There is no reason that vaccinated people, people who have recovered from Covid or people who can prove they do not have Covid with antigen testing cannot have access to such venues using the same process. It is important that our older people in particular have a social outlet to allow them to get back to what is the new normal. I call on the Leader to engage with the Minister in that regard and to impress upon him the importance of focusing on those additional areas.

**Senator Paul Gavan:** Colleagues have raised the issue of birth partners on several occasions. I wish to raise it specifically in respect of Limerick maternity hospital. There continue to be issues with access for birth partners. The Leader will agree with me that birth partners are an essential part of a woman's healthcare at every stage of pregnancy. Service users still face several restrictions in Limerick maternity hospital. They still labour alone for hours or days until they undergo a now mandatory vagina examination to determine whether they are dilated by 4 cm. I cannot even believe I am reading this. This is cruel and raises issues regarding informed consent and in some cases traumatises the birthing person.

I know the Minister has spoken out about this and the HSE has given guidelines. The difficulty is that some local hospitals are not following those guidelines. I will write to the Minister today because it is just not acceptable. As someone whose partner had three Caesarean sections, I cannot imagine how women are feeling at the moment if they do not have access to their birth partner. It strikes me as incredibly cruel and I ask for the Leader's support on that issue.

Representatives from throughout the country will be aware of the plans to effectively privatise our local employment services. Why is the Government set on privatising our local employment services? A SIPTU representative has said that the current tendering processes, which include financial rewards for companies, are the beginning of the process of wholesale privatisation. If these tendering processes proceed as planned, it will lead to the wholesale privatisation of local employment services. This will effectively force out the community-based non-profit providers of local employment services.

Disturbingly, SIPTU wrote to the Minister, Deputy Humphreys, in March and is yet to receive a reply. I predict that after these services are privatised, people from all parties will claim it is terrible and ask why it happened. It is happening now and the Minister has not even agreed to meet the union representing these workers. I call for an urgent debate on the matter.

**Senator Eugene Murphy:** I pay tribute to two very special athletes from the Roscommon and Galway region who will participate in the Paralympics and the Olympic Games at Tokyo: Richael Timothy from the Ballymoe area competing in para-cycling, and Aoife O'Rourke from the Castlerea area competing in boxing. There is great excitement throughout the region with many flags flying in celebration of them representing Ireland at the Olympics. It is a very proud time for the people of Roscommon and Galway. I am sure the Leader will join me in sending best wishes to our athletes who will proudly display their talents for Ireland over the coming

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weeks at a most difficult time for sport.

We all know that outdoor summer camps are going well. It is great to see them up and running and it is very important for children. Several children have been affected by the fact that indoor camps cannot reopen. I am talking about many forms of art, martial arts, all sorts of other arts classes and science workshops. I could go on and on. Given that we did well in ensuring that our children could attend schools and were safe, and that 50 people can gather indoors for other events, I find it difficult to understand the restriction on indoor camps. We need to realise that many children do not like sport, and avenues for them are being closed off. We all accept that the children and young people have been badly affected by the Covid pandemic. I ask the Leader to see if we can do anything to reopen those indoor camps which are important. Most of them have considerably fewer children than are in an average primary school class. We should do it.

**Senator Barry Ward:** Almost a year ago in August 2020, Belarus held a presidential election that was totally unfair and not transparent, as acknowledged by the European Commission and many international organisations. Viktor Lukashenko kept power after that election notwithstanding that it was widely viewed that he did not and does not have the support of the Belarusian people. Svetlana Tikhanovskaya, the opposition leader who is widely deemed to have won that election but is now essentially in exile, will visit Ireland today.

It is very important that we stand up for Belarus not just because there are many Belarusian citizens in Ireland, not just because Belarus is the last dictatorship in Europe and on the borders of the EU, not just because Ireland is on the United Nations Security Council and not just because the Minister, Deputy Coveney, has deep personal connections with Belarus and has taken a strong line on this, but because we all know and recognise that what is happening in Belarus is wrong.

At least 30 Irish parliamentarians have adopted Belarusian prisoners. There are some 550 political prisoners in prison in Belarus at the moment. One of the other candidates in that presidential election was sentenced to 14 years imprisonment this week. On the borders of the EU, our neighbours are suppressing their opponents, suppressing their population and suppressing democracy. We must ensure this is not allowed to continue.

On Thursday, meetings will take place with Ms Tikhanovskaya. I hope we will take a strong line on that. I hope that Ireland will take its role seriously as part of the international community to re-emphasise that the behaviour of Viktor Lukashenko and his regime is illegal, undemocratic and unacceptable, and will not be tolerated by us or by the international community. The sanctions imposed by Europe in this regard are simply insufficient. Steps must be taken to move this matter forward and to advance the case of democracy in Europe and across the world.

**Senator Mark Wall:** With the withdrawal of Ulster Bank and KBC from the Irish market, and the recent announcements that Bank in Ireland intends to close 103 branches and that Permanent TSB is withdrawing cash services from 44 of its branches, there is no doubt that the banking sector is in a deep state of change. This will leave Irish customers with only three full-service banks to choose from, which will have a significant impact on individuals and business customers throughout the country, especially the elderly and those in rural areas where poor broadband may not allow an easy transition to Internet banking.

Banks here have been slow to do show genuine progress and integrity when it comes to

serving the public. The Financial Services and Pensions Ombudsman lodged 2,782 eligible complaints against the banking sector in 2020, with more than half of them related to mortgages, showing that Irish banks have plenty to do to change the way they do business.

The Irish banks have also had plenty of opportunity to improve their technology but this uptake has been slow while many other countries have shown how technology and digital offerings can be transformative and, in turn, improve the experience of their customers. We have been told of a proposed instant payment app, which I have been informed may be used by the three remaining banks to close ranks and use exclusionary tactics to keep new challenger banks out of Ireland, reducing customer choice and competition. The European payments initiative is looking to build an instant payment standard with more than 30 lenders taking part in its development. Questions need to be asked as to why AIB, Bank of Ireland and Permanent TSB want to go it alone. Could it be that by developing their own app they will have full control of which lenders are allowed to join the instant payments system while also discouraging other entrants to the Irish banking sector by excluding them from this app? In the guise of offering instant payments, they are acting in their own interests. Once again, it will be the public and businesses that will suffer the lack of competition. I ask the Leader to organise a debate with the Minister for Finance on this issue in the coming months.

**Senator Mary Fitzpatrick:** I offer my condolences to the family and friends of Dr. Seán McCarthy. I also congratulate Deputy Ivana Bacik. I wish her well in her new role. She will be missed in the Seanad, but I am sure she will make an enormous contribution to the Dáil.

I am delighted also to co-sponsor the Bill being proposed by Senator Chambers to make harassment a crime. The Bill is worthy of support right across the House and I hope all Senators will support it.

As this is probably the last Order of Business before the recess, I want to take this moment to thank the Cathaoirleach, as well as Martin Groves, all of the staff in the Seanad, and the staff of the Oireachtas joint committees. As Fianna Fáil's Seanad spokesperson for housing, we have had a very busy year. I commend all staff on their professionalism, patience and for keeping us all on track.

The housing crisis was the number one issue when this Government was formed. It continues to be. Since the pandemic hit, obviously the housing crisis has been compounded. However, in the year we have made significant changes in terms of protecting renters from evictions and rent increases, capping rent increases at inflation, limiting the upfront payments, and adding benefits and supports to student renters. Most importantly, for those who want to own their own home, the Affordable Housing Bill 2021 passed in the Dáil last week, 101 votes to eight, following a year of trenchant and spurious opposition. In that Affordable Housing Bill 2021, the State will take the role of providing people the opportunity to own their own affordable home. Local authorities will be empowered to build affordable homes to purchase and to rent. We have introduced for the first time the affordable cost rental model. We are doubling the amount of social and affordable housing on every new private development. On top of that, we are providing financial support by way of a five-year interest-free loan for would-be homeowners. All of this is welcome. That is why the Bill got cross-party support.

We have one final, significant piece of legislation to do before the recess as a Seanad, and that is the Land Development Agency Bill 2021. That legislation will allow the State strategically to manage its land to deliver social and affordable homes - 100% public housing on public

land. I ask Senators from all parties and none to do the right thing on that legislation and give the State the power to use the land to deliver homes for our people. If Senators are serious about wanting to address the housing crisis in terms of both supply and affordability, they should back this proposal to allow us to use the State-owned lands to deliver homes for our people.

**Senator Gerry Horkan:** I am almost the last speaker, so many of my points have been made already, but I do want to make them briefly again. I pay tribute to and congratulate former Senator, now Deputy, Ivana Bacik, with whom I worked quite closely in the previous Seanad, particularly when I was involved in some of the group leaders' and whips' meetings. She was an excellent contributor to this House and I do not doubt that she will be an excellent contributor to the Dáil. She will enter this Chamber this afternoon for the first time as a Deputy.

I also pay tribute to Dr. Seán McCarthy, who was a Member of this House between 1989 and 1992. He was also a former Minister, Deputy, and long-established councillor for many years in Tipperary. He was an expert medical doctor and was regarded in his field. I know his daughter, Maria, who lives quite close to me. I pay tribute to him and pass on my condolences and sympathies to all his friends and family in Tipperary, the wider Fianna Fáil family and, indeed, throughout the country.

Like Senator Fitzpatrick, I am conscious that this might be my last Order of Business. While there may be another on Thursday, in a Covid-19 world there are restrictions as to how many of us can be here. I therefore pay particular thanks to every Member of this House and the other House for re-electing me in Seanad by-election. It would be remiss of me not to mention that I got significant support right across the three Government parties and, indeed, from many others. I acknowledge all of you right across the House. You all know who you are. I know who are too, which is even more important. I thank all of you for that.

I welcome all of the progress that has taken place under Covid-19. The hospitality industry has been through so much. Let us get a date for them. Let us bring them back into the real world of hospitality as soon as we can, operating for our benefit and for theirs. I wish everybody a very good break over the summer. I thank Martin Groves, all his staff, and the Cathaoirleach for the welcome I got when I came back.

**Senator Jerry Buttimer:** I ask the Leader that we would facilitate a debate in the House in the autumn on the national sexual health strategy. This is a critically important strategy, especially in the area of HIV, which we have seen an increase in. Acknowledging that there has been much work done in terms of HIV and men's sexual health, it is important we have debate. Acknowledging the work done around PrEP and Fast-Track Cities, it is important we see a wide consultation on national sexual health strategy around screening and testing with a focus not just on prevention but also on living well.

If the Cathaoirleach could indulge me, this week, Ms Ruth Lawlor, who has the privilege of working in my office – I say that jokingly – will celebrate 40 years of public service to the Oireachtas under the Fine Gael Party. In 1981, she entered Leinster House on work experience with the late Jim Mitchell, and she has served in numerous offices, including with people like John Kelly, Dino Cregan, Liam Burke, Paudie Coffey, John O'Mahony in the previous Seanad, Imelda Henry, and now with me. I can tell Members of the House who do not know Ruth Lawlor that she is a person of energy, youthfulness, vitality and good humour who has put the interests of staff, Members, Leinster House, and the people we work for and represent at the heart of everything she does. I say to her and to her family today míle, míle buíochas for 40 years of

tremendous service. It is rare in this world of public service that someone would spend 40 years in one place. Ruth Lawlor has served not just all of us but also her State with distinction. I say míle buíochas and I thank her today.

**An Cathaoirleach:** I join Senator Buttimer in wishing her many happy years of active retirement. I am sure someone who is as energetic as that will not be retiring in the sense of putting her feet up on a beach. I am sure she will find plenty of other things to be doing and will keep involved in politics and community service.

**Senator Jerry Buttimer:** She is not retiring. She has done 40 years of service.

**An Cathaoirleach:** Forty years of service and more to come. I now call the Leader.

**Senator Regina Doherty:** I tell you, a Chathaoirligh, Ruth Lawlor is a cracking, energetic woman. It is Senator Buttimer's privilege to work with her, as indeed it has been for many other Fine Gael politicians over the years. It is a real credit to her because she is one great woman. I wish her well and continued success in her career here in Leinster House campus.

To answer Senator Buttimer's request, I will organise the debate on sexual health when we come back in September. To Senator Horkan I say we are all privileged to have him re-elected. He is a prominent member of this Seanad and makes welcome contributions, not least of which was today when he reminded us of the contribution Dr. Seán McCarthy made in his political life and of his service to his local community. I send condolences on behalf of all of us here in Seanad Éireann, along with those of Senators Horkan and Burke, to his family on his passing.

Senator Fitzpatrick talked about the housing advances we have made. We all acknowledge that a lot has been done in the past year but much more has to be done.

Senator Wall requested a debate on financing and banking. What some of the larger banking institutions are talking about doing is quite insidious. I will certainly organise that debate after the summer recess.

Senator Ward talked about the welcome visit of Svetlana Tikhanovskaya today and tomorrow. She will meet representatives of the Committee on Foreign Affairs and Defence and both the Ceann Comhairle and the Minister for Foreign Affairs, Deputy Coveney, tomorrow. She is very welcome. With 550 political prisoners in prisons in Belarus we have an awful long way to go to redress the situation. I join Senator Ward in agreeing far more serious sanctions need to be employed on behalf of the European Union to address the issue that Lukashenko is in that country and what he is doing to his people.

Senator Murphy talked about an issue many people find incredibly frustrating. I certainly will raise it with the Minister. Indoor summer camps have been refused the ability to open whereas hundreds of thousands of children have been going safely to school for many months since they reopened. It is a dichotomy people cannot understand; how is it safe in one environment for our children to go to school but it is not safe for them to go to indoor camps? I will raise the issue and I hope we will get it addressed quickly because the summer will be over before we know it.

Senator Gavan talked about the ongoing issues he has experienced in Limerick. To be honest with him, we are probably blue in the face raising it here. I do not mean to be disrespectful to him but every week we raise it we get reassurances and the following week we are told of

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the stories of women being prohibited from having their birth partners with them. It really is not on. I will certainly raise it again with the Minister for Health today but I could nearly tell the Senator that I will be told he sent the letter. The only thing I can suggest we do is to keep highlighting it so that people still know the frustrations women and men are experiencing.

I want to comment on the other matter the Senator raised. I am quite nervous about doing that given I am no longer in the Department and it is probably not politically correct to comment. I gave reassurances while I was there that there is a space for every single offering, probably far more so today than there would have been when I left in February when we were at near full employment. Our job clubs and local employment services do enormous work in parts of the country where private enterprise would not bother their backsides ever going. These are honourable decent people who extend the services far more widely than the contracts they have with the State. There is a place for every offering to all the people who are unemployed. The Minister launched Pathways to Work yesterday for some of those extra hundreds of thousands of people who have become unemployed because of the pandemic and will find it difficult to get jobs. There is a place for all offering their services. I concur and stand with our job clubs and local employment services. They have been giving services to the State for many generations and will be needed in time to come. I will ask for a debate on that issue when we resume in the autumn.

Senator Cummins talked about a pathway to reopening indoor hospitality and the reopening of summer camps, bingo halls and other such venues. We need to get to a scenario where people who are vaccinated are able to feel the liberties they were promised by that vaccination and we must also provide pathways for those people who either cannot or do not want to get vaccinated to be able to get back to some sort of a new normal. I will organise a debate on that matter for the Senator in September.

Senator Dooley asked for a debate on dental health services for people with medical cards, which is an issue not only in his home county of Clare but in every county. Many of our dentists have stopped providing services to medical card patients, which is not acceptable without a plan B from the Department. I will organise a debate on that issue.

Senator Mullen talked about the gambling Bill. It is unusual to see the separate arms of State interjecting, particularly the President, in a political matter, but this issue is far greater than a political one. It is an insidious issue that stretches into our towns and counties and it certainly needs to be addressed. Both Senator Wall's and Senator Ward's Bills should be advanced but in the absence of those being brought forward in the Senators' Private Members' times I will try to make inroads into what the Government's plans are and come back to the Senator Mullen on it. It is definitely something that should be done sooner rather than later. I for one very much welcomed the President's intervention at the weekend as this is such a serious issue and has caused and continues to cause many problems, and is a blight on many people's lives.

Senator O'Loughlin talked about Pat Tinsley and a drug being awarded funding over the weekend, which is welcome. She raised that issue on several occasions. It is a testament to her tenacity and persistence that this drug is now on the drugs scheme. I congratulate the Senator and wish her continued success in her other anticipated campaigns. She also raised the 12-month ban on blood donations. It seems illogical and ties in with Senator Buttimer's request for a debate on sexual health. We will arrange that for the end of the summer to try to get some changes made in that regard..

Senator Boylan talked about fracked gas. I will ask the Minister to come to the House to discuss the issues she raised.

Senator Ruane raised the issue of the expulsion of children. Stepping Stones is a school in Kilcloon with which I have been involved for many years. The expulsion of Conor was something that was very difficult for both sides, but a debate is needed on this issue. There are children who provide challenging behaviour who are not suitable for our schools. Instead of expelling the children we need to add additional resources to the schools to make sure children like Conor can continue to go to school, get collected by the bus every day and enjoy the obvious benefits of being in an environment where they can grow, make friends and continue their social and educational life.

Senator Craughwell raised the issue of the search and rescue, SAR, contract, as he has done on a number of occasions. On the last occasion he raised it I wrote to the Secretary General of the Department of Transport looking for some answers for him. I will come back to him once I get a response to that letter.

Senator Kyne spoke about the planning application for a new greenway for the west from Oughterard and Moycullen right up to Galway. It would be a stonking welcome addition for the tourists. I wish the people there success with it.

Senator Chambers opened the Order of Business of business by raising the issue of the Alzheimer's day care centres. There is one in Skerries we are desperately trying to get open. It is an issue that has caused considerable angst to dementia and Alzheimer's sufferers and patients during the past 12 months. They have lost an enormous social outlet and it has caused an acceleration of many of their symptoms. It is unacceptable we do not have plan B for those that will not open now or in September. We need to make sure we put the necessary resources and finances in place. The Minister is committed to this issue and to getting the venues that are not suitable for reopening to be in a position where they are suitable for reopening.

I am happy to accept the amendment proposed by the Leader of the Fianna Fáil group for the taking of the stalking Bill. I very much welcome it and wish her every success in getting it passed through the House.

**An Cathaoirleach:** Senator Chambers has proposed an amendment to the Order of Business: "That No. 18 be taken before No. 1." The amendment was seconded by Senator O'Loughlin. The Leader has indicated she is prepared to accept the amendment. Is the amendment agreed? Agreed.

Order of Business, as amended, agreed to.

### **Sitting Arrangements: Motion**

**Senator Regina Doherty:** I move:

That, notwithstanding anything in the Standing Orders relative to Public Business, or the Order of the Seanad of Friday, 9th July, 2021, the following arrangements shall apply in relation to the sittings of the Seanad on 15th and 16th July, 2021:

- (1) The Seanad on its rising on Tuesday, 13th July, 2021, shall adjourn until 9.30 a.m. on

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Thursday, 15th July, 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 9.30 a.m. and shall, if not previously concluded, be brought to a conclusion at 10 a.m. The contributions on the Order of Business shall be confined to the proposal of the business for the day by the Leader (or such other Senator as she may authorise in that behalf); a contribution from the Leader of each Group (or a Senator nominated in his or her stead); and a reply by the Leader.

(2) The Seanad on its rising on Thursday, 15th July, 2021, shall adjourn until 9.30 a.m. on Friday, 16th July, 2021, in the Dáil Chamber, and the arrangements for the sitting shall be in accordance with the Order of the Seanad of Friday, 9th July, 2021.”

Question put and agreed to.

*Sitting suspended at 10.28 a.m. and resumed at 10.45 a.m.*

### **Finance (Covid-19 and Miscellaneous Provisions) Bill 2021: Committee and Remaining Stages**

**Acting Chairperson (Senator Aisling Dolan):** I welcome the Minister of State, Deputy Fleming, to the House.

Section 1 agreed to.

#### SECTION 2

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

**Senator Pat Casey:** The core elements of section 2 are the two key pillars that have sustained businesses and kept them going over the Covid-19 period. I refer to the employment wage subsidy scheme, EWSS, and its predecessor, the wage subsidy scheme; and to the Covid restrictions support scheme, CRSS. I have some reservations about the end date of the EWSS in the particular context of my industry, which is solely reliant on seasonal business. Most of our business is done in the summer months of June, July and August and that has already been curtailed this year even more than last year. When we move into the off season, which is September, October and November, we will be waiting until the industry takes off again next year. Therefore, the loss of the EWSS on 31 December needs to be looked at again, if possible. The Minister of State talks about not having a cliff edge, but this is a cliff edge because the scheme comes to a sudden and abrupt end at the worst possible time for the hospitality sector, which is the month of January when things are at their hardest and business is at its lowest ebb. We need to see if there is any way the Minister of State can look at amending that or taking us off the payment gradually rather than having a cliff edge.

In fairness to the pandemic unemployment payment, PUP, it is reduced in three stages over three periods. From an industry point of view, we need the Minister of State to look at this issue, specifically the EWSS. To give credit to the Government, businesses would not have survived this pandemic without the EWSS or the CRSS. I ask the Minister of State to come back to me or give some consideration to my proposal.

**Senator Jerry Buttimer:** I join Senator Casey in his remarks about supports to business. The fundamental point is that if you talk to people who work in hospitality, they will tell you that the summer months are their season of opportunity in terms of employment and being able to buffer against the winter. Senator Casey is right. Notwithstanding that winter is bleak, it is bleak in the hospitality sector because it is their shoulder season and their off season. If we are to avoid the cliff edge, we must look at how we can support the industry.

What does the cliff edge actually mean in the context of the hospitality sector? For me, there are four parts to it. One is the imminent announcement of the full reopening of our hospitality sector, which I welcome. This will be significant and will give further employment opportunity. Second, August and the rest of July is when there will be an opportunity for the industry to benefit. As we speak, the Oireachtas transport committee is having a hearing and briefing on the roll-out of the EU digital green certificate, or Covid certificate. The point I am making, which is that we must be ready to allow the hospitality sector to succeed and to have business coming in, does not relate solely to the Minister of State's Department but is part of the whole cross-sectional departmental approach.

The other two parts relate to what will happen in the autumn, when our children will go back to school and there will be a certain element of internal travel and, hopefully, notwithstanding the variants that are arising, international travel. As part of this process, I hope we will see a campaign to advertise that Ireland is open and has a product that can be availed of. The fourth part relates to the point Senator Casey referenced and I will allude to again, which is that two thirds of jobs in the hospitality sector have been lost or are seen as vulnerable. As Senator Casey said, the extension of the different supports, which are very much welcomed by those in the industry, is what we need a Government answer on. The Long Title of the Bill states that its purpose is "to make provision for supports to employers and certain businesses". That is why it is important that the Government engages not just after today's reopening plan, but in the context of what happens in January or even in November and December.

I have met small business people, hoteliers and restaurateurs who are really worried. They have saved for the rainy day. Other political viewpoints would see these people as very rich, but many of them saved for the rainy day in order to carry out renovations or upgrades to their businesses and to keep people employed. Perhaps the Minister of State can come back to us in the context of how we can emerge from the pandemic and, as Senator Casey said, avoid that cliff edge.

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I appreciate the comments from both Senators about the EWSS. It is a scheme that has generated many comments and queries but, overall, people recognise how important it has been to maintaining businesses and, especially, the link between employer and employee during this pandemic period. While people have had regular issues regarding specific amounts, dates, details, conditions, eligibility of businesses, who was eligible and who was not, tax and how the rates were set, everybody who discusses the EWSS acknowledges the tremendous support it has been during the pandemic period. To date, €3.872 billion has been paid out on this scheme. It is one of the most effective and business-focused schemes in retaining the link between employees and their employers. As we come out of the Covid situation, it will allow a very easy, smooth transition for employers compared to that for people who are on the PUP and are not on an employer's payroll anymore, but will have to come back onto that payroll. This is a much simpler system for many employees and employers.

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As I said, €3.872 billion has been paid out so far since July of last year. Some €672 million has been foregone in PRSI as part of this scheme. The total number of employers who have benefited from or been involved in this scheme is 50,500 and the number of employees who have been through this scheme is 609,700. Not only do I wish to compliment the employers and employees for moving onto this scheme, but I would also like to extend a major thanks to the Revenue Commissioners. I acknowledge their role in this matter because the last time I discussed it in the Houses, people talked about the timescale between an employer making the payment to his employees and getting recoupment from the Revenue Commissioners. The issue of employees who are paid by the week was raised on several occasions, as it could be two weeks into the following month, six or eight weeks later, before they got their recoupment from the Revenue Commissioners. All those things have been substantially speeded up and the turnaround from the Revenue Commissioners can be counted in hours, possibly 24 or 48 hours, rather than days or weeks. The Revenue system has been well capable of doing this.

I will highlight one figure to give an example. In January of this year, which was the peak month for the number of employees on this system, 346,900 people were on the EWSS. Thankfully, the numbers are down. At the end of June last year, the number was 342,000. This shows that the economy is gradually opening up. People are getting back to work and employers are getting back to a level of turnover. The requirements to qualify for the EWSS are no longer there for some employees. People are back on the books paying their tax and employers are back in business. There is still quite a distance to go when 342,000 people were on this scheme last month. That represents 34,000 employers, which is down from approximately 37,000 employers last January.

*11 o'clock*

Several thousand employers have been able to leave the scheme because their businesses opened up and the employees involved have also left. The big issue we are talking about is whether there will be a cliff edge on the scheme. I take on board what everybody has said. The message the Government has given out from day one is that there will be no cliff edge. Times are tough enough and people experienced a cliff edge at the introduction of Covid. They were used to a full-time pay packet every month and even those who went on to PUP had, in many cases, a significant reduction in net income into the household, which made matters more difficult. There were issues with the EWSS. People may have been on less income.

Many employers have fulfilled their commitments. People will want to watch their taxation situation on the EWSS and make sure their tax credits and everything are appropriate as the year goes on. We have been clear all along regarding every scheme the Government has introduced and there will be no cliff edge in the EWSS. On 1 June, the Government approved an extension of the scheme until the end of December. That is essentially what is in front of us here but it is not the full story. The amendments provided in this legislation will give legal effect to that decision. We have had this matter right through Covid. The Government would announce the introduction of a scheme with the effective date and the legislation comes to pass to confirm that in due course. Some people said we have often used this as a measure to back-date schemes or otherwise that people had an issue with but it is the only way to operate during Covid. The Government announces the date from which the scheme will be effective and it often takes weeks for the legislation to follow.

The legislation before us amends the scheme and provides that it can be extended beyond the date of December 2021 by ministerial order, but not later than 30 June 2022, should that be

determined necessary and appropriate having regard to the underlying economic circumstances. It is considered too early to make any firm decisions regarding the operation of the EWSS post December 2021. Therefore, it is not feasible to determine what would be appropriate beyond that date. Does the scheme end on December 2021? The specifics in front of us do, but the legislation provides the scheme can be extended for a further six months subject to ministerial order. If that arises, there will be a debate on it, if it is deemed necessary and appropriate.

It is not just me saying there will be no cliff edge; this legislation specifically provides it can be run until the end of June next year. People may not have been aware of that aspect of this legislation. We concentrated on 31 December. The commitment is there that it can be extended for a further six months. Let us hope that is not necessary and appropriate. Let us hope Covid is behind us and that, when we get to next spring, the 300,000 people on EWSS have no need for such a scheme.

I hope that is helpful to some Members in discussing this valuable scheme, for which the taxpayer has paid €3.872 billion to date and under which €627 million in PRSI has been foregone. It is a practical scheme, which most people can operate effectively with the co-operation of the Revenue Commissioners, who provide instant refunds when employers submit documentation.

**Acting Chairperson (Senator Aisling Dolan):** It is such an important scheme. So many employees are covered by it.

**Senator Jerry Buttimer:** I welcome the clarity from the Minister of State. Hopefully, we will not need to be here in June of next year. I am a member of the transport committee and we had an aviation recovery task force. It is time we considered a hospitality sector task force, which would report back. We welcome the increase in people back at work. As the Cathaoirleach Gníomhach said, the scheme has helped so many. I ask that consideration be given to a hospitality recovery task force.

**Senator Pat Casey:** I thank the Minister of State for his comprehensive reply but the definition of a cliff edge is it is there one day and not there the next. That is exactly what he is describing on 31 December. The EWSS will come to an end. I will speak to this from a practical point of view. When Covid hit us, the wage subsidy scheme allowed us to keep core employees on board. We believed at that time this was a short-term provision and we were able to top up employees' wages to bring them to their normal level. Regrettably, as Covid evolved, we were not in a position to do that continually over six or nine months. Now we are reopened, but not fully. The hospitality sector is far from reopened fully as 70% of its income derives from international tourists. We will not get a full recovery until two or three years' time. We are building up our levels of staff because we have relatively high occupancy and steady business coming in the door. That allows us to build up our core staff again. The last thing we want to do is start losing them again. That will happen if this is cliff-edged on 31 December. The hospitality sector, going into its lowest period, will not be in a position to sustain those employees. That will put the industry on the back foot heading into a season in April or May where we will have to go through the entire recruitment process again. The industry is struggling to recruit staff and competing with the PUP, which is almost impossible.

It is a cliff edge. The Minister of State says it might be there until June but we probably need weaning off it, rather than a sudden stop. Will he come back on that?

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**Senator Seán Kyne:** I welcome the Minister of State. The EWSS and its predecessor have been hugely important as the link between employer and employee. It was one of the core supports introduced by the previous Government and continued since then. It is a key component of the Government's Covid response for business. The priority has been maintaining jobs and businesses once the pandemic ends. We all accept it has lasted longer than any of us expected or hoped.

At the start of this month, the Minister for Finance, Deputy Donohoe, confirmed that payments of more than €3.61 billion and PRSI credit of more than €590 million have been granted to 50,100 employers in respect of some 592,000 workers on the EWSS. Recently, the CSO published analysis of Covid-19 income supports, including the scheme, as part of its Frontier Series. Interestingly, that analysis shows the 35- to 44-year-old group is most supported by the scheme, followed by the 25- to 34-year-old group and the 45- to 54-year-old group. This is not surprising as a key support and a key aspect of the scheme is to maintain the crucial link between employer and employee. It is not surprising that the wholesale and retail trade sectors and accommodation and food service activities benefit significantly from that support.

We have always emphasised the importance of avoiding a cliff edge. I agree with Senator Casey on this when it comes to Covid-19 supports for workers and businesses. This is why this section, which extends the EWSS to the end of the year, is so important. I hope we will not need further extensions but I expect that if they were needed then they would be provided. This is because at the core of Government has been the wish to support business and workers and to provide the crucial link between business and workers.

**Acting Chairperson (Senator Aisling Dolan):** I will ask Senators Chambers and Gavan to speak next. Please be conscious of time.

**Senator Lisa Chambers:** I welcome the Minister of State to the House. The scheme has been most important.

**Senator Sharon Keogan:** I wish to make a point of order. Many people are speaking on section 2 but none of them have tabled amendments to the section. It is grossly unfair on those of us who have tabled amendments.

**Acting Chairperson (Senator Aisling Dolan):** Thank you very much, Senator Keogan. I will take that on board and ask Senators to be conscious of time, but each Senator can speak to each section.

**Senator Sharon Keogan:** As long as those who have tabled amendments get a chance to speak to them, I do not have a problem.

**Acting Chairperson (Senator Aisling Dolan):** I understand. Thank you, Senator.

**Senator Lisa Chambers:** I was saying something before I was interrupted. I agree that every Member has a mandate, an entitlement and a right to speak on any section of legislation. I am not sure the Senator would follow the rules that she is setting out. Certainly, it is not her place to set rules for others.

The EWSS has been important. I appreciate that it cannot be open-ended and there has to be a finishing point. Yet, I am making an appeal on behalf of the hospitality sector. Large cohorts of our society, including people in their 20s and 30s as well as teens, have not yet received a

first dose of the vaccine. They will be unable to participate in indoor hospitality unless they are working in it. I have particular issues around that but that is for a different debate. They will be unable to eat indoors and avail of hospitality until the end of August or coming to September or October.

The hospitality sector is missing out on a significant volume of business during the crucial summer months. The Minister of State will be aware of the position of businesses that operate in the hospitality and tourism sectors. Many businesses in my county of Mayo rely on the tourism season, in particular the months of June, July and August, to make the money to sustain the business throughout the year. By missing out on the crucial months when they get most of the trade, they are down significant revenue for the year. Without the continuing support of the scheme, many businesses would approach the end of the year in a bad financial position. These are the businesses that have been able to reopen and that have survived the past year and a half. All credit goes to those involved. My hat goes off to them because it has been an incredibly difficult year. There is no way they will be able to survive beyond the end of this year without support or until they get to next year's season, which will kick off from March or April onwards. They are going to need extra support to keep those people in employment. This applies in particular in a county such as Mayo where hospitality and tourism are one of our biggest employing sectors if we take away agriculture and some large multinationals. Outside of these, the vast majority of people are employed in tourism and hospitality, including many of our younger people. We have high rates of youth unemployment.

Yesterday, I was in Achill in the earlier part of the day. I was talking to a local business owner who owns a couple of businesses, including a bar and restaurant. It has been incredibly difficult. He is not a hotelier so he has not had the opportunity to have people come and stay. He can look around the island and see all the hotels fully operational, fully booked and serving their customers indoors. He is looking forward to reopening and to having diners inside on 19 July. He made the point that the business has lost a great deal of time when it comes to making up the annual revenue that the business relies upon. He employs local people throughout the year. He impressed upon me the need to maintain the supports into next year and to give advance notice of the extension. We should not leave people waiting until the eleventh hour. I know the Minister of State will not do that. He will want to give people as much notice as possible. Christmas will be the next bump when they might get some additional customers.

All the time at the back of our minds we are concerned about new variants. We see what is happening across other parts of Europe. We look across the water to the UK where we see restrictions being reimposed. There is a clear Government policy. We have managed to do this to date in such a way that we have not closed down anything that we have reopened. That is why we have had a degree of caution and have been a little slower to open than other parts of the country. Having said that, there is a fear that we might regress at some point. I sincerely hope that does not happen.

I listened to a business person earlier on "Morning Ireland". The business name escapes me but he runs a nightclub. He was honest in saying that he does not foresee his nightclub business reopening anytime soon. He even suggested it could be three or four months or perhaps even longer before that happens. He fully acknowledged and was complimentary of the Government for the supports that have been in place for business. He was asked the direct question of whether he would survive the coming months. He said that it depended. Having these supports in place is one of the key provisions that will ensure that business can reopen at some point and the owners will be able to hold on to the staff they have. They need flexibility from their credi-

tors as well. The owner made the point that businesses that remain closed or have only partially reopened still have many overheads that have to be met. They still have to pay rent and utilities and some wages. These overheads have not gone away in the past year and a half. Businesses have been paying these bills with little, if anything, coming through the door.

We acknowledge in this House that there is not an endless pot of money. However, this is an important point where we can give security. Behind all of that, if we take away the business and employment aspects of it, those business owners and their families are under great pressure and stress. It has been a highly stressful year and a half. It is affecting their livelihoods, everything they have worked for and everything they have built up over the years. Some businesses may never reopen, but for those who are surviving we have to do all we can to support them through this difficult period and leave no one behind.

Given that the Minister has set a date for us to revisit this, I would appreciate if the Minister of State could confirm or give us some reassurance that he will give significant notice of the extension period. We do not want to leave people in a state of anxiety when they are approaching what Senator Casey called a cliff edge. That is in essence what it is. People will need advance notice so they can make preparations. They will need time to talk to their credit institutions and those to whom they have to pay overheads so they can plan together to try to ensure the business survives. My thanks to the Minister of State for being in the House today. I look forward to his reply on that point.

**Acting Chairperson (Senator Aisling Dolan):** I note that it is 11.18 a.m. This session will close at 11.49 a.m. I appeal to all contributors to be conscious of that. It would be appreciated if Senators could make contributions timely. Senator Gavan is next to be followed by Senator Higgins.

**Senator Paul Gavan:** It is nice to see the Minister of State again. It is clear what is going on here. There is a well co-ordinated effort by Government Senators to ensure we do not get to talk about the tax sweetheart deal in section 15. It is a shameful deal to exempt cuckoo funds, investor funds and vulture funds from tax. It means that first-time buyers will be disadvantaged and ridiculous leasing deals, whereby the council does not get to own anything, will be concluded.

**Senator Seán Kyne:** The Senator should speak to the section.

**Senator Paul Gavan:** Of course I will not be allowed to speak because all our Government Senators are determined to ensure that we do not get to debate it. Why? It is because they are so embarrassed in defending the indefensible.

**Acting Chairperson (Senator Aisling Dolan):** As I have mentioned, we are short on time. We are on section 2. Please confine the comments to the section.

**Senator Alice-Mary Higgins:** There have been lengthy comments. My questions and comments relate to the newly inserted section 2(1)(b). They relate to time and the fact that these provisions allow for the extension of emergency measures. It was described how we do not want to fall off a cliff edge and that there is not an indefinite pot of money. I am responding to those points raised by Government Senators. We are in an emergency and we have a window in respect of fiscal responsibilities. The European Union has introduced a suspension of fiscal rules, much as this Bill extends various exemptions for a limited time. That waiver is there to allow states to invest in a more resilient future that will give them the stability to avoid future

crises and crashes, whether financial crashes, the climate crash or the Covid response. Those of us who have urged the Government to use this fiscal opportunity want that opportunity to be used to build up the State, our public services, our public land and our reserves so that we have more as a State to face the next challenges. We are not calling for the fiscal space available, with opportunities to borrow at reasonable rates in recognition of the emergency period, to be channelled into private investors' hands, which will not make us more resilient as a State in the long term.

We need tax reserves. I guarantee that we will see Fine Gael Ministers in here in two years telling us that we need to look at austerity again and that we cannot spend forever. We said today that the Government cannot spend recklessly. When it gives a 10% stamp duty waiver and exempts investment fund from the measure-----

**Acting Chairperson (Senator Aisling Dolan):** We are on section 2.

**Senator Alice-Mary Higgins:** I am speaking to the section. I am speaking to it far more directly because I am speaking about financial emergency measures. The financial emergency measures, both at an EU level and in this section of the Bill, require us to be responsible. It is not responsible that we do not have stamp duty for investment funds if they are leasing back, which is notoriously bad value. According to the *Business Post*, it will cost €1 billion for 2,400 leased properties. We reward them for leasing. It is not a matter of them having these properties and us encouraging them to lease the properties to local authorities. Local authorities are competing with investment firms for the purchase of these estates. That is what happened in Kildare and what we have seen. They are competing and we are weakening the hands of local authorities in that regard.

**Acting Chairperson (Senator Aisling Dolan):** We are on section 2. It relates solely to-----

**Senator Alice-Mary Higgins:** These are the measures. I am also going to speak about emergency measures.

**Acting Chairperson (Senator Aisling Dolan):** We are on section 2. Please point out the reference to section 2.

**Senator Alice-Mary Higgins:** This relates to the extension of measures to December 2021 from March 2021 and to June 2022. I am speaking on this because the fiscal rules at European level are only waived until 2023. This section is an example of how we can use that time. There are positive things in this Bill but there are also mistakes. I urge the Government to recognise and remedy that.

**Acting Chairperson (Senator Aisling Dolan):** I ask Senator Chambers to be conscious of time. We are still solely on section 2.

**Senator Lisa Chambers:** I will briefly respond to some of the comments.

**Acting Chairperson (Senator Aisling Dolan):** The comments do not relate to section 2.

**Senator Lisa Chambers:** Perhaps I was a little long-winded. The employment wage subsidy scheme is important. Many people in the county I live in rely on it. This is my only opportunity to speak about it before the recess. On the other matter that Senators have mentioned, I am not in favour of that tax exemption at all but to suggest that by having spoken on another section I was somehow preventing others speaking is not a fair comment.

**Deputy Sean Fleming:** A hospitality task force was mentioned. Everybody knows that will be a matter for the relevant Minister and it is not something which I am in a position to get into today. Senator Higgins mentioned changing the qualifying period. Section 2(1)(a) states, “ ‘qualifying period’ means the period commencing on 1 July 2020 and expiring on 31 December 2021 or on such later day than 31 December 2021 as the Minister may specify in an order made by him or her under subsection (21)(a);”. Subsection 21, on page 5 of the Bill, states, “by the substitution of “30 June 2022” for “30 June 2021”,”. The legislation has specified the possibility that it can be extended by ministerial order and the exact date referred to is in the legislation. It is important because this is one of the biggest items. There is about €4 billion of taxpayers’ money involved. It is one of the biggest supports for business. People have asked that advance opportunity be given. In recognition of what has been said in the House, there is not an endless cost. The Government will run a deficit as appropriate but will not spend when it is not appropriate to do so.

There are other amendments to this section that need to be addressed so that people understand. The Bill provides for a modification of the conditionality of entry to the scheme. There is a turnover test to qualify which requires that employers compare current operations with business operations pre-pandemic in 2019. It is proposed to maintain the turnover threshold to avail of the employment wage subsidy scheme from 1 July, which was last week, at a 30% decrease and to broaden the reference period from six months to a full year so turnover in the full year of 2021 is compared with the full year of 2019, with appropriate arrangements for qualifying businesses which may not have been in operation for all of 2019. There is a change in the reference period and it is important that employers know that. With many businesses fully closed or severely limited in their capacity to trade due to the public health restrictions in the first half of 2021, this change to the reference period acknowledges the frail nature of firms in certain sectors. Operating a full-year reference period will enable as many employers as possible to continue to avail of the employment wage subsidy scheme as the economy continues to reopen businesses and begins to recover from Covid-19.

The Government has approved an extension to quarter 4 and the Bill gives effect to this. It is considered too early to prescribe the precise operational parameters of the scheme that should apply for that quarter. It is important that businesses are aware of this because they need an opportunity to know what is coming down the tracks. This legislation recognises that the Minister for Finance has a duty to have regular assessments to determine whether it is necessary to adjust the level of certain elements of the employment wage subsidy scheme, having consulted with the Minister for Social Protection and the Minister for Public Expenditure and Reform. This assessment will consider the date of the scheme, the rates of the subsidy, applicable income thresholds for employees and the turnover test. Decisions on the matter will be made shortly.

I note that the economy continues to reopen. The capacity of businesses also increases so they can increasingly rely on their own resources to cover wages of employees beyond what is covered by the employment wage subsidy scheme. The Minister will consider a change to the scheme from quarter 1, which may require an employer contribution towards employees’ wages. I am signalling this possible change in good time to provide sufficient notice for businesses. It is being considered that employers may have to make a contribution to employees’ wages. The taxpayer has already paid €4.5 billion under this scheme. Every employer needs to hear me saying this. The rest is important but this will impact employers in September. No details have been worked out and the issue will be examined, but employers should be on notice that the matter is being looked at. It would be remiss of me not to refer to that when addressing

this section.

Question put and agreed to.

Sections 3 to 5, inclusive, agreed to.

## SECTION 6

Question proposed: “That section 6 stand part of the Bill.”

**Senator Seán Kyne:** Fine Gael is fully supportive of section 6. We initiated reduced VAT rate in 2011 in response to the unemployment crisis. We needed to look at sectors that were capable of providing employment and could provide a quick response to a stimulus to direct support. At that time, it was one of the key components of the Action Plan for Jobs introduced by the then Minister, Deputy Bruton. It worked by targeting hospitality and tourism. It provided jobs in rural and urban areas. It was highly successful and kick-started the recovery of the economy at the time. While that eventually came to an end and was reversed, in response to the Covid pandemic it was a provision we were able to put back in place. It was the correct decision to do that as a quick change that could be enacted to support the tourism sector. It amends that Act to apply the 9% rate for key sectors.

Coming from Galway and Connemara, we know the benefit of such a rate to the tourism and hospitality sector. It was a successful intervention in the past, it is still, and it can be into the future. I acknowledge and commend the Minister on this initiative and its continuation. I certainly support section 6.

**Senator Pat Casey:** Senator Kyne outlined most of what is involved. Regarding the 31 August 2022 date, the Covid crisis has been rolling and none of us knows where it will end. Every time it extends, the period of recovery for the industry also needs to be extended. The hospitality needs the 9% VAT rate for a two-year recovery period. Ending this on 31 August 2022 will give it only a year because we will not be back at full capacity even in the middle of next year. Senator Kyne has referred to the importance of the hospitality sector throughout the country, but it is even more important in rural areas. The previous Government leaned on the tourism industry to create jobs and revitalise the country. In recent years the hospitality sector has had more time with a 9% VAT rate than at the normal 13.5% rate.

If the Government values tourism as it claims, it should look at the inequality across Europe where most countries apply the lower VAT rate to the tourism sector. If it believes in the tourism sector as opposed to using it for its benefit when it suits, we need a conversation not about August 2022 but what the real VAT rate for the hospitality sector should be in the future. We need that low rate to sustain ourselves into the future.

**Senator Lisa Chambers:** Last week I brought the attention of the House to the recently published PwC report which made the case for extending the VAT rate of 9% for hospitality up to the end of 2023. Has the Minister of State had the opportunity to read the report? Why did the Government select August 2022 as the end date? Would it consider extending the lower rate to the end of 2023 as recommended by the report? It is reasonable and sensible and would allow businesses to plan beyond this crisis period and let them get back on their feet.

**Senator Eugene Murphy:** In general, I welcome the Government’s continued support for this sector. We certainly need to do more. I concur with the comments of my colleagues that

the support should be continued.

The explanatory memorandum states section 6 extends to 31 August 2022 the application of the 9% VAT rate to the supply of restaurant and catering services, to guest and holiday accommodation, to entertainment services such as admission to cinemas, theatres, museums, fairgrounds, amusement parks and sporting facilities, to hairdressing and to the sale of certain printed matter such as brochures, maps and programmes. Does the 9% rate apply to the entertainment business, which is strongly linked to hospitality? I know the explanatory memorandum refers to entertainment, but I seek clarification on the music sector.

**Senator Vincent P. Martin:** The decision to retain the 9% VAT rate will be most welcome among stakeholders and is a sign the Government is listening. I concur with the remarks of Senator Kyne that it will be a lifeline for them. While there may be grounds to extend it further, at least this extension gives sufficient space to have that discussion at a later date. It is a positive and essential move for a sector that has been almost devastated.

**Senator Malcolm Byrne:** I agree with colleagues and welcome the extension to August 2022. As Senator Martin said, it allows us sufficient time. If we do not see the necessary recovery happening by August 2022, consideration can be given to extending that. Everyone has talked about why it is important to get the tourism and hospitality sector back up and running. It must be remembered that significant numbers of people employed within that sector are young people. If we are to address some of the high rates of unemployment among young people, we must ensure the hospitality and tourism sector is back up and running and is vibrant.

There is one element of warning. When the VAT rate was reduced in the past, some businesses decided to take advantage of it and tried to kill the golden goose. This is not in the best interests of the industry. Through this measure the Government is trying to help the industry. Businesses that try to do that are not being fair in terms of the overall initiative.

I agree with Senator Murphy that we need to look at the broader entertainment industry. In his response, I ask the Minister of State to define if it is covered. Just as tourism has suffered, those in the arts and entertainment sector have equally suffered a significant blow. We need to ensure the incentives are there to be able to get that sector up and running again.

**Deputy Sean Fleming:** The Senators have raised a number of issues and I will try to deal with them as concisely as possible. The Finance Act 2020 provided that the 9% VAT rate would apply until 31 December 2021. It applies to certain goods and services which primarily relate to the hospitality and tourism sector which were then subject to the VAT rate of 13.5%. It has been decided this extension should run until 31 August 2022. I know there are requests to extend it to 2023 given the time it will take for the tourism industry to recover. Obviously, I am not making any commitment here, but I am sure those points will be raised well in advance of the budget for 2022. These matters can be dealt with in the budgetary context. I give no commitment except to say I expect that matter will be considered as we approach the budget in the autumn.

The extension will cost the Exchequer approximately €350 million. We all know that when a VAT rate is reduced, businesses have discretion over the prices they set and it will remain their choice. In some cases, businesses will pass on, at their discretion, the full reduction in VAT and others will not because they will need it for cash flow purposes to meet their daily costs. That is a matter for businesses and it is a matter that comes up every time there is reduction in a VAT rate. It is up to consumers to watch out for that when they go to different premises.

I was asked specifically about the music and entertainment sector by a couple of Members. I assure Senators that the provision introduced in budget 2021 does apply the temporary 9% VAT rate to admission fees for cinemas, theatres and musical performances. Under long-standing provision in Irish legislation, admission fees to live theatre or music performances are exempt from VAT subject to certain conditions. The VAT treatment of admission to theatre and musical performance is dependent on the type of event which takes place and the facilities that are available for the consumption of food and drink, including alcohol, during all or part of the performance. Broadly, if there is a live performance and food and drink are not available, the admission tickets are exempt from VAT. If there is a live performance with food and drink available, the admission tickets are subject to the reduced rate of VAT of 9%. For venues where the entertainment is not a live theatre or music performance, including dances, discos, night-clubs and pubs, the standard rate of VAT at 23% continues to apply. Therefore it is not only the performance but what else is happening in the venue at the time.

Looking to 2023 can be considered separately but not as part of the legislation here today.

Question put and agreed to.

## SECTION 7

Question proposed: "That section 7 stand part of the Bill."

**Senator Pat Casey:** I refer to the period 1 and period 2 described in this section. Tax warehousing was critical where businesses could not access credit from their banking institutions and it was the only way they could get cash liquidity to pull them over. Can period 1, the restricted trading phase, be extended to when businesses are actually reopening? That is when they could do with a cash injection or have the tax warehousing available to them to help with liquidity as other bills come in.

The interest phase of the warehousing is one of the options that does not cost the Government anything. We are only deferring the payment from the business. Revenue is trying to charge almost 0.5% or 0.25% over and above what is being charged by the commercial banks under other schemes. Will the Minister of State look at both of the issues, first that the period would not be the restricted trading only but also the reopening period and, second, the interest charged on the warehousing of that tax, which is currently 3%? We can get a commercially better rate on the market.

**Deputy Sean Fleming:** As I said yesterday, there is no interest chargeable in the coming year. The interest comes in at 3% in 2022. Employers will be able to warehouse debt so long as they continue to file and make returns. It is important they keep paperwork up to date, know precisely what the liability is and what they will have to pay when the time comes. You cannot come along at the end of the scheme and say you want to warehouse all the VAT and PAYE. You have to keep all the returns up to date so Revenue can fully assess what is going on. They can make arrangements, as stated, in period 3 to repay the outstanding amounts of EWSS and abide by that agreement. If they fail to do so, normal interest rates of 8% - which seems high but it is the normal rate - will be reimposed. That is way down the line, from 2023 onwards. It is important that people know that between now and then, no interest will apply in the relevant tax period. The 3% rate will apply in period 3, which is January 2023, until EWSS overpayments are repaid in full. Revenue has a long period to allow for that at a very low interest rate. The higher rate is far down the line and it is hoped employers will not be in the situation that

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arises and that Covid will be well behind us by the time people have paid their debts.

Question put and agreed to.

Sections 8 to 11, inclusive, agreed to.

## SECTION 12

Question proposed: "That section 12 stand part of the Bill."

**Senator Seán Kyne:** The warehousing provisions are very important in giving the breathing space and scope to businesses. It is not a case of companies not paying their tax. The State will not lose out in the long run, it just gives businesses breathing space with tax, VAT and PRSI. Sections 8 to 12, inclusive, are all broadly similar on warehousing. The provision of a zero interest phase is very important, as is allowing that to run up to 31 December 2022 under period 2. Period 1 runs to the end of this year and there is a further period 3 where interest is charged at 0.3% per annum and warehoused liabilities to run from 1 January from 2023. I acknowledge the provisions that have been put in place under sections 8 to 12, inclusive.

**Senator Paul Gavan:** The Government Senators have collectively and successfully talked down the hour so that the key issue of tax exemptions for cuckoo funds cannot be discussed. People can see what is going on here.

**Acting Chairperson (Senator Aisling Dolan):** We need to move on.

**Senator Sharon Keogan:** I also congratulate the Government on talking down the time here this morning and not allowing those of us who have put down amendments-----

**Acting Chairperson (Senator Aisling Dolan):** Senator Keogan, we are on section 12.

**Senator Sharon Keogan:** I am going to speak on the section if the Chair will let me. Please bear with me, and as I was saying, not allowing those of us who have put in amendments to talk about them. Make no mistake, Fianna Fáil, Fine Gael and the Green Party are the friends of the vulture funds in this country.

**Acting Chairperson (Senator Aisling Dolan):** Senator Keogan, we are on section 12.

**Senator Sharon Keogan:** I cannot believe it. Shame on each and every one of Senators here this morning.

**Acting Chairperson (Senator Aisling Dolan):** Senator Keogan, thank you.

**Senator Eugene Murphy:** Sit down.

**Senator Sharon Keogan:** We should be empowering our local authorities to buy houses. What the Government is doing is giving tax breaks to its friends in vulture funds. Shame on each and every one of you.

**Acting Chairperson (Senator Aisling Dolan):** The time permitted for this debate having expired, I am required to put the following question in accordance with an Order of the Seanad of this day: "That section 12 is hereby agreed to in committee, in respect of each of the sections undisposed of, the section is hereby agreed to in committee, the Title is hereby agreed to in committee, and the Bill is accordingly reported to the House without recommendation; Fourth

*Seanad Éireann*

Stage is hereby completed; the Bill is hereby received for final consideration; and the Bill is hereby returned to the Dáil.”

Question put:

The Seanad divided: Tá, 31; Níl, 5.	
Tá	Níl
Blaney, Niall.	Boylan, Lynn.
Burke, Paddy.	Gavan, Paul.
Buttimer, Jerry.	Higgins, Alice-Mary.
Byrne, Malcolm.	Keogan, Sharon.
Byrne, Maria.	Mullen, Rónán.
Carrigy, Micheál.	
Casey, Pat.	
Cassells, Shane.	
Chambers, Lisa.	
Conway, Martin.	
Crowe, Ollie.	
Cummins, John.	
Currie, Emer.	
Davitt, Aidan.	
Doherty, Regina.	
Dolan, Aisling.	
Dooley, Timmy.	
Fitzpatrick, Mary.	
Gallagher, Robbie.	
Horkan, Gerry.	
Kyne, Seán.	
Lombard, Tim.	
Martin, Vincent P.	
McGahon, John.	
Murphy, Eugene.	
O'Loughlin, Fiona.	
O'Reilly, Joe.	
O'Reilly, Pauline.	
Seery Kearney, Mary.	
Ward, Barry.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Robbie Gallagher and Seán Kyne; Níl, Senators Lynn Boylan and Paul Gavan.

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Question declared carried.

*12 o'clock*

### **Companies (Rescue Process for Small and Micro Companies) Bill 2021: Committee and Remaining Stages**

**An Cathaoirleach:** I welcome the Minister of State to the House. We wish him all the best for his impending nuptials on Thursday. I know that if it were not for Covid-19 restrictions, we would all be invited to the wedding. He is more than welcome to the House. I believe he is going to Kerry on his honeymoon.

**Senator Rónán Mullen:** There would be no guillotining of proceedings then.

**An Cathaoirleach:** I thank the Senator for his parliamentary contribution to the congratulating of the Minister of State.

Sections 1 and 2 agreed to.

#### SECTION 3

**Senator Alice-Mary Higgins:** I move amendment No. 1:

In page 25, between lines 27 and 28, to insert the following:

#### **“Further provision with respect to employees**

**558S.** A rescue plan for an eligible company shall not contain provision that provides for either or both of the following—

(a) a reduction in the number of employees after the date from which the rescue plan would come into effect under section 558ZB or 558ZE, as the case may be, unless this has been done by agreement with employees and their recognised trade union, save in the case of voluntary redundancy, and

(b) a failure to honour a collective agreement.”.

The amendment is important. It concerns cases where a rescue plan is put in place. One of the reasons we support rescue plans being put in place is we recognise that small and micro companies are an important part of our community and social fabric. Indeed, small and micro companies have played a vital role for many communities throughout the challenges of the past year and a half. I am in favour of us rescuing and seeking to support them. One of the reasons those companies are so important is they are employers. In small and micro companies, there is a company owner and then company employees. The employees are part of the fabric of the community and society. They play a crucial role. Their livelihoods feed into the well-being of society and the community as a whole.

We are supporting small and micro companies because we want to support their employees. In that context, this is a positive amendment, which I hope the Minister of State will consider. The amendment seeks to ensure that any conversation about a rescue process is not just with the

owners of a business. It seeks to ensure that such conversations reflect positive dialogue with the employees of a business. I am sure other Members cite examples of when employees have stepped up to help or save a company they work for. It is appropriate and important that their stake and voice in this is recognised. That is why the amendment, which was first proposed by Deputy O'Reilly in the Dáil, is important. I was struck by how constructive it is and that is why I have tabled it in this House which has a very good record of supporting workers' rights legislation right across the floor. The amendment suggests that a rescue plan for an eligible company shall not contain provisions that provide for a reduction in the number of employees unless this is being done with the agreement of the employees and their recognised trade union, except in the case of voluntary redundancy. The other aspect of the amendment is that a rescue plan should not be an excuse to fail to honour a collective agreement. It is when times are most difficult that measures like a collective agreement or dialogue between employees and employers are most needed. It is not an excuse to abandon the principles of dialogue and working together. Those are the times when proper collective agreements that envisage scenarios of potential redundancy and look to how that can be done in a good and ethical way are centre stage. It is when it comes to the question of whether there is a need to downsize the number of employees that dialogue with workers and their representatives is most important.

I hope the Minister of State will accept the amendment. It is very much in tune with the Bill but it brings a very important voice into the rescue process.

**Senator Paul Gavan:** It is good to see the Minister of State. I again offer him my good wishes for Thursday. I wish to speak briefly in support of the amendment. It is good of Senator Higgins to acknowledge that my colleague, Deputy O'Reilly, tabled an identical amendment in the Dáil. It essentially comes down to ensuring that workers are given a say at these very difficult times that can arise in any business. Two months ago, I had a conversation with a man who had worked for a small business for 30 years. He had given his life to the business. The business was in difficulty and he suddenly found he had no say whatsoever in the future of the business. He was, effectively, discarded. That is just not right but, as the law stands, that is how things operate.

The amendment would basically instil a degree of requirement for consultation and dialogue, as Senator Higgins stated, so that people who have given a lifetime to the business - not just the owners, but the workers - would have some kind of defence in order to be able to be part of the solution. That does not mean there will not be job losses. Unfortunately, job losses are a part of the economic cycle from time to time. However, it means the workers would have a say in negotiating those losses and possibly negotiating a decent redundancy pay-out or decent terms. Unfortunately, as things stand, there is nothing in law to allow for any of that. As such, it is important to recognise the value of the amendment, which deserves support.

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Robert Troy):** The Bill is consistent with the provisions in examinership relating to redundancy and collective agreements. Any redundancies that may arise as a result of a company facing trading difficulties must be dealt with within the existing employment rights legislative framework. Regardless of the contents of a rescue plan, employees may be made redundant under the Redundancy Payments Act 1967 if the circumstances of the redundancy fall into one of the five definitions set out in that Act, that is, the closure of the employer's business or its cessation in a particular location, the disappearance of the employee's job specifically, a reduction in the numbers of the workforce overall, the replacement of the employee by someone who can also do the work in a manner for which the employee is not sufficiently qualified or trained, and the

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replacement of the employee by someone who can also do other work for which the employee is not sufficiently qualified or trained.

When there is a collective redundancy under the Protection of Employment Acts 1977 to 2014, the company is obliged to enter into consultations with a view to agreement with employee representatives. This legislation is separate from the Redundancy Payments Acts 1967 to 2014. Those consultations must take place at the earliest opportunity and at least 30 days before the notice of redundancy is given. The aim of the consultation is to consider whether there are alternatives to the redundancies. The company is also obliged to provide the following information in writing to the employee representatives: the reason for the redundancy, the number and description of employees affected, the number and description of employees normally employed, the period in which the redundancies will happen, the criteria for selection of employees for redundancy, and the method of calculation of any redundancy payment. The existing suite of employment protections will be applicable in such circumstances provided by this Bill.

As regards the issue of collective agreements, the industrial relations system in Ireland is based on a voluntary approach and collective agreements are not binding in law. The effect of the amendment would be to elevate the collective agreement to a statutory footing. It may also have the effect of unduly impeding the process adviser in the development of a rescue plan that is focused on saving the company as a going concern and protecting jobs. Furthermore, collective agreements that relate to industrial relations policy are not within the remit of company law. The amendment would have broader implications outside the Bill and, as such, it is not appropriate for me to accept it.

I highlight to Senator Higgins that I am also prioritising further work relating to workers who find themselves in a collective redundancy situation arising from insolvency. We published a plan of action on 9 June and it is available on the website of my Department. It sets out several commitments to safeguard further the rights of workers in these circumstances, including the setting up on a statutory basis of an employment law review group and the provision of accessible guidance documents to help workers and their representatives to navigate the existing legal framework.

There are amendments in the Bill to improve employees' rights, such as by obliging the liquidator to ensure creditors are aware they have a right to form and participate on a committee of inspection. This committee represents the interests of all creditors of a company going into liquidation and its main roles are to oversee the activities of the liquidator and protect the rights of creditors. It is provided that where such a committee is appointed, it shall include at least one employee creditor member and it is clarified that the liquidator has the power to bring and defend proceedings before the Workplace Relations Commission and the Labour Court.

On a final point, the Company Law Review Group, CLRG, has commenced work on streams 2 and 3, which relate to corporate restructuring, revisiting the 2017 report in the light of the ambition of the Government that employees, as creditors, exercise their rights and have the means to exercise those rights. One work stream involves a consideration of employees as corporate stakeholders, particularly in the context of alleged restructuring and splitting of corporate operations from asset-holding entities. A further work stream will address the legal provisions that pertain to any sale to a connected party following insolvency and transactions around insolvency which remove assets from each of the creditors and, in particular, involve the transfer of assets to connected parties. This work reflects complex policy issues and the CLRG

has indicated that it expects to report back in September. On receipt of that report, the Department will review the recommendations made and will provide for any necessary legislation as soon as practically possible.

I am committed to improving employees' rights under restructuring, but we will be addressing this issue later in the year and, for that reason, I cannot accept the amendment.

**Senator Alice-Mary Higgins:** I thank the Minister of State. I am glad there is an employee representative in terms of the creditors group. Of course, he will be aware that many Senators have pushed for employees to be the preferred creditors in situations of company dissolution. That is really important. It may be a step further, but it is a step that may emerge in the legislation the Minister of State may bring forward in the autumn.

As regards the issue of collective agreements, the concern relates to micro companies that, effectively, have one, two or three employees and may not come under that collective redundancy frame. Although there may only be two or three employees, they are nonetheless entitled to be represented by a trade union and should have due and proper processes in terms of their representation. The Minister of State is correct that Ireland has what is referred to as a voluntarist approach. Collective agreements are meant to represent a balancing of power. The idea is that workers who lack the power of capital have the power of numbers and can make their voices heard. The concern about the voluntarism approach is that companies are choosing whether they want to work constructively with workers. That is not effective in creating a constructive workplace.

At a European level, there is a push for better recognition of collective agreements because it is recognised that they contribute to better business and better outcomes for everybody. It is unfortunate that the Minister for Enterprise, Trade and Employment, Deputy Varadkar, is one of those blocking the recognition of collective agreements and blocking collective bargaining measures that have been proposed at EU level. He has written to the EU to block them. We should try to put it into national legislation because, unfortunately, the EU directive measures are being delayed and frustrated. It would have been good to start it at this level so, rather than a trickle-down approach, we begin from the ground up and start getting things right in the smallest companies.

I will make a point in response to the question of what is a small and micro company. The context for the need for this Bill is the fact small and micro companies are under pressure. Part of that context is that, unfortunately, Ireland has prioritised the financial well-being of a small number of large pharmaceutical companies by being one of the handful of countries in the world to resist while 100 countries call for an Agreement on Trade-Related Aspects of Intellectual Property Rights, TRIPS, waiver to accelerate the distribution of vaccines, the end of this pandemic and the reopening of society and of small and micro companies. We are still in limbo, worrying about variants and small and micro companies are, as a result, less able to plan. This is largely as a result of the fact that we are still looking at one or two years for the world to get vaccinated because we are unwilling to say "No" to some big companies. This point was made by the South African ambassadors to the World Trade Organization. They highlighted the economic case for a TRIPS waiver and outlined how moving on this area would free up and speed up the global end of the pandemic and benefit all economies and societies. We have seen small businesses taking a hit for the last year and a half as large companies make billions in profits. The Government is still unwilling to say "No" to the large companies and or to limit their profits temporarily to get society and the economy up and running, support small, medium and micro

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businesses and, most important, save lives.

It is important to remember there are macro choices here. Although this Bill deals with the small and micro, they are at the end of macro policies at a European level, where Ireland could do better. I know the Minister of State has had a strong position on this but I have to point it out in this context. I urge the Department and the senior Minister to step up and do better on collective bargaining and on a TRIPS waiver.

**Senator Paul Gavan:** I want to reiterate a couple of points that have just been made. On the Minister of State's response, those existing rules around consultation do not apply to micro companies. There is no requirement for consultation regarding someone working in a company of, I think, fewer than nine or ten people. I stand to be corrected. That is the situation the employee I spoke to a couple of months back was in. He was in a state of shock that he had no say or right of being consulted. That does not even mean negotiation. There is a big difference between consultation and negotiation. He did not have negotiation rights or even consultation rights. That is why I think this amendment is useful.

During my work on the Council of Europe I often bring this up and other countries are shocked when they hear that Ireland is one of the few countries in Europe that does not have a right to collective bargaining. I cannot say how depressing it was to see the Tánaiste write to the EU Commission asking it not to make that directive binding and to ensure that there is no step forward in terms of collective bargaining of any kind for workers. For a country of our scale and development to still be denying a basic right to work is fundamentally flawed, wrong and immoral.

I saw the Commencement matter with the positive response from the Minister of State on the TRIPS waiver. I was delighted to see the response from the Leader of this House yesterday. She said she did not want to see our country standing with big pharma and profits as opposed to the needs of people. At the World Trade Organization meeting, we need Ireland's voice to be raised. I fear it will not be. It looks like the Fine Gael element, in particular, will align itself with big pharma as opposed to where we need to stand, which is with the people of the world.

**Deputy Robert Troy:** On the final point made by Senators Gavan and Higgins, they know my position on the TRIPS waiver. I made it clear on the floor of the Seanad some weeks ago in response to a Commencement matter from Senator Higgins. Earlier this week, I replied in writing to Senator Gavan, who also wanted to raise this issue. I have made my views known internally to Government colleagues. I am at one with the Senators on that.

Collective bargaining is not under the remit of company law but employment law. Working with the trade union representative, ICTU, we have committed to establishing an employment law review group, similar to the company law review group, which will be there on a permanent basis continually reviewing legislation to look to how we can improve it. ICTU has signed up to the process, we have committed to doing it and that will happen in the fall of this year.

I will make a point on employees' rights under this summary rescue process. Employees are involved from an early stage in developing the rescue plan. The process adviser, it is stipulated in the legislation, must inform employees of his or her appointment and must give an opportunity to employees, as to all other creditors, to make an input and disclose information they have which may be pertinent to the restructuring plan. They will be consulted in relation to any plan put before the creditors. If they, as a bloc of creditors, feel the restructuring plan is unfair, they

will have the opportunity to appeal it to the courts, as will any creditor. We have to remember other creditors are small companies and jobs are dependent on their survival. There are protections for employees but the best thing we can do for them is ensure their jobs are protected. The best way to do that is by giving small and micro companies an opportunity to restructure, get out from under a shroud of debt, start again and protect jobs.

**Senator Emer Currie:** I was going to make the point the Minister of State just made, which is that we want to protect jobs in small businesses and micro companies. A point I have heard my colleague, Senator Garvey, make is that many of these employers work side by side with their employees all the time. During the Covid pandemic especially there has been a real sense that we are all in it together. There is very little difference day to day in the work all these employees are doing together to keep their companies and businesses alive. We talk about employers and employees but sometimes there is not that much of a distinction between them, and a lot of the time the employers work all around the clock to keep their businesses going.

I thank the Minister of State for his reassurance. I highlight again that a high-level working group has been established to look at collective bargaining and industrial relations.

**Senator Maria Byrne:** I thank the Minister of State for his comprehensive explanation. It is very clear from his response that micro companies and small businesses are at the heart of this recommendation. That is good to hear because I am aware that small businesses have found it very hard, especially in the past 12 months or so. The fact that the Department is willing to work with them and that there has been consultation is very clear from the Minister of State's response. We look forward to supporting the Bill.

**Senator Róisín Garvey:** I do not know whether it is a case of hypocrisy or whether I am just confused or what is going on because this Bill is all about helping small businesses yet Sinn Féin is again bringing up the workers' rights issue. It is such a simplistic, polarising message to put across when this Bill is everything about the workers, the employees and the small businesses. I do not know what kinds of small business owners Senator Gavan knows, but all the small business owners I know are workers. They will put their pay last, before their small group of employees. This Bill is so important to help small businesses to stay afloat and come up with a rescue plan. It is a really positive thing for the workers and the employers. They are all the one. We need to stop with this polarisation and the oversimplification that anything we do for any business of any size is for the employer and not for the poor employee. I expect a much more nuanced and much more intelligent debate in the Seanad than that kind of rhetoric.

**Senator Paul Gavan:** It is a pity Senator Garvey has not been paying attention. We in Sinn Féin are supporting the Bill. We supported it on its previous Stage as well.

**Senator Róisín Garvey:** I am not talking about Senator Gavan.

**Senator Paul Gavan:** We are simply pointing out, as per Senator Higgins's amendment, that we believe it could be improved in this area. As I said, let us try to pay attention.

**Acting Chairperson (Senator Gerry Horkan):** I take your point, Senator Gavan.

**Senator Róisín Garvey:** On a point of information, I was not referring to the Bill; I was referring to Senator Gavan talking about employees and employers in a really simplistic, polarised way that is not helpful.

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**Acting Chairperson (Senator Gerry Horkan):** I am conscious we need to be out by 12.45 p.m. I call Senator Higgins.

**Senator Alice-Mary Higgins:** I will be very brief. Employees and employers are not being talked about in a simplistic or polarised way. It is a matter of recognising all these elements. The Minister of State has engaged very constructively and recognised that there are issues with how we manage employees. Yes, when we look at a company we should look at the employers and the employees not in a polarised way but in a way that makes sure both are represented. I know there are great companies in which everybody has made sacrifices, and employees and employers have done impossible things together to keep those companies going. However, I also know of other examples. I can think of one, a butcher's shop owned by one person, where the person who everybody thought owned it, who was there for 40 years and who is everybody's friend and the reason people went to the shop was, it turns out, just an employee for 30 years. When it went under, he got nothing. In many cases the right thing will be done. The reason we have laws and the reason the Minister of State has indicated he will look at how he can further improve employees' rights laws in the autumn - and I welcome that - is that we put laws in place for the generality as a safety net. Of course, we hope those laws will not be needed. This is a constructive debate and I thank the Minister of State for his constructive engagement on it.

**Acting Chairperson (Senator Gerry Horkan):** Does the Minister of State wish to say anything further on this?

**Deputy Robert Troy:** No. I think we have debated it. Unfortunately, I cannot accept the amendment today, but I give a commitment that in the autumn we will bring forward further legislation relating to employees' rights. I have no doubt but that it will go through the various channels such as the Oireachtas committee etc., where all Members of the Oireachtas will have an opportunity for an input. We look forward to further engagement at that stage.

Amendment put and declared lost.

Section 3 agreed to.

Sections 4 to 12, inclusive, agreed to.

Title agreed to.

Bill reported without amendment.

**Acting Chairperson (Senator Gerry Horkan):** When is it proposed to take next Stage?

**Senator Maria Byrne:** Now.

**Acting Chairperson (Senator Gerry Horkan):** Is that agreed? Agreed.

Bill received for final consideration.

**Acting Chairperson (Senator Gerry Horkan):** When is it proposed to take next Stage?

**Senator Maria Byrne:** Now.

**Acting Chairperson (Senator Gerry Horkan):** Is that agreed? Agreed.

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

**Acting Chairperson (Senator Gerry Horkan):** Before we finish I wish to say a couple of things. I will bring the Minister of State back in in a moment. I wish you the very best and offer my congratulations to you and Aideen, both of whom I have known very well for many years. We have soldiered together as councillors and in the Oireachtas for a number of years, and I wish you and Aideen the best day on Thursday and the best for your futures together.

This is possibly the last day we will be in the convention centre. I will not say “definitely” because who knows? It is, however, the last scheduled sitting of the Seanad in the convention centre. I thank everybody involved with the convention centre - the convention centre itself for giving us the venue and all the people involved, including the broadcasting people, the catering people and the facilities people who have helped us out. There have been sittings here for longer than the time since I have been back as a Member but, on my part and I am sure on all Senators’ behalf, I thank everyone for that. It was helpful to have a venue that could accommodate us when it was needed.

The Minister of State indicated that he wanted to come back in.

**Minister of State at the Department of Enterprise, Trade and Employment (Deputy Robert Troy):** I thank sincerely all Members of the Seanad and the Dáil who have helped to progress this legislation and bring it to a conclusion today. I thank the Company Law Review Group, which did the initial preparatory work, the officials in my Department and the officials in the Office of the Attorney General. They have worked really hard to ensure we could get this legislation passed before the summer recess. It is important it has been passed before the recess because it is about protecting our small and micro enterprises and the jobs they support. Research by the Central Bank indicates that the horrendous financial situation of the past 18 months has disproportionately affected our small and micro businesses, 78% of which operate in sectors either moderately or highly affected by the pandemic. That equates to about 156,000 enterprises supporting 788,000 jobs. It was therefore necessary for us to give viable businesses an opportunity to be able to restructure in an administrative process, a process that will be more timely and more cost-efficient than the examinership process. Those businesses will now have the opportunity to restructure and to restart and will be able to protect the jobs they support. These businesses are present right throughout the length and breadth of this country, in every parish and every town. That is why it was so important that this legislation was passed before the summer recess. We would not have been able to do this were it not for the co-operation of all sides of the House, particularly the members of the Oireachtas committee for waiving pre-legislative scrutiny. I thank them for that. It was my priority on being appointed a Minister of State that we would have this legislation done before the summer recess. Some people said that it was too ambitious and we would not be able to do it, but thanks to the Senators’ co-operation, we were able to do it. It goes to show that when we work together in this House for the betterment of the people we are elected to represent, we can make a positive difference. I have no doubt that this piece of legislation is going to make an immense difference to many of our small and micro companies.

I thank the Senators for their support of the Bill and for their good wishes ahead of my marriage on Thursday.

**Acting Chairperson (Senator Gerry Horkan):** It is my first time in the Chair since the Deputy has been appointed as a Minister of State. It would be remiss of me not to congratulate him on that. He can consider having the legislation passed before Thursday as an early wedding present.

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Question put and agreed to.

The Seanad adjourned at 12.40 p.m until 9.30 a.m. on Thursday, 15 July 2021.