



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 14 Nollaig 2021

Tuesday, 14 December 2021

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

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for Transport to make a statement on the provision of public electric vehicle, EV, charge points for people who do not have access to private driveways.

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

The need for the Minister for Foreign Affairs to make a statement on the implications of the UK Nationality and Borders Bill on non-Irish EU and non-EU citizens living in the State who wish to travel to Northern Ireland.

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

The need for the Minister for Health to make a statement on the extension of the Northern Ireland planned healthcare scheme into 2022.

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

The need for the Minister for Health to make a statement on the use of the emergency motorcycle response service in Cork city.

I have also received notice from Senator Fintan Warfield of the following matter:

The need for the Minister for Housing, Local Government and Heritage to make a statement on the development of the youth homelessness strategy, including LGBT youth homelessness.

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

The need for the Minister for Further and Higher Education, Research, Innovation and

Science to provide an update on the implementation of the recommendations of the Cassells report on higher education funding.

Of the matters raised by the Senators suitable for discussion, I have selected Senators McGahon, Ó Donnghaile, Gallagher and Buttimer and they will be taken now. I regret that I have to rule out of order the matter raised by Senator Byrne on the grounds that it is a repeat of a Commencement matter raised on 6 October 2021. Senator Warfield may give notice on another day on the matter that he wishes to raise.

Nithe i dtosach suíonna - Commencement Matters

Electric Vehicles

An Leas-Chathaoirleach: Before I call my colleague and friend, Senator McGahon, I welcome the Minister of State at the Department of Health, Deputy Mary Butler, to the House. She is always refreshingly honest and open with us and a good conversation ensues.

Senator John McGahon: I welcome the Minister of State for coming to the House. I know she has a very busy portfolio and that this is not in her brief. I appreciate her taking the time to answer this Commencement matter. Before I start into the merits of it, I will give the Minister of State the context of it. I am a big advocate of electric vehicles and of the charging infrastructure, and I was amazed a couple of weeks ago when I came across what I found to be a strange anomaly, that is, in Ireland one can only avail of an electric vehicle home charging point if one has a private driveway. That is simple enough because if one has a private driveway, one can take the car in and plug it in. However, that rules out thousands of people in this country, including people who live in apartment blocks, on terraced streets or anybody who does not have a private driveway.

We are at the beginning of this type of technology but we have seriously ambitious targets to have 1 million electric vehicles on our roads by 2030. That is just eight years away, within approximately 20 days' time. What I hope to get from Government is a solution to the problem. What are we planning to do to try to ensure people who live in apartment blocks or terraced houses and who do not have access to private driveways can access charging points?

Some of the new regulations, as the Minister of State will be aware, include regulations under which newly built apartment blocks must have a certain number of electric vehicle charging points, and that is fair enough. That goes perhaps some way in trying to solving the problem in private housing estates. Another thing that can happen is that a management company can decide to put in a couple of charging points, although this can be very difficult because management companies do not want to do it. We want to get to a stage where everyone in this country has an electric vehicle, so it is not going to be feasible for hundreds of charging points to be put into estates. We need something where every home owner can have access. If it is the case that it cannot be physically attached from the home to the car, we need to come up with new forms of technology to get around this.

Talking about new technology, one thing we could look into is what they are doing in Germany at the moment which is interesting. There have been trials where an electric vehicle can

connect into an electric light on a street and charge from that light. That means somebody living in a terraced house in Dundalk or anywhere in the country who is not able to block a public pathway or footpath by connecting the car to the house could plug into an ESB pole and take some of the electricity from that for a point in time. It is a new technology in Germany and it is something that could resolve the problem.

The future is bright for electric vehicles. I have no doubt that in the next couple of years we are going to see a reduction in the cost of electric vehicles and an increase in the range of electric vehicles and the distances they can go. When the ranges in electric vehicles increase it will reduce the need for chargers at the same time. The reason I brought forward this Commencement matter today is that we are excluding many thousands of people in this country from the use of an electric vehicle and from having a home charging point by their lack of a private driveway. I hope the Government can offer some solutions on what its plans are and how we hope to resolve this anomaly at some stage in the future.

Minister of State at the Department of Health (Deputy Mary Butler): I thank the Leas-Chathaoirleach for the warm welcome, as always. I also thank Senator McGahon for raising this important matter. The Senator outlined very well how access to a driveway or garden system rules out electric vehicle ownership for thousands of people and homeowners. I apologise on behalf of the Minister for Transport, Deputy Ryan, and Minister of State, Deputy Naughton, who are unable to be here as they are both in Cabinet.

The Government's policy regarding the increased usage of electric vehicles, EVs, is primarily driven by the Climate Action Plan 2021, which sets a target of 945,000 EVs by 2030. The Government is fully committed to supporting a significant expansion and modernisation of the electric vehicle charging network over the coming years. A national charging infrastructure strategy is due for publication early next year and will set out a pathway to stay ahead of demand over the critical period out to 2030. An effective and reliable recharging network is essential to enabling drivers to choose electric. Not having access to a charging point cannot be a deterrent to people owning an electric vehicle. Where it is, people are certainly not going to consider moving to an electric vehicle when choosing a car. Charging at home is the most convenient and cheapest way to recharge. Targeting the installation of smart home chargers is a priority as we look to move towards more energy-efficient and sustainable ways to charge.

The EV home charger grant scheme is available from the Sustainable Energy Authority of Ireland, SEAI, and has been in operation since January 2018 to support the installation of home chargers for purchasers of new and second-hand battery electric vehicles and plug-in hybrid electric vehicles. The grant provides generous support towards the full cost of installation of a home charger up to a maximum of €600. However, as stated by the Senator, there are houses and dwellings in Ireland where home charging is not an option due to the lack of a driveway or garden. As such, there is also a need for a seamless public charging network that will provide for situations or instances where home charging is not possible, including on-street and residential charging, destination charging and workplace charging.

In terms of existing supports for public charging, the public charge point scheme has been in place since September 2019 and continues to be available during 2021 to provide local authorities with a grant of up to €5,000 to support the development of on-street public chargers. I note with interest the Senator's point about Germany's use of lamp-posts for the purpose of charging EVs, which appears to me to be a perfectly reasonable aspiration. The primary focus of the scheme is to provide support for the installation of infrastructure, which will facilitate owners

of electric vehicles who do not have access to a private parking space but who instead rely on parking their vehicles in public places near their homes, to charge their EVs.

The Department of Transport is currently reviewing the scheme to ensure that it is as effective as possible in driving forward the national decarbonisation effort and is working closely with a number of key stakeholders, including local government, to ensure that the charging infrastructure stays ahead of demand. This includes developing appropriate guidance for local authorities in line with the programme for Government, which will ensure that we can continue to expand our national charging network through supports for on-street chargers.

The Department is aware that a report was published by the County and City Management Association which contains guidance to local authorities on the provision of charging infrastructure. The document is available for viewing online. Meanwhile, work is being progressed to expand the EV home charger grant in such a way as to include shared parking in apartment blocks and similar developments. The Department is working closely with the SEAI and expects a scheme for apartments to open in the near future.

Senator John McGahon: I thank the Minister of State for the very comprehensive reply. The primary focus of the scheme is to provide support for the installation of infrastructure. We need to provide an increased public charging network for those who do not have access to a private driveway.

The Minister of State mentioned that the Department is working closely with the SEAI and expects a scheme for apartments to open in the near future. That goes a long way towards trying to resolve the very issue that I have raised. I am glad to hear that response from Government today. However, as stated by the Minister of State, we have to make sure that we minimise the deterrents. For a person to choose to purchase an electric vehicle, it has to be as simple as possible. If I want to buy an electric vehicle but I note that my nearest charging point is half way up the town or two estates away where there are only two spaces that are always in use, I will not make the move to an electric vehicle. We need to increase the public infrastructure for charging vehicles but it would be really useful for us to look at some of the best practice on the Continent and see what is being done there. Germany is one example. We need to be able to think a little outside the box about how to provide what is not necessarily public infrastructure. I have gone over time but the Minister of State gets the point I am making. I am interested in hearing her response.

Deputy Mary Butler: The EV policy pathway working group, consisting of seven Departments and the Sustainable SEAI, considered a mix of policies to enable Ireland to meet the climate action plan target which will require a significant ramping up of EV sales. At the end of October, there were 46,600 EVs registered for taxation. We committed €10 million from the climate action fund to support ESB investment in the charging network. This has leveraged a further €10 million investment from the ESB, with the infrastructure to be in place by the end of 2022. This intervention alone will result in 90 additional high-power chargers, each capable of charging two vehicles, 52 additional fast chargers that may replace existing standard chargers and 264 replacement standard chargers with more modern technology and each consisting of two charge points.

I take the Senator's point on people living in apartments and people without driveways. I look forward to the report we will have in the new year because if we want to meet our target, we cannot have this being a deterrent to people buying EVs. Having an EV must advantage

people.

Northern Ireland

Senator Niall Ó Donnghaile: Ba mhaith liom mo bhuíochas a ghabháil leis an Aire Stáit as a bheith linn. Tuigim go bhfuil an tAire, an Teachta Coveney, gnóthach ar maidin agus tá me ag súil go mór le comhfhreagras a dhéanamh leis maidir leis an ábhar seo. I appreciate that the Minister is at a Cabinet meeting this morning and otherwise engaged but this is an issue of fundamental concern to, I think, all of us. As I said last week, there are tens of thousands of journeys made across the Border each day. There are thousands of people living in this State who are non-Irish EU citizens and, indeed, many who are not from the EU. The Nationality and Borders Bill could be quite severe in its implications for their ability to freely move across this island.

We must remember that although the component parts of the approach to the withdrawal agreement and Brexit were multifaceted, one of them was that there would be no return to a hard border on this island. I am of the view there should be no Border on this island. The sooner we get rid of the Border, the better it will be for all of us. That is especially apparent now. The approach was not that there would be no return to a hard border for some. That there should be no return to a hard border for the Minister of State or me but that there would be a hardening of it for others should cause us all deep concern. While I find the broader aspects of this particular legislation going through Westminster especially repugnant with respect to what it seeks to do, this has a direct implication for people living in this State and it is crucial the many citizens this could impact on hear what the Government has to say. There a range of human rights organisations that are also keenly interested in hearing what the Government and, by extension, the EU have to say on this.

Thus far, it appears the British Government's response has been almost blasé. We should not be blasé about this issue. There are people who make that journey from the Twenty-six Counties into the Six Counties for work, leisure, study or whatever. We must ensure those people have the exact same rights as the rest of us. I am sure the Minister of State would be uncomfortable, as would I, that somebody who has come to live here, made their lives here and contributed significantly to Irish life would have lesser rights than she or I. Across the Oireachtas and in conjunction with the Government, we need to collectively and collaboratively work to ensure we are articulating our concerns on the international stage but also work hard to try to reverse, if we can, some of the negative, regressive and punitive implications of this legislation on people living here. They should have the right and entitlement to move freely across all of our Thirty-two Counties in the same way we all do.

Deputy Mary Butler: As Senator Ó Donnghaile rightly said, the Minister for Foreign Affairs is at the Cabinet meeting at the moment, but he has given me a comprehensive response. I thank the Senator for raising this important matter, which is of great concern.

The Minister stated that we are closely monitoring the UK's new Nationality and Borders Bill as it progresses through the legislative process in Westminster. As the Senator will be aware, the Bill was passed in the House of Commons last week and has now proceeded to the House of Lords.

As currently drafted, the Nationality and Borders Bill would amend the UK's Immigra-

tion Act 1971 and potentially provide for a change in the UK's immigration rules, which may require that specified categories of individual - to be set down in the rules - have an electronic travel authorisation, ETA, in order to travel to the UK. This may include local journeys to the UK from within the common travel area, CTA, that is, travel from Ireland to Northern Ireland.

It is important to note that, while the Bill provides that the ETA requirement may be introduced, any such requirement would be introduced by way of future amendments to the UK's immigration rules. The UK Government has spoken about the requirement coming into effect by the end of 2024, although this timeframe may be subject to change.

It is also important to note that the Bill provides that the proposed ETA system will not apply to Irish and British citizens. It will continue to be the case that, for journeys on and across the island of Ireland, British and Irish citizens will not require any travel documents. The UK Government has also made clear that there will continue to be no immigration checks on the land Border between Ireland and Northern Ireland.

The Irish Government has several concerns regarding how the proposed ETA requirement, if introduced, would apply in the context of Northern Ireland, particularly regarding non-Irish and non-British nationals making local journeys across the land Border from Ireland into Northern Ireland. As the Senator will be aware, tens of thousands of people, including many non-Irish and non-British nationals living in Ireland, cross the Border every day as they go about their everyday lives visiting friends and family, going to work, studying, shopping and socialising. It is a shared space.

There are also considerations in terms of supply chains and for tourism on an all-island basis, should this proposed legislation impact on any cross-Border movements for non-Irish and non-British nationals. Officials in the Department of Foreign Affairs are therefore engaging with the UK Government to outline these concerns and to seek clarification as to how it is proposed to apply this requirement in Northern Ireland and what changes are intended to be introduced in future immigration rules.

I was privy to a report a couple of weeks ago which explained that 17% of people living in Ireland were not born here, but Ireland is their home. That is almost one in five. This would have a major effect on approximately one in five people who cross the Border on a daily basis for work, education, shopping or whatever else. The officials in the Department are therefore engaging with the UK Government to outline these concerns and to seek clarification as to how it is proposed to apply this requirement in Northern Ireland.

Senator Niall Ó Donnghaile: I thank the Minister of State for her response on behalf of the Minister, Deputy Coveney. It is a multifaceted issue. This has the potential to impact on a range of aspects of people's lives. I think of the healthcare sector, for example, and the range of non-Irish and non-British citizens who work in it. What will happen if someone living in Donegal who crosses the Border to go to work in Altnagelvin has a car accident and is asked by the PSNI to produce this particular visa? Will he or she be deported?

What will happen when we promote Ireland under the terms of the Good Friday Agreement internationally as a single unit for tourism? Are we going to tell the thousands of tourists we want to attract to this island to enjoy the benefits of it that they are going to need to apply for a travel waiver for a particular section of it? It is crazy. The proposed change has implications right across society and Irish life. While I find the nature, approach and intent of the legislation

going through Westminster repugnant in terms of what it seeks to do to migrants and refugees, we must be acutely aware of the direct implications for the outworking of this on life in Ireland. I am encouraged to hear that the Government is engaging but we need to be very vocal. We need to bring political clout to bear and ensure that the British Government hears that message on the world stage. We all have an obligation as Irish and EU citizens to ensure that our fellow EU citizens and, indeed, others, are not disproportionately disadvantaged as a result of a decision we did not take.

Deputy Mary Butler: I have taken note of the Senator's comments on this very important issue. As he knows, this Bill is an outworking of the UK's decision to leave the European Union as it plans to tighten its border security and reduce levels of immigration. Brexit always had the potential to be profoundly disruptive for Northern Ireland and the island of Ireland as a whole. Along with our EU partners, we have consistently sought to minimise this disruption and we will continue to do so.

The Government is conscious of the cross-Border nature of many people's lives on the island of Ireland and the continued protection of their way of life remains a priority. Our position is clear that there should be no hard border on the island of Ireland. This legislation remains under consideration in the UK Parliament. We will continue to engage with the UK Government to ensure that our position is clearly heard as the Nationality and Borders Bill progresses. I agree with the Senator that we need to be very vocal on this matter.

Healthcare Policy

Senator Robbie Gallagher: The Minister of State is very welcome to the Chamber. The cross-border healthcare directive, as it was once known, was introduced in 2014. It has proved to be a major success. Interestingly, only seven people availed of the scheme in 2014, but up-to-date figures indicate almost 15,000 people have availed of healthcare across the Border.

For many people who are languishing on waiting lists, whether it is for a cataract operation or some other eye procedure, or perhaps a hip or knee replacement, the cross-border health scheme was a complete game changer. It changed their lives completely and improved their quality of life no end. Back then, people could go to any EU state to avail of healthcare but, unfortunately, Brexit came along and there were worries that that would be the end of the scheme. Thankfully, that has proven not to be the case. The Government moved swiftly last year to introduce an interim scheme, the Northern Ireland planned healthcare scheme, which allowed people in the Republic to avail of healthcare in Northern Ireland, or elsewhere in the EU, including operations and procedures that were available in the South. The scheme has continued and it has proved to be very successful

As I said, the figures speak for themselves. From 2018 to 2021, cataract procedures proved to be the most popular. Some 4,131 people availed of those procedures, while 1,413 people had hip replacements and more than 600 people has knee replacements. On 28 December 2020, the Government moved to sign the Northern Ireland planned healthcare scheme into law for a 12-month period. There is now concern because that 12-month period is about to expire. People are asking what the future of the scheme will be, whether there will be one and who will be entitled to it. There is uncertainty that needs to be put aside. We hope that the Minister of State will confirm for us, and the Irish people, that the Northern Ireland healthcare scheme will continue so that people who, unfortunately, have been waiting for procedures for many years

will be able to avail of this scheme in future.

It is also worth noting that PDFORRA has an arrangement in place with Kingsbridge Private Hospital in Belfast under this scheme. It is also concerned about what the future of this scheme holds for its members. I hope the Minister of State will have good news for everyone in the Chamber and will bring clarity to this issue for many of those people who suffer for years as they wait for healthcare procedures, so that they will know that they will be able to continue to avail of healthcare in the North, if that is what they wish to do.

11 o'clock

Deputy Mary Butler: I thank the Senator for raising this important issue. I apologise on behalf of the Minister for Health, Deputy Stephen Donnelly, who is in a Cabinet meeting.

I understand Department officials recently discussed this issue with the Senator and colleagues at the Seanad Special Committee on the Withdrawal of the United Kingdom from the European Union. As a result of Brexit, the EU cross-border directive ceased to apply in Northern Ireland. To mitigate this loss, this Government made the important decision to introduce the Northern Ireland planned healthcare scheme which has been in effective operation since 1 January of this year. Under this scheme persons resident in the State can access and be reimbursed for private healthcare in Northern Ireland by the HSE, provided such healthcare is publicly available within Ireland. Therefore, despite the various consequences and challenges which have arisen as a result of Brexit, this scheme continues to ensure that patients have access to healthcare in Northern Ireland.

The Northern Ireland planned healthcare scheme is currently operating on an interim administrative basis pending the drafting of a general scheme to place it on a statutory footing. In that regard, Department officials have undertaken a comprehensive analysis to inform the design of the statutory scheme, including detailed consideration of the operation of the current administrative scheme, stakeholder feedback and, helpfully, the recommendations of the Seanad Brexit committee's interim report and feedback from Senators at the most recent committee meeting with officials.

Furthermore, officials have been engaged with our Northern Ireland counterparts, who have introduced an administrative Republic of Ireland reimbursement scheme to enable patients to access care in this State. We are examining the parameters of that scheme. This extensive analysis is continuing at pace and while it will continue into 2022, I assure the Senator that this remains a priority and, importantly, the administrative scheme, which is operating successfully, will remain until a statutory scheme is in place.

I am confident this assurance will provide certainty for patients that they will continue to access care under the administrative scheme beyond the end of this year. Further information regarding how to access the Northern Ireland planned healthcare scheme and be reimbursed for private healthcare in Northern Ireland is on the HSE website.

It would be helpful to provide the latest data from the HSE. Those data indicate that almost 4,000 reimbursements have been made so far this year for persons who have continued to access healthcare in Northern Ireland under either the cross-border directive transitional arrangements or the new Northern Ireland planned healthcare scheme. This equates to a reimbursement cost in excess of €7 million. These schemes are primarily servicing a demand for private healthcare in Northern Ireland across the primary specialties of orthopaedics, ophthalmology,

ear, nose and throat, and gynaecology. As with cataract, hip and knee procedures, for which the Senator provided figures, these are the areas where we are most challenged in relation to waiting lists. Many people who travel, especially for a cataract operation, can return home on the same day. That is important.

I reiterate what the Minister said. The administrative scheme, which is operating successfully, will remain until a statutory scheme is in place.

Senator Robbie Gallagher: I thank the Minister of State for her comprehensive response and for the clarity she has brought to the issue for many people who may have been concerned that the scheme would terminate at the end of this year. For individuals who find themselves languishing on waiting lists, many for long periods where their quality of life is severely affected, this is good news.

Deputy Mary Butler: Regarding utilisation of the EU cross-border directive, I understand the Senator asked officials at a recent meeting of the Seanad Special Committee on the Withdrawal of the UK from the EU which EU member state patients had accessed treatment in under that scheme. HSE data indicate that the top three EU member states where treatment was accessed so far this year under the directive are Spain, Poland and Germany.

I hope the Senator has found this update helpful and assure Senators that the placing of the Northern Ireland planned healthcare scheme on a statutory footing remains a priority. Importantly, the administrative scheme will remain until a statutory scheme is in place.

Ambulance Service

Senator Jerry Buttimer: I welcome the Minister of State to the House. I thank the Cathaoirleach for allowing me to raise the important matter of the HSE advanced paramedic motorbike unit in Cork. There are two such motorbikes operational in Cork. The key words are “operational” and “Cork”. They have been in use for only two of the last 52 weeks. Why have they been unused and lying idle?

I am asking the Government and, in particular, the HSE to reinstate the advanced paramedic motorcycle unit in Cork as a matter of urgency. It saves lives. Our ambulance service has undergone profound change. Traditionally, it has been about transporting the patient to hospital. Today, it is much different. It is about a care pathway. Our advanced paramedics have been transformative and have saved lives since their introduction. The HSE paramedic motorbike unit has been extraordinary in providing a care pathway for people who need one.

Cork needs these motorbikes back on the road seven days a week. Response times will improve. They are operated and trained by highly professional paramedics. These paramedics can begin treatment and report back before an ambulance arrives. In cities like Cork, the motorbikes allow ease of navigation through narrow, winding streets. More important, as the HSE chief executive, Mr. Paul Reid, said in a tweet in July 2019, “These guys save people’s lives every day”. He was meeting some of the team in Cork “Showcasing the new Motorbike unit to support advanced paramedic care in the city.”

Paramedic motorbike units provide a rapid response. They allow early life-saving interventions, do scene management when there are multiple casualties, provide treatment and make

referrals to doctors, whether by car or to a surgery or hospital. They also provide necessary transport to emergency departments and improve response times for the National Ambulance Service.

Fully qualified paramedics with life-saving skills have saved many lives prior to the arrival of ambulances. One motorcycle paramedic is a supervisor who can act as an officer in the event of a major incident or if there is an issue with staff. There is only one motorcycle paramedic which should make it easy for the National Ambulance Service to replace that person.

A similar situation arose in Dublin but the motorcycle unit there is now back on the road. It is unacceptable that a city like Cork is not afforded the same level of service. This is about saving lives. What is good for the people of Dublin is good for the people of Cork. If the issue is Covid and the redeployment of staff, there is no better illustration of saving lives than our advanced HSE motorbike paramedic unit. I ask the Minister of State to exhort the HSE to resume the services of this unit for the people of Cork as a matter of urgency.

Deputy Mary Butler: I welcome the opportunity to address the House on behalf of the Minister for Health, Deputy Donnelly, regarding the provision of NAS motorcycle services in Cork.

I am sure Senators will join me in paying tribute to the incredible work the NAS has done and continues to do in delivering testing and vaccination services and helping to protect us all since the outset of the Covid-19 pandemic. This work is done in addition to its primary emergency response functions and the dedication of NAS staff to maintaining normal operations wherever possible has been immense. I think specifically of the early phase of the vaccine roll out when the NAS travelled the byroads of the whole country, administering the vaccine to those who were housebound.

During periods of normal operation, the NAS has a motorcycle response unit in Cork staffed by two paramedics. I understand that in order to allow the NAS to maintain essential Covid-19 testing and vaccination work it has been necessary to redeploy both paramedics back to their emergency ambulance response roles, in support of the overall emergency response. While the motorcycle response unit is not in scheduled operation, the NAS has advised that provision is being made for additional newly qualified staff to be allocated to the NAS south region. On that basis the NAS anticipates that the motorcycle response unit service should be able to recommence in the short to medium term.

As well as this specific initiative, I would like to use this opportunity to emphasise to the House the very significant process of reform and modernisation that the NAS has undergone in recent years and continues to undergo. Several important service innovations aimed at improving emergency ambulance response times and resource availability have already taken place. This includes the development of alternative pathways of care such as “see and treat” and “hear and treat” whereby medical staff based in the National Emergency Operations Centre can advise callers on accessing treatment at home, self-care, or referral to other appropriate medical services. These pathways of care help to divert lower acuity patients away from busy emergency departments and enhance emergency capacity. In addition, the NAS has developed the intermediate care service to provide lower acuity hospital transfers which frees up emergency ambulances for more urgent calls. Current data indicates that more than 80% of all inter-hospital transfer requests are now being handled by this service. These are just a few examples of initiatives that are helping to improve the availability of emergency ambulance resources.

This year an unprecedented €187 million has been invested in the NAS, of which €10 million is funding for new developments. This includes the recruitment of some 125 additional staff, which is providing for both increased front-line emergency capacity and enhanced community healthcare initiatives. As part of budget 2022, €200 million is being invested in the NAS. This includes a further €8.3 million in new development funding which will help to provide for further capacity resilience in the service as well as in the expansion of alternative care pathways. This additional investment means that NAS annual funding will have increased by about €30 million since 2019 which is a measure of this Government's commitment to overseeing the successful strategic development of the NAS into a highly agile, mobile medical service in line with the overall aim of Sláintecare, which is to provide the right patient care at the right time in the right place. In that context, Senator Buttimer's point about having a highly agile and mobile medical service is relevant. I welcome the fact that the NAS anticipates that the motorcycle response unit service should be able to recommence in the short to medium term. We are all aware of the rapid response these paramedics are able to provide while on motorbikes. As the Senator said, they can get down very narrow streets and get around blockages, enabling them to respond very quickly.

Senator Jerry Buttimer: I thank the Minister of State for her response. I also want to thank the members of the NAS in Cork for their work and commitment. The response is positive in so far as it contains a commitment to resume the service. While this is not the Minister of State's area of responsibility, I ask her to ensure that we receive a resumption date. A definite date is required because, as we all know, with the greatest respect, this could linger in HSE never-never land and might never happen. The service might never resume and we want to avoid that because the HSE paramedic motorbike unit saves lives. If such a service is allowed to continue in Dublin, despite staffing issues, then the same should apply in Cork. I ask for equity of treatment because this is about saving lives. It is about providing this service seven days a week, 24 hours a day. I ask the Minister of State to go back to the HSE to get a definitive date. As Paul Reid tweeted on 18 July 2019, "These guys save peoples lives every day". They sure do.

Deputy Mary Butler: I could not have put it better myself, and nobody would disagree with Senator Buttimer's last point. It is regrettable that the motorcycle response unit has had to cease scheduled operations for the time being but as the Senator and this House will appreciate, we have been living in extraordinary times over the past two years. In addition to its primary emergency response function, the NAS has been at the forefront of efforts to combat the pandemic. We are incredibly grateful for this. To accommodate these testing and vaccination functions, it has been necessary to redeploy some resources to ensure the continuity of critical front-line emergency services. As I highlighted previously, with the provision of additional newly-qualified staff to the NAS south region, the NAS has confirmed that it anticipates that the motorcycle response unit service will resume shortly. I will take on board the Senator's request. If a resumption date could be provided, that would indeed be helpful.

Sitting suspended at 11.15 a.m. and resumed at 11.30 a.m.

Senator Seán Kyne: The Order of Business is No. 1, motion regarding appointment of an ordinary member to the Houses of the Oireachtas Commission, to be taken in conclusion of the Order of Business, without debate; No. 2, motion regarding the appointment of the Ombudsman and Information Commissioner, back from committee, to be conclusion of No. 1, without debate; No. 3 motion regarding the EU-UK Trade and Cooperation Agreement, to be taken on conclusion of No. 2, without debate; No. 4, motion regarding the appointment of one new member and chairperson of the Garda Síochána Ombudsman Commission, to be taken on conclusion of No. 3, without debate; No. 5, Maritime Area Planning Bill 2021 - Committee Stage, to be taken at 1 p.m., and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 5 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; and No. 6, Finance Bill 2021 - Committee and Remaining Stages, to be taken at 5.30 p.m., and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 9.30 p.m. 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.

Senator Malcolm Byrne: I wish to acknowledge that today is National Irish Sign Language day. Members know, of course, that our Cathaoirleach is a big supporter. Equally, it is very important that the message is on the floor of the House that we are very strong supporters of the Irish Sign Language Act. However, this Act needs to be more than just legislation; it is about how it is enforced and that the Department of Education takes this issue seriously. It should never be a case that parents of deaf children have to fight to secure rights for their children, in the way that some, including for instance, Mr. Andrew Geary has had to fight for the rights of his son Calum. I have mentioned in this House before that a young Wexford woman, Úna Walsh, has been very active. She has promoted the idea of Irish Sign Language as a second level subject. I have raised this with the Minister but it might be appropriate at some stage for us to have a full debate on sign language and the contribution that the deaf community makes in Irish society.

There are reports in today's newspapers on issues around women's rugby. I do not want to comment specifically on some of that. However, the Oireachtas sports committee will be addressing the question of women in sport tomorrow. My colleague, Senator Cassells, has been quite active about looking at ways that we can promote the participation of women in sport. However, it is of concern that while the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin, has indicated that she will intervene in the row around women's rugby, there is an ongoing row in boxing where there have been a number of calls for a mediator to be appointed to resolve some of the difficulty but action has not happened. This is having a serious impact. I am not worried about the politics of boxing. What I am worried about is that for the young people on the ground, the splits in boxing are particularly serious so I ask the Acting Leader to express our concern to the Minister and the Minister of State, Deputy Chambers.

I am very proud to come from a family that has a lot of public servants who have worked in nursing and for local authorities. During this pandemic, a lot of people have given great public service. I am even thinking of those who processed the pandemic unemployment payments in a very short period of time. I would like to disassociate myself from the outburst from Deputy Ring in the other Chamber last week. His attack on the public service was completely unfair. There are many really hard-working people in the public sector and they need to be acknowledged. Those of us in this House should stand up and defend them.

Senator Garret Ahearn: I welcome some funding Tipperary received from the Department of Housing, Local Government and Heritage and the Minister of State, Deputy Peter Burke, over the weekend for Christmas lights. As most people in politics know, one of those questions we all get asked over this period is whether towns and villages across our counties can get more Christmas lights. Tipperary has been lucky. It is getting €35,000, €16,000 of which will go towards Clonmel with the remainder going to Cahir, Cashel and Tipperary town. It goes a long way to supporting those communities in terms of making them more attractive places to visit during the winter, particularly Christmas. When one speaks to businesses in small rural towns, where I am from, having a setting like that makes a big difference and encourages people to visit towns to shop locally and spend money. It is more important than ever this year. It is a small amount of money but as that sort of money goes a long way and is felt by communities in the towns and villages that receive it, I thank the Minister of State for that.

The Cahir town centre public realm scheme has been on public display in Tipperary County Council offices in Clonmel, Nenagh and Tipperary town since 10 November. Submissions can be made by the public until 23 December. This is a new design of Cahir town centre, particularly in terms of the square. It is about redeveloping the entire town centre. With applications like this, communication between the county council, businesses and local residents is really important and this is happening. I got the Minister of State, Deputy English, to visit Cahir a number of months ago to look at the proposals and how they will support tourism, businesses and the community. Tipperary County Council will make an application to the rural regeneration development fund in the Department of Rural and Community Development on the back of this design. I really support this application. Cahir is a beautiful town with a lovely castle that gets a lot of tourists. Most people outside Tipperary talk about Cashel being a tourist destination, which it is, but Cahir also has significant qualities and can attract a lot of people. I support this application and thank the chairperson of Tipperary County Council, Marie Murphy, who is from that district and is very supportive of this application. We will work hard to make sure this becomes a reality in the new year.

Senator Gerard P. Craughwell: I welcome the fact that the long battle of the Miami Showband came to a conclusion yesterday. I listened to an interview this morning on “The Pat Kenny Show” with one of the members of the band. In many ways, I am sorry that the case did not go to a full hearing to allow us to get to the bottom of exactly what was involved. There is no doubt that most of us who work a uniform on either side of the Border were decent, hard-working people who wanted nothing other than security, to protect vital installations and to stop terrorists in their tracks. However, we must also accept that there was collusion. On both sides of the Border there were people involved, in the uniform of whichever country they served, who were not working for the good of mankind but were working for terrorists in the background. We need to ensure that mess is cleaned up. All of those who were responsible for some of the most horrendous deeds must be brought to justice.

I fully appreciate that in offering €100 to families to cover part of their electricity bill, means-testing the payment would make it almost impossible to roll out. However, I object to giving out money we are borrowing and will have to pay back. I ask people who are sufficiently well off that they do not need this €100 to please contribute it to a charity. Please give it to people who really need it rather than taking €100 they do not particularly need. There are people in this country to whom €1,000 would mean nothing. I am asking that people make a contribution to the less well off in society because there are people who are seriously hurting. I would rather have seen this money spent on installing filtration systems in schools but that is

another day's work. We are where we are on that one.

At the weekend, I listened to "Saturday with Katie Hannon" and I was rather disappointed to find that the Women of Honour had to express again their concern with the way in which the Department of Defence is treating their issues. I do not propose to get into the rights or wrongs of the matter, other than to make a request to Senator Kyne, who is a member of the same party as the Minister for Defence, Deputy Coveney. I ask Senator Kyne to request that the Minister engage with the Women of Honour again. I know the Department, Minister and Chief of Staff, Seán Clancy, want to get it right. PDFORRA and RACO want the matter cleaned up once and for all.

It is interesting that the number of allegations has been steadily declining. There has been a learning period within the Defence Forces and people are realising what is unacceptable in society today. I hope this becomes a zero-sum game at the end of all of this. I know the Minister wants to do the right thing. We should get behind these women again and give them support. Nobody should have to beg for what they are looking for.

Senator Róisín Garvey: I remind people of the importance of supporting local businesses and urge them to try to keep it green and local this Christmas. We are in a climate and biodiversity emergency. We have an emergency with people's jobs and livelihoods because of the pandemic. It has never been more important for all of us to make a huge effort to spend locally and support local businesses, producers, craftworkers and local musicians if they have albums. Every bit counts, helps these people to keep going and gives them hope. When people shop this Christmas I ask them to keep it as local and green as possible because it will make such a difference. The multimillionaires and big corporations will not jump for joy if someone spends €30 on a handcrafted gift but it will mean so much to the person who has gone to the effort of making it.

Plastic is a huge issue. After Christmas, we will see piles of rubbish that will have been thrown away. I ask people to think about packaging. Being green is not just a trend. It is mandatory now that we consider what we buy and bring in. Everybody is tempted to buy more toys and stuff for children, whether it is for their own kids or for nephews, nieces or godchildren. We have to move away from plastic because all of it comes from crude oil. It is fossil fuel and it is madness that we spend so much of our money on plastics so we need to consider that this Christmas. There are plenty of alternatives out there, including beautiful wooden kitchens, toys and cars. We need to look at how much plastic we bring into our homes and what will happen with it. It is going to be here forever. It is not a by-product of fossil fuels, it is directly made from oil and that is madness. Children love things that are naturally made as well. They are much more in tune with their senses than adults are. They relate to the sound, touch and smell of things so it is good to be aware of that and to try to avoid toxic paints and plastics. It is a good step for kids because it is their planet that we are trying to take care of.

We can try to be greener this Christmas and if one shops locally one is automatically being greener as well. We need to look at the distance that food and other things have to travel to get to us. If they are sought out it is easy to find growers and local food producers, including local meat and milk. There are lots of Christmas stalls and fairs happening and if we all spent an extra €10 at those it would be monumental for the SME area of our community. SMEs keep communities together so I urge everybody to try to buy local and support small businesses. It is not possible to get a mobile phone except off a mobile phone company but there are lots of other things we buy and we can put some effort into supporting some local person or business

we know. I said the same thing last year but it is worth repeating so I ask everyone to consider that. Keep it green and local this Christmas.

Senator Niall Ó Donnghaile: I want to join in the remarks expressed by Senator Craughwell on the Miami Showband and the case in Belfast yesterday. I want to take a moment to elaborate on that. The survivors and families of those murdered in that atrocity have been awarded damages of about £1.5 million, as well as significant legal costs. The British Ministry of Defence and the PSNI settled the case, which alleged collusion. We know the fake check-point where the Miami Showband met its untimely and unfortunate demise was a joint endeavour between the Ulster Volunteer Force and the Ulster Defence Regiment, an all too common experience in collusion. Given the severity of this issue and given that this House recently and unanimously passed a motion condemning the British Government's attempts to introduce an amnesty for its state forces, it is important that we take the opportunity, as Senator Craughwell rightly did earlier, to reflect on that. It is quite telling that there is hardly a word about this settlement in the mainstream British media. God forbid that someone alleged to have committed atrocities here in Ireland would be pursued by families or survivors through the legal process. That would receive plenty of column inches.

This morning I raised the Nationality and Borders Bill in the Commencement debate. The Bill has passed through the House of Commons at Westminster and will proceed to the House of Lords. I welcome the response of the Minister for Foreign Affairs, Deputy Coveney, to this Bill but this is an issue that we need to be alert to and that will impact the neighbours of Members of this House. This is a regressive and worrying step that the British Government has taken. While I find the broader intent behind the Nationality and Borders Bill quite repugnant, we need to be alert to the fact that this will have direct consequences on the island of Ireland. A core component of the withdrawal agreement was to ensure there would be no return to a hard border. This is a return to a hard border for non-Irish, EU and non-EU citizens. We need to be alert to that fact and we need to work to ensure that citizens are protected and that there is no hierarchy of citizenship in this island.

I again want to join with Senator Craughwell in asking for the Minister for Defence to make statements on the Women of Honour. We had what I thought were some very assertive reassurances and statements made to us in this House. I do not for one second suggest there is a recoil from that but given what we heard over the weekend, it warrants the Minister coming back early in the new year to deliver a message to this House and, more importantly, to the women impacted.

Senator Mark Wall: I welcome the long overdue announcement yesterday of the site for a new secondary school in south Kildare, which will be located on the former Magee Barracks. It also raises a number of questions, however, foremost among which is what the students who do not have a place for next year will do. We have a meeting this evening with the Minister for Education at which I hope some answers will be forthcoming. It also raises questions about the Educate Together model announced in 2018 for the school and whether that will still be the model.

It is regrettable that the site is not located in or near the Curragh. It is in Kildare town. I and colleagues in the House have spoken previously about the dereliction in the Curragh. I hope investment will be forthcoming for the Curragh. The Minister spoke previously of such investment but I now believe that because this secondary school is being taken from the Curragh, we need to concentrate our efforts on developing and investing in the Curragh.

I raised previously in the House the totally unfair and unacceptable difference in rail prices in County Kildare. The National Transport Authority, NTA, is engaged in a public consultation on the greater Dublin transport strategy, which will remain open until this coming Friday, 17 December. I encourage all those who use rail transport in south Kildare to get involved because we need a single pricing structure for the area rather than the various prices that are currently in place.

In the greater Dublin area, the number of daily rail commuters has increased from 31,000 to 150,000 in 2019 in pre-Covid times. However, the difference in price for a one-way ticket can be as much as €10 if one compares the €3.80 Leap fare from Sallins in County Kildare to Dublin with the €13.55 fare from Newbridge. The journey between those two stations is just 13 km. That difference is totally unacceptable. Four stations in Kildare, namely, Athy, Monasterevin, Kildare town and Newbridge, are included in this strategy but do not fall under the short hop zone pricing of the other stations in the county.

Last week, the Central Statistics Office, CSO, confirmed that transport is one of the biggest drivers of the increased cost of living. A person living in Kildare South can experience this daily, yet even the increased fuel prices will not stop hard-pressed commuters from saving anything up to €200 per month by driving their car to Sallins station and bypassing the four stations in south Kildare.

If the Government is serious about tackling the climate crisis and promoting public transport, we must create a fair single pricing fare for those living in this area, rather than having the roads approaching the capital turning into ever bigger car parks. There are a number of important rural transport issues. I ask for a debate on them early in the new year.

An Leas-Chathaoirleach: I thank Senator Wall for his impeccable timing. I remind Senators that we now have two-minute slots.

Senator Eugene Murphy: Go raibh maith agat, a Leas-Chathaoirligh. I might not even take up the two minutes.

I will refer again to the entertainment industry. I have heard Senator Kyne and others speak about the seriousness of the situation. I fully appreciate and acknowledge Government support for the sector. There was also the announcement last week of €50 million for certain sectors but - this is a big “but” - approximately 3,000 musicians have virtually lost all their gigs for Christmas. They cannot get back on the pandemic unemployment payment, PUP. I know many of these people personally because I was involved in that business for a while and some of them are facing massive hardship.

I ask Senator Kyne to use his good wisdom and authority and write the Minister a letter, although I know she is coming to the Chamber tomorrow, to explain the seriousness of this situation. I know people will say musicians can go down to the social welfare officer but some people will not do that out of pride. There is money in the sector that could be targeted to help those people. I accept it is not a simple matter to get around the issue but I ask the Government to do something, to put something in place for just a few months to get these people out of the difficult situation they are in.

Senator John McGahon: This morning, I had a Commencement debate about the provision of electric vehicle charging points to people who do not have access to a private dwelling. Let nobody doubt the importance of the Seanad because a few minutes after I finished speak-

ing, the Minister for Transport, Deputy Eamon Ryan, announced the very thing I was asking for. That shows clearly that Ministers pay attention to what is said in this august Chamber. Do not let anybody tell you otherwise. I will not use the words “coincidence” or “fluke” when referring to the acceptance of my request. I warmly welcome this measure. The announcement addressed many of the things I raised. The Department is going to provide financial support to pay 80% of the cost of installing the necessary electric cables in existing apartment blocks. The new measures will mean that people who live in an apartment block or have off-street parking will be able to avail of the €600 grant to be put towards providing electric vehicles. That will help many of the 204,000 people in this country who own apartments.

I would like to expand on the measures announced by the Minister. I would also like to ask the Minister to come to the Chamber in the future. I earlier raised a concept that is being operated in Germany. People with electric vehicles in Germany can pull up beside a public light and charge their vehicles from that light. That is the type of outside-the-box thinking we need between now and 2030 if we are to hit our target of 1 million electric vehicles.

I warmly welcome the Minister’s announcement. I would like to think it was a natural result of my Commencement debate but I do not have the ego to suggest that.

Senator Gerard P. Craughwell: Senator McGahon gets things done.

Senator John McGahon: This is it. This is how you deliver stuff. I would be keen to hear the Acting Leader’s response on this matter.

Senator Gerard P. Craughwell: I cannot wait for Senator McGahon’s newsletter.

Senator John McGahon: It is already out.

Senator Sharon Keogan: As we prepare for Christmas, I must once again voice my serious concerns about the division we have created in our country in the past year. Perhaps one of the scariest things is that it almost seems normal now. We have already become used to being told we can do this and we cannot do that. Seeing the online discussions in the UK, which is planning its own Covid pass, and the legitimate disquiet, disappointment and hurt being expressed by individuals has brought it back up for me.

I am sure many of us read about the condition of Mr. Anthony O’Connor in yesterday’s edition of *The Irish Times*. He is a family man from Louth who has battled a rare and chronic neurological disorder for his entire life. He spent seven weeks in hospital at the age of four after receiving the polio vaccine. He needs to go to the gym four times a week, as recommended by his occupational therapy team, to keep his strength up and now he cannot go at all because the Department of Health and the HSE have not developed a system to allow for a medically exempt vaccine pass. The NHS was able to develop and implement such a system alongside the normal one. Why have we been unable to do the same?

As we come into the Christmas season, a time for togetherness, family and friends, I cannot help but think of the lines we have drawn between the people of this country. Even as we mourn the mistakes of Ireland past, I fear that in years to come we too may find ourselves judged by what we did in the name of the greater societal good.

Senator Micheál Carrigy: Older people in Ireland may have no choice but to move out of their own homes because they cannot access the care and support services they need to live in-

dependently. That is a big statement but it is definitely true. I am receiving calls on a daily basis from families who have been approved for home care support hours but for whom the HSE has been unable to provide staff to carry out the care. The sheer volume of people telling me about their hardship in securing the basic amount of home support hours for their loved ones is enormous. There are people in Longford who must remain in hospitals or nursing homes because of the lack of resources. Simply put, the care hours are there but there are not enough carers to fill those hours, regardless of whether they are hired by a private operator or through the HSE.

12 o'clock

There has also been an increase in the number of people who have taken on the role of caring for their loved ones. On the other hand, however, some people may need to give up caring for their parents and seek employment because they are unable to access the carer's allowance. I have been dealing with a case where a family member is caring for her elderly parents in the home and has been refused the carer's allowance on two occasions. Her application is being appealed at the moment. If it is refused again, she will have no option other than to seek employment. Who will look after her parents then? There is no chance of getting extra home care support hours in her county.

We know it costs less to look after a person at home than in an acute hospital setting. Why are we not doing everything in our power to promote it? One in ten people provide care for a loved one in the home. By 2030, as a result of our ageing population and the increasing number of people with disabilities or chronic conditions, it is predicted that one in five people will need to take on a caring role. We need to take urgent action to support carers. Families will be unwilling to take on this role if something is not done to improve the system.

Senator Jerry Buttimer: I ask the Leader to arrange a debate on the new road safety strategy 2021-2030, which the Minister of State, Deputy Hildegard Naughton is bringing to Cabinet today, in the new year. This is an important strategy with an overarching aim to reduce road deaths, which we will all support. It is worth noting for the information of Senators and road users that since the first road safety strategy was introduced in 1998, there has been a 70% decline in the number of road deaths. That is something we all welcome. The new strategy aims to eliminate all road deaths but quantifies it that it seeks to reduce the number of road deaths from 144 to 72 - with one death being one too many - and the number of serious injuries from 1,259 to 630. Ireland has signed up to Vision Zero, which involves eliminating all road deaths on our roads.

It is important that we have debate on the new strategy. I welcome many of the measures in the new road safety strategy but there is one that we will need to tease out further. We had a consultative process before the strategy was published. The measure I am concerned about is the possible opening up of an online portal for uploading footage of road traffic offences. I would be worried about that for a number of reasons. It is important that we all work to reduce the number of deaths on our roads and improve road safety. In that context, we should have a debate on the new strategy as a matter of urgency in the new year. Our roads are getting busy again and it is important that we have a new national road safety.

Senator Emer Currie: Christmas is a special time of year, with family and friends coming together to celebrate during the festive period. Sadly, however, it will not be a happy occasion for everyone, with empty seats at the family table, including my own. However, whatever pain I might feel does not compare with the pain and sorrow felt by those who for decades have

mourned the loss of family members murdered as a consequence of the Troubles. In some cases, they have never found the bodies of their loved ones. Those families have been denied closure in the context of their pain.

Back in October, this House came together to pass an all-party cross-community motion to protect all victims and survivors of the Troubles from the denial of truth and justice. One Sinn Féin Senator said: “Generally speaking, the British Government defended the actions of its forces at the time of the killings and continues to do so weekly ... blocking relatives who are trying to get truth and justice.” That same Senator, on Twitter two days ago, defended Gerry Adams who taunted victims of the IRA in a Christmas video which said: “They haven’t not gone away you know”.

Last week, Sinn Féin had the opportunity to show decency and compassion to the families of the disappeared. The current Sinn Féin leadership could so easily use the power and influence it has to actively seek out information on the disappeared across every part of its organisation, but it chooses not to do so. Those who defend Gerry Adams’s actions this week have no right to lecture anyone about truth and justice or about building a new shared or reconciled Ireland. I will take Senator Ó Donnghaile’s quote from eight weeks ago and I will fix it for him now. Generally speaking, Sinn Féin also defended the actions of its forces at the time of the killings and it continues to do so weekly in blocking relatives who are trying to get truth and justice.

Senator Barry Ward: There is a debate going on in one of our national papers about two of our MEPs who have adopted certain positions in respect of a range of issues. They have been called a national embarrassment by Kathy Sheridan. In today’s paper, there is a letter defending their position from Clare Daly, MEP, and Mick Wallace, MEP.

It is not for me to say who is or is not a national embarrassment or what is embarrassing. It is not for me to say that about any particular MEP. As part of the MEP engagement in this Chamber, Clare Daly was here but, unfortunately, we did not have the time to properly go into these issues. In the letter reported today Clare Daly and Mick Wallace state that they think that Kathy Sheridan is embarrassed by their stance on the importance of a peaceful world order based on respect for international law, co-operation and diplomacy and the United Nations Charter. I take issue with that.

As I said, it is not for me to say what stance is embarrassing but at the same time we are talking about people who have described the Uighurs genocide in China as being a fabrication of the United States. That is embarrassing. There is not a single credible source in the world that does not believe that is happening. We are talking about people who have said that Sviatlana Tsikhanouskaya, the opposition leader in Belarus, is a pawn of the west. That is embarrassing. There is not a single credible source that suggests that. When you look at the hundreds of people who are still detained in Belarus as political prisoners, all of the evidence counteracts that.

When we look at these people, they are also part of a tiny minority who voted against a European Parliament motion to build closer unity with Taiwan. That is an embarrassment. While they talk about the rules of the international community and international rules based order they are flying in the face of that when they say that Taiwan is not entitled to be self-determination. That is an embarrassment. The next time that we have that MEP engagement we, as Senators, must put these points to both of those MEPs to give them an opportunity to explain their inexplicable stance in respect of important international law issues like that.

Senator Aisling Dolan: Last weekend, so many communities came together to celebrate Christmas in a safe way. For example, in Mountbellew we had a themed forest walk through the gorgeous forest there which was organised by the local community. They were very innovative in terms how they used their funding and in terms of design. They used the frames of two hanging basket to create a globe which was carried throughout the forest. At the end of it, children could meet with Santa Claus and Mrs. Claus. They even got to see Santa Claus's famous Christmas socks hanging on his washing line. In Aughrim, they had a sparkly tractor run, local craft stalls and, again, a visit to Santa Claus. Similarly, in Roscommon town there was an event held over two days on Saturday and Sunday in the new civic square, a €9 million investment under the urban regeneration and development fund. These groups are making these events accessible for families. It costs €20 for a family ticket, which is so reasonable. These communities are doing this for their local areas and they are making it accessible for families to be able to enjoy Christmas. They are doing this in their own local areas, which is phenomenal.

I want to acknowledge the mitigating against educational disadvantage fund which is being allocated through the educational and training boards. The fund is providing funding to so many groups, be they active retirement or local community groups, men's sheds or women's sheds. All across the region these groups are stepping up to provide laptops by way of device loans or loans for furniture such as seating in our community halls. More than €20,000 was allocated to Moore, which is just outside Ballinasloe. It is phenomenal that Moore will be able to provide that resource to people to access training and education. We need ensure that those who have been left behind by the digital divide have access to laptops and other devices such that can learn even basic computer skills so that they are able to engage in the world today.

Senator Michael McDowell: I wish to raise in the House and bring to the attention of the Acting Leader a point that has been made by Members of both Houses in the last while but which now needs emphasis. We are going into the Christmas period. We are facing uncertainty over Covid and how it is developing. Most people would be of the view that we must be cautious. However, one thing that has not gone away you know is the necessity for Oireachtas accountability. I ask the Acting Leader to speak to the Cabinet about reinstating the Special Committee on Covid-19 Response. It was chaired by Deputy McNamara and did a good job in difficult circumstances for a period of time. I will take the booster vaccination programme as an example, and I wrote about this. I did so chiefly because I became eligible for a booster jab myself but nobody contacted me to say so. I took the initiative, went to my GP and got it. What struck me was there was a data bank that was in a position to send me a text before and could have done so again. I do not want to carp about the chaos we have seen with long queues and all the rest of it. However, I want some degree of Oireachtas supervision and accountability from the HSE as to how the booster programme, which is of vital importance, is being managed. The right way to do it is to have a specialist committee to which the HSE would be answerable on a weekly basis to explain what is happening.

Senator Sharon Keogan: Hear, hear.

Senator Martin Conway: On 30 November I stood in the House and called for all the resources of the State to be deployed to deliver the third vaccine dose, also known as the booster. I looked for pharmacies, especially those in rural areas, to be facilitated to open late, for the Defence Forces to be used where appropriate and for any possible resources needed in order to get booster jabs into people as quickly as possible. This happened in Israel and that country has a completely different narrative in terms of a third or fourth wave when compared to what we have. Of course, we are now talking about doing it but it is two to three weeks later. What con-

cerns me is whether the Government listens at all to what is being said in the Seanad. I thought the proposal I made, which was supported by colleagues across the House, was very sensible. Had it been acted on then the talking would now be over and people would be getting more vaccines. We are now in a situation where the authorities are coming out with a plan this week but it will be Christmas week before it will be scaled up to the level it should have been scaled up to two weeks ago. I do not blame the people in the HSE and I certainly do not blame the people on the front line who are doing their level best to inoculate people and give them their third dose. However, there must be some accountability from the Minister and departmental officials for the foot-dragging.

I wonder also what has changed in a day or two with NIAC, in that suddenly the dose interval has gone from five months to three months even though this has happened internationally already. Why are we always behind the curve? Why are we not front and centre? Surely to God, at this stage of the pandemic when we are nearly two years in we have learned, or we should have, that what happens in England will happen in Ireland two or three weeks later because we are inextricably tied to the Border with Northern Ireland and because there is such free movement between our two islands. What happens in England and in Northern Ireland happens in the south of Ireland. There might be a delay of a couple of weeks but it happens. It is time we got in front of the curve rather than being constantly behind it. We must be ambitious and liberal in what we do to fight the pandemic, not careful and conservative.

Senator Seán Kyne: I thank all Senators for their contributions. Senator Malcolm Byrne talked about it being National Irish Sign Language Day. It is important that we recognise this day. I admit that I do not know any sign language, but the Houses of the Oireachtas have done much work in recent years to promote sign language. It is great to see that debates on Oireachtas TV are signed. There has been an amount of work, but we could always do more. I will raise the matter again at a higher level.

Senator Byrne also mentioned the rather extraordinary letter from the 62 former and current players from the world of women's rugby. They referred to the "substandard commitment from the union, inequitable and untrustworthy leadership, a lack of transparency in the governance and operation of the women's game...and an overall lack of ambition about what it could achieve". The IRFU disputes that. The Senator referred to the committee and I have no doubt the Senator will raise such issues with it. The two Ministers have been contacted. I expect that the issues raised in this letter will be pursued with full vigour. There are a number of reviews going on at present regarding the game and what happened in terms of not reaching the tournament in Parma. It is important that the two reviews are independently assessed. I am sure the Ministers will do that.

The Senator also referred to my colleague, Deputy Ring, and to his outburst. I have seen some footage of it. I am sure it was born out of frustration with the system of governance in this country. It was not disparaging of the public service in its totality. Like any profession, those in the public service are mostly hard-working, diligent, trustworthy and everything else, but as in every profession - politics included - there are a few people who could and should do better. I know that from his time as a Minister, the Deputy would tell a few stories about some of the people he came across with whom he had issues. I do not think he was disparaging of all public servants. We all have public servants within our families - I certainly do. It is good to see Deputy Ring has fight in him again and is expressing his views within the Chamber in Parliament.

Senator Ahearn referred to funding for Christmas lights, which is very welcome. It is administered through the Minister of State, Deputy Peter Burke, and the Local Government Fund. It will assist in reimbursing some of the spend in communities around the country. At this time of year, it is always great to see beautiful lights in towns and villages. In a lot of cases that is due to the hard work and effort of volunteers to fundraise in local communities, so any assistance from the local authorities or, in this case, the Local Government Fund, is welcome. The Senator also referred to the Cahir town centre public realm scheme. I wish it success in its rural regeneration and development fund, RRDF, application.

Senators Craughwell and Ó Donnghaile talked about the Miami Showband case. It is an atrocious reality that collusion took place. In this case, it was between the Ulster Volunteer Force and Ulster Defence Regiment soldiers. Settlement and legal costs were arrived at with the UK Ministry of Defence and the Police Service of Northern Ireland. Collusion is unbelievable, but it is not: it is reality. It is the reality of what happened in certain locations and this has now been accepted. Reference was made to collusion on both sides of the Border. I am not aware of anything on this side, but there may be evidence of which I am not aware. There are cases. It is despicable that there was such a misplacement of trust by those who are there to protect us and that it should be so abused. Senator Craughwell also touched on the Women of Honour. I will again talk to the Minister, Deputy Coveney, regarding it. I know all involved want to get this sorted for the sake of morale and the sake of the people affected. The Senator also talked about the offering of €100 credit towards electricity bills. The Cabinet will discuss electricity costs today. As the Senator knows, if means testing is started with any scheme there is major bureaucracy, so that is not practicable. I am sure the Cabinet will arrive at a decision today. The Senator also mentioned that if the €100 is not needed, it could be contributed to charity. I presume when the Senator said “charity” he did not mean Fianna Fáil, which is its new role now, but a more appropriate charity of choice for those who can afford it. Realistically and importantly, there are people for whom €100 would be very beneficial. They will not receive it before Christmas but they will know in February, once we get legislation through the Houses, that it will be available.

We all agree with Senator Garvey on supporting local green businesses in the run-up to Christmas, in addition to green initiatives, naturally made products and Christmas stalls, which is all pure common sense. It is something we need to put in place in all our local communities.

Senator Ó Donnghaile talked about the Nationality and Borders Bill. It is a very worrying Bill. Clearly, the UK has a right to defend its borders but, to go back to the whole Brexit debate, we are an island and we share a border with the UK, so it has a particular impact on us and on many non-Irish EU citizens. It is something we will have to watch. I did not hear the response of the Minister, Deputy Coveney, but I know that he is fully aware and cognisant of the impact of this Bill.

Senator Wall spoke about a local school project. I understand there will be a meeting with the relevant Minister this evening, which I hope will be fruitful. It is always important for Ministers to engage, where they can, with local representatives on particular projects. The Senator also spoke about rail ticket pricing in Kildare. Equitable and fair rail fares are very important. Where public transport services are available, it is important that fares are equitable and that we maximise their use. If price is inhibiting use, that has to be looked at. There was a welcome initiative in the budget on reduced fares for younger people aged under 23, but it is important that we expedite use of rail and public transport where we can. I will ask that we have a debate on that issue in the new year.

Senator Murphy talked about the entertainment industry, about which I know he is very passionate. We will have a debate on Thursday on that matter. As he knows, a range of supports has been announced by the Minister. I am sure the Senator will get an opportunity on Thursday to engage with the Minister on their roll-out. There are particular issues with the live performance sector. It is a very frustrating time of year. The present restrictions are impacting so much on certain sectors. The Government has to step in to ensure that support is provided.

Senator McGahon spoke about the financial supports for charging points in apartment complexes. As we continue to see investment in renewable technologies, such as electric and hybrid vehicles, it is important that we have charging points. Anything we can learn from the Continent, in this case Germany, such as the use of light fixtures, needs to be looked at. The rolling out of additional technologies in communities will be very important. I saw the investment announcement today, but I welcome any and all investment that will make it easier to charge electric cars.

Senator Keogan spoke about medical exemptions from Covid passports at Christmas. I agree that if somebody, and this was always the case, has a medical reason for not wearing a mask or receiving a vaccine that needs to be accounted for. The Senator mentioned that the scary part is that we are accepting all of this. Unfortunately, the scary part is that there are still people getting seriously ill and dying from Covid. We have to continue to encourage people to get vaccinated. It goes back to the point about the efficient roll-out of the booster vaccine regime, which was raised by a number of Senators.

Senator Carrigy spoke about home supports. It is a pressing issue. Historically, we very often had issues with funding for carers and ensuring that we had enough money to support them. The problem now is that we have the funding but there are not enough carers available. It is a worthy and important profession and will become increasingly important. As families get smaller and people live longer, we will need more carers. The profession needs to be more valued than it is. We need to encourage people into the profession. That is important. I will ask for a debate on the matter.

Senator Buttimer talked about road deaths and road safety strategy. In general, there has been a decline of 70% since the first road safety strategy. Part of that involves the basics of ensuring that we have good tyres on our vehicles, that safety belts are used and that we combat drink- and drug-driving. That is all important, as well as the safety initiatives taking place in relation to realignment of roads, new road projects and motorways. They are all safer, which sometimes gets lost in the debate about new road projects. They are inherently safer than old, substandard roads, as we have seen with motorways. I will ask for a debate on that in the new year.

Senator Currie made an important contribution regarding Christmas, victims and the antics of Gerry Adams on video over the weekend where, it could be argued, he was trolling victims. I thought it was a disgrace. Some have defended him and some have chastised or not defended him. It was despicable to laugh and joke about “They haven’t gone away, you know”, “Tiocfaidh ár lá” and that sort of stuff. It is not right or proper. There are still people who were disappeared and whose remains have not been found. Loved ones deserve to get finality.

Senator Gerard P. Craughwell: Hear, hear.

Senator Aisling Dolan: Hear, hear.

Senator Seán Kyne: Senator Ward talked about two of our MEPs and their views on Taiwan and the Uyghur peoples. I concur with all he has said. Clare Daly was here during the recent debate with MEPS. There will be an opportunity in February for the Munster MEPS to address the House. Perhaps Mick Wallace will appear at that point. Ultimately, like all practising politicians, they stand before the electorate, are judged by it and what happens happens.

Senator Dolan talked about communities. We know the power of communities coming together to celebrate Christmas. It is wonderful to hear about the initiatives to which she referred. The funding for training of education and bridging the digital divide that was announced in recent weeks has been welcomed and there has been additional funding for DEIS schools compared with other schools. That is extremely important.

Senators McDowell and Conway talked about the booster campaign. It is going slower than one would have imagined. Unlike the start of the first campaign when the problem was clearly supply of vaccines, we are now told supply is not the issue. It is just about ramping up delivery. On one hand, it is not right that people are queueing for long periods; on the other, it is good to see the huge level of interest in getting the third dose of vaccine. The Senators are right that it could be rolled out more efficiently.

Regarding the committee, that would have to be considered. I will bring it to higher levels of Government. The original special committee was established before this House was fully constituted in the interregnum between the election and the formation of the Government, and before the Oireachtas committees were up and running. There was an all-party committee chaired by Deputy McNamara, who did a tremendous job, putting in a lot of work over summer 2020 during the initial response to Covid. Whether there is an appetite to go back to that or not is uncertain. The argument for disbanding the committee was, first, that it had done much work and possibly had fulfilled its role and, second, that the sectoral committees would fill the vacuum.

Senator Michael McDowell: They have not done that.

Senator Seán Kyne: There is the health committee and there is the business committee in the context of business supports and all of that. I will bring the matter to the attention of the Government. I think that covers the issues raised.

Order of Business agreed to.

Appointment of Ordinary Member to Houses of the Oireachtas Commission: Motion

Senator Seán Kyne: I move:

That Seanad Éireann, in accordance with section 8(3)(b) of the Houses of the Oireachtas Commission Act 2003, as amended, appoints Senator Lynn Ruane to be an ordinary member of the Houses of the Oireachtas Commission in place of Senator Mark Wall, who has resigned his office in accordance with the aforementioned section 8.

Question put and agreed to.

Appointment of Ombudsman and Information Commissioner: Motion

Senator Seán Kyne: I move:

That, pursuant to subsection (2) of section 2 of the Ombudsman Act 1980, and subsection (4) of section 43 of the Freedom of Information Act 2014, Seanad Éireann recommends the appointment of Mr. Ger Deering, by the President to be the Ombudsman and Information Commissioner.

Question put and agreed to.

EU-UK Trade Cooperation Agreement: Motion

Senator Seán Kyne: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Partnership Council established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, regarding the extension of the interim period referred to in Article 552(11) of that Agreement during which the United Kingdom may derogate from the obligation to delete Passenger Name Record data of passengers after their departure from the United Kingdom,

a copy of which was laid before Seanad Éireann on 2nd December, 2021.

Question put and agreed to.

Appointment of New Member and Chairperson of Garda Síochána Ombudsman Commission: Motion

Senator Seán Kyne: I move:

That Seanad Éireann, noting that the Government on 7th December, 2021 nominated Judge Rory MacCabe for appointment by the President as a member of the Garda Síochána Ombudsman Commission and as its chairperson, recommends, pursuant to section 65(1)(b) of the Garda Síochána Act 2005, that Judge Rory MacCabe be appointed by the President as a member and as chairperson of the Commission.

Question put and agreed to.

Sitting suspended at 12.31 p.m. and resumed at 1 p.m.

1 o'clock

Maritime Area Planning Bill 2021: Committee Stage

SECTION 1

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

In page 16, to delete line 5 and substitute the following:

“(6) The following limitations apply to the discretion of the Minister to commence by order the operation of provisions of this Act—

(a) *Chapters 1 and 3 of Part 9* shall come into operation on the establishment day,

(b) *Section 79* shall be excluded from any commencement order—

(i) until the Minister has conducted and completed the review required of the existing NMPF under *section 17 (2)*, and

(ii) where a MSP to replace the existing NMPF has been prepared in accordance with *section 17(2)(a)*.

(7) The Minister shall exclude from any commencement order *section 101* for a relevant maritime usage as defined in *section 100*, of the class defined under *paragraphs (a) and (b)* of relevant maritime usage—

(i) until the Minister has conducted and completed the review required of the existing NMPF under *section 17(2)*, and

(ii) where a MSP to replace the existing NMPF has been prepared in accordance with *section 17(2)(a)*.”.

This amendment relates to the commencement of the Act.

My amendment reads: “*Chapters 1 and 3 of Part 9* shall come into operation on the establishment day”.

Section 79 concerns the issuing of a maritime area consent. My amendment continues:

(b) *Section 79* shall be excluded from any commencement order—

(i) until the Minister has conducted and completed the review required of the existing NMPF under *section 17 (2)*, and

(ii) where a MSP to replace the existing NMPF has been prepared in accordance with *section 17(2)(a)*.

I reserve the right to table further amendments on the designation of marine protected areas. That is another area that should be a factor that results in a delay in the issuing of maritime area consents.

My amendment continues that: “(7) The Minister shall exclude from any commencement order *section 101* for a relevant maritime usage as defined in *section 100*, of the class defined under *paragraphs (a) and (b)*” until a proper review is conducted.

The context here is that one cannot develop without a maritime area consent, MAC, in many instances. It is important to understand the Bill allows the Minister to determine the requirement for review up to six years after the publication of the existing NMPF and even then the Minister might determine that there is no action required under *section 17(2)(b)*. This amendment effectively makes sure that one does not have problematic relevant projects that are just announced and may have been put into the NMPF’s spatial plan without making sure that the methodology and the standards being set out in the marine spatial plan, MSP, directive are properly reflected and to ensure that any of the relevant projects that may be set forward or any proposed MACs are consistent with the delivery of sustainable development activity and ensure good environmental status in the marine environment.

Last week, the Department told a committee of stakeholders that a review would take place within two years. Again, if that is the intention then this delay in commencement is not unduly onerous. It would simply ensure that if the review was done, as is planned and proposed within two years, that we would then be in a position to ensure there is a better quality of consideration in terms of the issuing of MACs. There may or may not be an upgrade. We cannot assume what will happen with a review but at least it would leave us in a position to ensure that those might be reflected.

I refer to a separate issue that I may bring in at a later stage, that is, increasing knowledge that we have and new research emerging all of the time. For example, an area of research that has been very significant in recent years is the impacts of seismic and sonar activity in the marine environment. I am sure that the Minister of State is aware of the Informar research on the automated cetacean acoustics project and the study done by the Maritime Institute of Ireland. That would allow factors like that to have been considered, be part of the review and be reflected. There are issues that are not simply affected by actual development and planning but can be affected by maritime use and the kinds of things that might get consents under *section 79*. Again, the kinds of MACs under *section 79* are the kinds of relevant maritime usages under *section 100*.

I hope the Minister of State will address these concerns. Perhaps he will recommit to the review and commit to solely delaying these sections of the Act until the review has been conducted.

Acting Chairperson (Senator Marie Sherlock): As there are no other speakers, I ask the Minister of State to respond.

Minister of State at the Department of Housing, Local Government and Heritage (Deputy Malcolm Noonan): Amendment No. 1 seeks to delay the commencement of significant parts of the Bill until such time as the national marine planning framework is reviewed. The review of the NMPF was discussed in detail on Dáil Committee Stage. As pointed out then, the NMPF is the first of a series of interconnected and related spatial plans for the maritime area. It is illogical to pause the commencement of the Bill for the review of the marine spatial plan, which was only published in July.

This Government takes marine management, decarbonisation and the protection of our mar-

itime area seriously and we must move forward with this Bill.

Section 17 requires that an NMPF is reviewed within six years. As stated on Committee Stage in the Dáil, the Government intends to carry out a review of this sooner, particularly for the first national maritime spatial plan. The review of the NMPF will be a significant undertaking, taking into account all the new data the Senator spoke about. It is important that it is given the time that is needed to carry out such a comprehensive review. This review should not be pressured by a Bill that is waiting to commence. We must focus our resources on getting the system up and running and I am happy that the existing NMPF underpins this system appropriately in its current form.

The Senator is correct that a lot of good data is being collected, particularly seismic and acoustic surveys. A lot of this will be dealt with in the legislation on designation of marine protected areas. Therefore I oppose this amendment.

Senator Alice-Mary Higgins: It is important to clarify that this amendment does not seek to delay the commencement of the Bill. It simply relates to certain sections of the Bill. It is a substantial Bill and a huge amount of work needs to be put in place, including entire new bodies that must be constructed and so forth in terms of the maritime area regulatory authority, MARA, and others. It is important to be clear that about two years of work could probably be done on the other sections of the Bill, without commencing. Section 17 is around the application and granting of maritime area consents, MACs. A huge amount of work could be done. This amendment relates to specific sections of the Bill and specific actions of bodies that are being established by the Bill. A two-year timeframe is being looked at for a review and that is a realistic pause to put on the grants. The infrastructure and mechanisms around the granting of MACs can be set in place. We should not then move to the point of granting them and then maybe six months later complete a review which might set out a different set of concerns. At that point the problem is that MACs would have been granted.

It is not the commencement of the Bill that is at issue but the commencement of a specific action under the Bill. Could the Minister address that? That is the crux of the matter. We should put in place the infrastructure and all the various aspects over the two-year period, while also conducting a review to ensure we have the best information feeding into those structures and processes that are being set up. Then we should move towards the issue of the granting of MACs. To my mind that seems to be sensible. The cart has been put before the horse a lot in this process. This maritime planning framework has been brought through at a time when Ireland was meant to have 10% marine protected areas last year and we are due to have 30% nine years from now. We are behind the curve in that. This is a good faith attempt to suggest that at least within this part of the process we would try to get the sequencing right so that it is more effective and so that better decisions are made.

Deputy Malcolm Noonan: I disagree with the Senator. The Government has committed to and ensured in the drafting of this Bill that this and marine protected areas would be inter-related. The NPWS has been centrally involved in this process, as has the Department of the Environment, Climate and Communications. All of this is an interconnected framework that we have to move forward with. It is critically important for biodiversity as well as for decarbonisation. We have given a commitment to carry out a review sooner and that commitment is sufficient.

Acting Chairperson (Senator Pauline O'Reilly): Is the Senator pressing the amendment?

Senator Alice-Mary Higgins: Yes.

Amendment put:

The Committee divided: Tá, 6; Níl, 19.	
Tá	Níl
Boyhan, Victor.	Ahearn, Garret.
Craughwell, Gerard P.	Buttimer, Jerry.
Higgins, Alice-Mary.	Byrne, Malcolm.
Moynihan, Rebecca.	Byrne, Maria.
Wall, Mark.	Carrigy, Micheál.
Warfield, Fintan.	Casey, Pat.
	Conway, Martin.
	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Garvey, Róisín.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	O'Reilly, Pauline.
	Ward, Barry.

Tellers: Tá, Senators Alice-Mary Higgins and Fintan Warfield; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

Senator Lorraine Clifford-Lee has advised the Cathaoirleach that she has entered into a voting pairing arrangement with Senator Eileen Flynn for the duration of Senator Flynn's maternity leave and accordingly has not voted in this division.

An Leas-Chathaoirleach: Amendment No. 2 in the name of Deputy Higgins is out of order as it involves a potential charge on the Revenue and it is in conflict with the principle of the Bill.

Amendment No. 2 not moved.

Section 1 agreed to.

SECTION 2

Acting Chairperson (Senator Pauline O'Reilly): Amendments Nos. 3 and 34 are related to may be discussed together by agreement. Is that agreed? Agreed.

Senator Alice-Mary Higgins: I move amendment No. 3:

“In page 17, between lines 15 and 16, to insert the following:

““excluded consultation periods” means that the following days are not included in the counting of any public consultation provided for under this Act or required by any action or decision taken under this Act where they fall within the public consultation period proposed:

- (a) public holidays or bank holidays in the State;
- (b) the period between 24 December in any year and 2 January the following year inclusive;
- (c) the first two weeks of August;
- (d) such other additional dates which the Minister may prescribe in a public participation statement or in regulations made under this Act;”.”

I will move the amendment but I will not press it on this occasion. Amendment No. 3 relates to the accounting of days. I understand it might not be necessary at this point, insofar as I believe there has been movement on the public consultation. The amendment is to highlight the phenomenon with which we are all familiar, whereby the Christmas period and periods of bank holidays become the periods in which there are opportunities for engagement. That has an impact for civil society, for example, for those who may be workers, their allies or their colleagues who can engage in processes. It even has an impact on the awareness of the opportunities for engagement and consultation.

This is sometimes a wider issue of public consultation right across government. We have seen the phenomenon of the Christmas public consultation and the August summer public consultation. The goal should always be for the best possible public consultation and for real opportunity for engagement. The goal should not be to get through a public consultation with as little inconvenience from the public as possible by not having engaged, although I know that is not the intention. I understand there was some positive engagement on the public consultation matter in the Dáil.

Amendment No. 34 is around the arrangements for participation in the review of, preparation for and amendment of a new marine spatial plan, MSP. Amendment No. 34 provides that the Minister of State might by regulation specify requirements relating to appropriate time periods for public consultation and arrange for the publication of notices related to relevant documents. These are big documents. They are significant sets of decisions. Of course, they are directly related to the Aarhus Convention and the right of every person to participate in environmental decision making. This amendment suggests areas in which regulations and measures might be put in place in order to ensure that we have the best possible public participation in the development of any new MSP. It sets out certain particular directives that are important in that process. I mentioned the Aarhus Convention. There are also directives on industrial emissions. That is particularly important now, given that Scopes 1, 2 and 3 and the tracking of

corporate and industrial emissions, are becoming particularly important. I also note integrated pollution prevention and Articles 9 and 10 of the MSP directive. I believe these principles and policies should be reflected in the public engagement, as well as the opportunities for public engagement, around an MSP. I hope that the Minister of State might be able to accept amendment No. 34.

Senator John Cummins: I will comment briefly on amendment No. 3. Nobody disagrees with the importance of public consultation, but significant periods are set out statutorily in the legislation for that. To select periods, such as the first two weeks in August, as the periods in which consultation is not allowed is not appropriate. While the first two weeks in August might not suit certain people, they might suit other people. Who is to say that the third and fourth weeks in August are not more appropriate, or that the first week in September, when kids are going back to school, is not the most appropriate? We set out statutory timelines for public consultation processes for a reason. Different times of different years will suit different people. It is just inappropriate to try to exclude certain periods.

Deputy Malcolm Noonan: There was much discussion on Committee Stage in the Dáil around public consultation and the need to exclude certain periods. This is consistent with the Planning and Development Act 2000, as amended. Section 54 of the Bill also provides that the Minister may, by regulations, specify further public holidays. On the passage of this Bill, my Department will begin preparing all relevant regulations to support it. The Minister of State, Deputy Peter Burke, has already committed to discussing these regulations, when drafted, with the relevant joint Oireachtas committee, if it so wishes.

I would like to address the points raised by Senators Higgins and Cummins. There is no doubt that there is huge demand on the public in terms of public consultation. The dates are one thing, but the method of how we engage with communities and various stakeholders is critically important as well. We need to move towards participative engagement and away from linear type consultation processes. Senator Higgins referenced the Aarhus Convention, which is very important in terms of environmental projects and environmental obligations. The Government has committed to that, in particular around the marine protected areas. There was significant public engagement, including with fishers and communities. There has been a good opportunity for engagement on this. We need to ensure always that there is that sufficient level of engagement. While this proposal is important in terms of the dates, the method of engagement and how we engage with communities and stakeholders are vitally important too. I oppose these amendments.

Senator Alice-Mary Higgins: I accept the Minister of State's bona fides in respect of amendment No. 3 because I know there has been movement on that. In the text of amendment No. 34, subsection (3)(b)(iii) deals with the administrative burden that is placed on the public. There should be no battle or difficulty in terms of the administrative burden that is placed on the competent authority versus the public and its participation. We need to consider how we can make that easier. I appreciate that the Minister of State, Deputy Burke, has offered to engage with the relevant committee but I ask that the Minister of State, Deputy Noonan, expand on that and indicate a willingness to engage with interested parties and smaller groups which will not necessarily have a member on that committee but are concerned and passionate about the issue of public participation. For example - this is only an example because others are also very keen - this is of great interest to the Civil Engagement Group and civil society organisations with which we try to work.

If there was an indication of engagement around those regulations, that would be helpful. I would like the Minister of State to accept amendment No. 34 because I believe it sets out a lot of very useful concrete ideas. I hope the content of the amendment will be borne in mind in the development of the regulations as described by the Minister of State. I will not press amendment No. 3, but I would welcome a final comment from the Minister of State in regard to amendment No. 34 as I do not we believe we will get to discuss it again.

Deputy Malcolm Noonan: As I said, the Minister of State, Deputy Burke, has already made a commitment in respect of that level of engagement with the joint Oireachtas committee. That commitment is worthwhile.

Senator Alice-Mary Higgins: What about other Members who are not on the joint Oireachtas committee?

Deputy Malcolm Noonan: We can give some consideration to that matter.

Amendment, by leave, withdrawn.

Acting Chairperson (Senator Pauline O'Reilly): Amendments Nos. 4, 16, 35, 36, 40 and 42 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Alice-Mary Higgins: I move amendment No. 4:

In page 18, between lines 12 and 13, to insert the following:

““Marine Strategy Framework Directive” means Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive);”.

I do not see any reason the Minister of State could not accept amendment No. 4. It is a technical amendment to provide that when referencing the marine strategy framework directive we would be clear about what directive is being referenced. We have done this in regard to other directives. The amendment is seeking consistency in terms of including a definition and a specific reference. This is important because this is the directive which provides for the designation of 30% of marine areas as protected by 2030. It is a crucial directive in this context.

I hate to press on it, but it is a real concern that we do not have the marine protected areas in place. The Minister of State will be aware that I am also concerned that other amendments that have been ruled out of order sought that we, at least, put in place interim protections. This is a crucial period. In setting out a marine planning framework, which I am aware will be reviewed in two years, we are planning on a framework for the long-term but there is a particular sensitive period, which is the period in which marine protected areas are not yet designated. That is why, although it is ruled out on grounds of cost, there is a requirement or a need for interim protective measures in order to ensure that we do not lose ground, albeit ground beneath the sea. We know that, especially with biodiversity, sometimes when something is lost, it is lost. Sometimes it can be recovered but at others it cannot.

We can look to things like migration patterns and so forth. I am aware the marine planning framework is being reviewed but there were not some of the substantial kinds of scrutiny needed within it. That is a little wider than the point. The main point is that amendment No. 4 is it is quite technical. It is specifically about naming that directive by its EU name in order that it will be clear that we are not talking about some different marine planning framework. I

know that is not the intention; it is just a technical clarification.

Amendment No. 16 provides that when preparing, amending or revoking guidelines under section 7, the Minister's actions should be consistent with Article 1 of the maritime spatial planning directive, the objectives of the birds directive, the objectives of Article 2 of the habitats directive and the methodologies and the overall requirements of the maritime spatial planning directive, which we have just discussed. That again is an opportunity because amendment No. 16 gives the Minister scope to be anticipating that there will be 30% marine protected areas. In that sense it would be very useful to the Minister in his or her preparation of guidelines. The amendment also covers any programme of measures for the State specified under maritime spatial planning directive. It also provides that when preparing and developing such guidelines, the Minister shall have regard to the national marine planning framework. Again, in the development of such guidelines, the Minister can be anticipating aspects that may need to be further reviewed and identifying gaps or issues that brings to light.

Amendment No. 16 further provides that the Minister consult with "the Minister with any delegated responsibility for natural heritage". In this instance, that is the Minister of State. He will be aware that in either the spring or the autumn of last year, we had a very lengthy discussion about this matter. An unusual thing has happened whereby as part of our planning infrastructure previously, the Minister with responsibility for housing and planning had particular constraints on him or her. Those constraints also involved both Ministers to engage with a Minister with responsibility for heritage. It was a kind of belt-and-braces or checks-and-balances mechanism internal to the Cabinet to ensure that the Minister with responsibility for planning would bring his or her perspective into play, but would also consult the Minister with responsibility for heritage in order to get his or her perspective.

We now have same Minister with responsibility for both areas. That is why I am suggesting the Minister with responsibility for planning and development would consult with the Minister of State in his or her Department. That is currently the Minister of State present, who has delegated responsibility for natural heritage. This comes down to ensuring that even if a checks-and-balances mechanism between Departments is not there, it is still there within a single Department, given the different mandates Minister and Minister of State might have and, indeed, the different perspectives and expertise each might bring.

This also relates to the Minister for the Environment, Climate and Communications. The amendment also refers to the input and consideration that should be given in the development of guidelines to input from consultation with the public and with public bodies that have been consulted under the guidelines, to include any proposed revocations of those guidelines.

Amendment No. 35 would insert Directive 2008/56/EC on the framework for community action in the field of marine environmental policy into the Bill. This is really appropriate and, again, in spirit with what the Minister of State said regarding the importance of engagement. This directive might not seem to be a direct part of this. However, it relates to community action in marine environmental policy and is one of the things that the actions of the competent authority should be consistent with. I am hopeful the Minister of State will actually be able to accept amendment No. 35 because it is very simple and constructive.

Amendment No. 36 would insert into the Bill the requirement in the maritime spatial planning directive to address marine spatial planning while ensuring good environmental status. It would make the directive something that the actions of the competent authority should be

consistent with. This is also very much consistent with the just transition and climate justice principles and the international conversations that are happening in the context of the sustainable development goals regarding life under water and ensuring that we do not simply have discussions about the regulation of industry and what industry may wish to do with maritime areas. Rather, we must see the engagement of community and society in respect of marine and environmental matters and recognise that the relationships in this regard are important. Let us not, for example, focus solely on the economic relationship that certain actors may have with maritime areas because community engagement is also important. The Minister of State will be aware that this is part of the international conversation in terms of marine planning and marine protection. It would be a positive signal for Ireland to place the directive within the scope of the matters for consideration.

Amendment No. 42 is similarly based on the framework for community action in the field of marine environmental policy. This is the kind of measure that we know provides ownership, connection and meaning. It creates a dynamic whereby, in advance, this would be complementary to effective and successful maritime planning, but it is also going to be important down the line for marine protection and for this to be a positive framework that works. I hope the Minister of State might look to the opportunity presented by the directive and include it in the sections as proposed in amendments Nos. 35, 36, 40 and 42.

Deputy Malcolm Noonan: This was already addressed on Committee Stage in the Dáil. There is no requirement to conflate the marine spatial planning directive with the marine strategy framework directive in one piece of enabling legislation. Indeed, the most recent global international guide on maritime spatial planning prepared by UNESCO and the EU Commission and published this year reinforces the distinction between these two maritime governance tools.

Both directives will need to be provided for in the Statute Book. We know that and we are taking action in that regard. If we keep picking articles, we run the risk of leaving others out. The national marine planning framework is in line with the maritime spatial planning directive and all other maritime spatial plans and DMAPS must also be in line with the marine spatial planning directive. I take on board the points the Senator makes but I am confident that the Government has robust direction on this.

In terms of the consistency with the habitats directive methodology and anticipating the advance of marine protected areas, MPAs, it is the case in the expert group report that was led by Professor Tasman Crowe, and the public consultation that took place around that, and the legislation for marine protected areas, that we are confident, as I said previously about the interrelatedness of it and anticipating MPAs both in legislation and in their designation we are doing the right thing and that there are good checks and balances. That is a given in terms of the consultation with the Minister with responsibility for planning and development and the Minister with responsibility for heritage. Those checks and balances are in place across the Government regarding all of this. I am confident that we are taking the right direction and will be opposing the amendments.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 5:

In page 19, between lines 16 and 17, to insert the following:

“ “prescribed bodies” as referred to in this Act for the purposes of consultation,

shall include at least the following:

- (a) Fáilte Ireland;
- (b) the Marine Institute;
- (c) the Environmental Protection Agency;
- (d) the National Parks and Wildlife Service;
- (e) the Heritage Council;
- (f) An Taisce, the National Trust for Ireland;
- (g) Inland Fisheries; and
- (h) such other bodies concerned with environmental protection as the Minister considers should be included;”.

This amendment would insert a new definition into the definitions section in order to ensure that we provide a list of bodies. It is an indicative list not a closed list and allows for others to be involved.

The Minister of State might reference the fact that others may emerge that need to be included, but the amendment provides an indicative list of bodies that have environmental expertise and should be considered prescribed bodies for the purposes of consultation. This is part of good practice in consultation and planning and is recognised in other aspects of our planning legislation. The Minister of State will hardly argue with the relevant expertise of the suggested bodies. I hope that he will be amenable to accepting this amendment and including these bodies as ““prescribed bodies” ... for the purposes of consultation”. I note that the amendment does not prohibit the addition of further prescribed or expert bodies as may emerge, and are emerging, in the marine area.

Deputy Malcolm Noonan: Section 2 of the Bill provides for interpretations. The proposed amendment would limit the range of bodies that could be prescribed for certain functions in regulations by providing a limited interpretation in section 2. The appropriate place to expand the list of prescribed bodies for certain functions will be in the regulations. My Department will begin preparing all relevant regulations to support this legislation once this Bill is passed.

I will add that all the bodies listed in the amendment were engaged at the early development of the NMPF and the proposed marine planning system. Most of them were on the NMPF advisory group, which is still in place. We believe in early and continuous engagement rather than a set-piece arrangement at the end of a process that, at this stage, is somewhat old-fashioned and reductive. This is why the NMPF has been so well-received and it is our intention to repeat this method for future marine spatial plans. In that regard, I will oppose this amendment.

Senator Alice-Mary Higgins: I am afraid I will have to ask the Minister of State to give a further reply. His response is not accurate in the sense that this amendment does not preclude the addition of further measures. I note that it is quite specific in stating “shall include at least the following”. It does not close the list and it is very clear. I was not going to belabour it, but the amendment sets out Fáilte Ireland, the Marine Institute, the Environmental Protection Agency, the National Parks and Wildlife Service, the Heritage Council, An Taisce, the National

Trust for Ireland, Inland Fisheries and “such other bodies concerned with environmental protection as the Minister considers should be included”. Even that is not exclusive. This is not a closed list. I have to ask that we are accurate. The amendments do what they can, and I know we will disagree at points, but it does matter.

I am a little concerned by the phrase “old-fashioned”. We have established bodies with significant expertise and years of experience that have done incredible work, in many cases, long before there was proper acknowledgement of marine-related issues. It is a little loose to say that we may provide regulation. Certain voices need to be heard. That is reasonable. Are we saying that it should be left to see whether bodies such as the Environmental Protection Agency, the National Parks and Wildlife Service, the Marine Institute and the Heritage Council are included? Under the sections in this Bill, these bodies are not prescribed for the issuing of MARA licences. The list of prescribed bodies to be considered in decisions by An Bord Pleanála has not been updated to reflect some of the marine context. There is bit of a parallel process here so it is important that there is belt and braces on that.

There are other organisations, such as the National Inshore Fishermen’s Association - other people may address those and other actors - but I will be very clear for the record that this is not a closed list. It is a list naming very credible actors with long track records that should be consulted with. The amendment leaves it wide open for the Minister of State to add in any other such modern and contemporary, and not old-fashioned, bodies that may wish to be added. I am sorry to push back on this but it is important. These are the voices that have led the way on this issue and theirs is the expertise that I certainly want to know will be consulted.

Senator John Cummins: Everyone’s views are important, be they from any of the bodies that are suggested, or not, by Senator Higgins, or from individuals. I come from a coastal county, namely, Waterford, and this is relevant for everyone who lives along our coastline and anybody who lives in Ireland. The Minister of State is correct to point out that many of these bodies have been engaged extensively throughout this process. We have done a huge body of work at the joint committee on this matter and many of these issues have been teased out on Committee Stage at select committee. Whether a body is prescribed or not, there is nothing precluding any individual or any body from having an input into any stage of the process, though the Minister of State may correct me on that. That is right and proper. It is sufficient and whether one is an individual in Dunmore East, An Taisce, the EPA or the National Parks and Wildlife Service, one has a right to have a say on any of these matters. That is what the legislation provides for.

Deputy Malcolm Noonan: Senator Cummins has pretty much summed up my response. In response to Senator Higgins, I repeat that the functions around prescribed bodies will be in the regulations. When we are talking about outdated consultation methods, we are really talking about consulting with a prescribed body for a prescribed period. That work is done. It is open and closed. We are providing for a longitudinal process that is inclusive and continuous. We are ensuring it is as broad as possible. The list can only be amended by primary legislation.

Organisations like Coastwatch and other fantastic organisations across the maritime area have engaged extensively on this over the past 18 months and beyond. Their input has been valuable and helped shape this legislation. We want to ensure that process continues and that engagement continues with those bodies. I cannot accept this amendment.

Senator Alice-Mary Higgins: Coastwatch Ireland would not be excluded by the text of

the amendment. That text simply says “shall include”. It does not say it shall not include any others.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 6:

In page 20, line 3, after “record” to insert the following:

“, but a record shall not be confused with information held, particularly for the purposes of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC or the Freedom of Information Act 2014”.

Amendment, by leave, withdrawn.

Section 2 agreed to.

Sections 3 and 4 agreed to.

SECTION 5

Question proposed: “That section 5 stand part of the Bill.”

Senator Alice-Mary Higgins: The Minister of State will be aware there is consideration regarding the issues of rights of way and the foreshore. That area will be considered by another Department next year. I want to signal the issue of the nearshore and how it relates to access to the foreshore, which is a key consideration under the review of conveyancing legislation under the question of prescriptive and other rights of way. That area might require some consideration. It is an important area of overlap in terms of complementary review and legislation that may be coming in the spring.

Question put and agreed to.

SECTION 6

Acting Chairperson (Senator Pauline O'Reilly): Amendments Nos. 7 to 9, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

2 o'clock

Senator Victor Boyhan: I move amendment No. 7:

In page 24, between lines 15 and 16, to insert the following:

“(c) the National Heritage Plan;”.

I welcome the Minister of State and his officials who have done a lot of work on this area. Amendment No. 7 aims to include the national heritage plan. I am conscious that there is a national heritage plan 2030. The Minister of State waved a copy of it at us at the committee the other day. It is done and dusted. There may be a little bit of tweaking. I think it is an important document. We do not think enough about marine heritage. Ours is very rich and we have a rich aquatic life. There is so much under the sea.

I want to acknowledge the National Maritime Museum and the work it does. There is great interest around national heritage and our marine heritage. It seemed obvious to insert reference to the national heritage plan.

I did a search in the legislation for keywords such as “Aarhus” and “heritage”. It is interesting how rarely some of these turn up in what is a very substantial document. I would like to think we can include this. The Minister of State might ask if we need to be repeating ourselves but we cannot repeat ourselves enough when it comes to our national heritage. We will have a plan. I know this is legislation and the Minister of State will not necessarily want to date the legislation but 2030 is a long way out in terms of our heritage plan. The amendment does not state the national heritage plan 2030 but “the National Heritage Plan”. I know that the Minister of State thinks a lot about our heritage. He has been designated with responsibility for heritage. We should bear in mind how many counties are impacted by maritime activity, even in Kilkenny. I hope that we can include the amendment.

Amendment No. 8 relates to European Union instruments and directives which are really important. The integration of coastal zone management and the recommendations on the integrated coastal zone management defines the principles of sound coastal planning and management. The Minister of State and his officials will be aware of them. They are EU instruments. The need for such a tool has come from the realisation that despite increasing deterioration of the natural, social, economic and cultural resources of our European coastal zones, coastal planning activities or planning activities or development decisions still take place in a very sectoral or fragmented way leading to inefficient use of resources, conflicting claims on space and missed opportunities for more sustainable coastal development. It makes sense. I think it should be incorporated.

Sea for Life is another instrument of the EU. It is a marine strategy framework directive, more commonly known as the marine directive. It is an encompassing piece of EU legislation specifically aimed at the protection of the marine environment and natural resources and creating a framework for the sustainable use of our marine waters. The directive involves many implementation challenges, which are addressed through a common implementation strategy between the Commission and the member states and a regional approach to the implementation of its objectives. These are clear. Anyone who has done any research on maritime directives, the EU and the instruments will know these are critically important. I am interested to hear the Minister of State’s response.

Senator Alice-Mary Higgins: I wish to support amendments Nos. 7 and 8. They are extremely constructive. Integrated coastal zone management is missing. The national heritage plan is very relevant when we are talking about our natural and other types of heritage. The marine heritage intersects a little with those points. I refer to the question around the role of community because that is part of heritage as well.

My amendment No. 9 is also in this group of amendments and it attempts to highlight the question of interim measures. We have heard a lot about who has been spoken to in the development of this Bill but the question is, when the legislation is in place with all of its mechanisms, what happens next? Most importantly, what happens in that interim period where we do not have marine protected areas designated but we do have a marine planning framework in place? My amendment seeks to highlight this question and perhaps the Minister of State could clarify what the interim measures will be. I am not referring to the cut and thrust of the general processes that will be there in the long term but for this particular period when we have a par-

ticular vulnerability, when we have particular areas that are vulnerable now and which should be marine protected areas. Unless those areas are afforded interim protections in the next two to four crucial years, they could be degraded. We saw that happen in relation to peatlands and other areas on land. Where there are no interim protection measures in place, we can almost create an incentive for areas not to be valuable and then they are degraded. I am interested in interim measures as referenced in amendment No. 9. I was not prescriptive in that amendment but wanted to give visibility to the question of interim measures. I seek assurances from the Minister of State in this regard. If he does not want to include this in the legislation, I ask him to outline the plans in relation to this matter.

Deputy Malcolm Noonan: I thank the Senators for their contributions. The marine planning policy statement is a high-level document that sets out the Government's principles and priorities for maritime planning. Section 6(5) of the Bill sets out a brief list of the high-level policy framework that will be taken into account when preparing the statement. However, this list is not exhaustive and any matters that inform this high-level policy document will be considered. Heritage is one of the many areas that will be considered as part of the preparation of the statement. Section 6(5) requires that regard is had to the national marine planning framework. Chapter 7.3 of that framework is dedicated to heritage assets. Accordingly, since heritage assets are included in the national marine planning framework to which the Minister must have regard when preparing the marine planning policy statement, and section 6(5)(h) of the Bill requires the Minister to have regard to any current policy of the Government relating to maritime planning, which would include the national heritage plan, it is not necessary to make separate provision here for the national heritage plan. I thank Senator Boyhan for his comments and for consistently raising the issue of heritage in this House. It is the case that Heritage Ireland 2030 will go to Government shortly after Christmas and this will automatically update as new policy for the period up to 2030. In that regard, it is not necessary to make a distinctive, separate provision in this legislation for it.

On amendments Nos. 8 and 9, the EU recommendation on integrated coastal zone management is not referenced and therefore, it would not be appropriate to include it here. Section 6(5)(h) of the Bill requires the Minister to have regard to any current policy of the Government relating to maritime planning, which would likely include any EU recommendation on integrated coastal zone management. The marine strategy framework directive is already included in section 6 of the Bill at section 6(5)(e). The suite of environmental policies included in the national marine planning framework will afford protection to the marine environment and this would include any interim measures to protect areas of the marine environment as agreed by Government. As I said earlier, the marine protected areas legislation is in the drafting process at the moment. We are also considering the huge volume of submissions we had in relation to the expert group report and are confident that we will have a complementary set of objectives around marine protected areas with our marine planning framework. Environmental protections are already included in the legislation, *vis-à-vis* planning applications, environmental impact assessments and so forth. The marine protected area process has been really inclusive and broad and will certainly support any of the actions and objectives that Senator Higgins is striving to achieve in the context of marine protection and biodiversity.

Senator Victor Boyhan: The Minister of State said, "would likely include", if he goes back to the comments that he put on the record. These are European Union instruments. We are signed up to these. I see no difficulty. We are talking about protecting marine diversity, mitigating climate change for the protection of coastal areas, issues of carbon sequestration by marine

organisms, the need for healthy ecosystems, best international practice, EU instruments, unified structures, shared language, and a consistent approach, using evidence-based understanding of where we stand on marine, ocean and sea protection. We are also talking about marine planning and how it will interface with city and county development plans but that is a bit away.

Deputy Noonan is the Minister of State with responsibility for heritage. This is his opportunity to put his stamp on this legislation. I have no doubt that he has and that we are not privy to all the goings on with regard to it, except to say that I am on the Joint Committee on Housing, Local Government and Heritage, and have dealt extensively with this legislation. We had a pre-legislative report. We did not see all the recommendations incorporated into it, which I accept is part of the process. The Minister of State is telling the House that it is not necessary to include these. I am always conscious when we are here, debating these issues, that we are choosing our words carefully. We are setting a chain of events and a record of words. Words mean things. There may be a time when we have to revisit this through an external body. A European institution may wish to revisit the conversation that we are having here today. To be clear, the Minister of State is assuring the House and me that these resolutions are not required. He and his officials are fully confident that these two European Union instruments are fully bedded down, will be secured and full regard will be had to them in the legislation. Will the Minister of State tell me that, if possible?

Senator Alice-Mary Higgins: I do not doubt that there are conversations about how this planning legislation will intersect with marine protected areas. The question is which fits into which. Will it be the case that marine protected areas will fit into a planning framework? I do not necessarily take comfort from the fact that there will be consideration of how these things overlap, because I think there needs to be clear prioritisation. We have talked about different EU directives and legislative obligations, as Senator Boyhan has done. There is also the core EU precautionary principle, which is what the interim measures idea, of doing no harm, is trying to get at. It is not really enough to say that we will look at these two matters and how they intersect. If, for example, a maritime area consent, MAC, is granted for an area and it turns out to be of deep importance to cetaceans and is an area which environmental scientists and others say should be a marine protected area, what happens to the maritime area consent and to planning and development that may have been given the go-ahead in a recognised area? This is what I mean about the two things intersecting.

It is also an issue of predictability for business. The technical document produced by the Climate Change Advisory Council refers to the importance of this legislation, of wind energy, and so on, but it also clearly talks about the importance of things being sited correctly, in the right locations and with clarity about the impact on biodiversity and other matters. I do not doubt that the two matters are in conversation with each other. There is no way that they would not be. There is still a question of which takes precedence. The interim measures were a chance to create space if that conversation has not already happened, so we are not then talking about accommodating marine protected areas in marine planning legislation that may already have been commenced. I do not know whether the Minister of State can answer that.

Deputy Malcolm Noonan: In relation to Senator Boyhan's point, I wish to give that commitment. The Senator is correct. The national marine planning framework has a dedicated chapter on heritage assets. The language used is that the Minister must have regard to it when preparing a marine planning policy statement. Whatever the current policy is, when the policy statement is prepared or whenever Heritage Ireland 2030 is implemented, it must have regard to the national marine planning framework. I am giving that assurance and I hope it is sufficient

for the Senator.

It is critically important that the Senator raised this issue. As he said, this is not only natural heritage but cultural heritage. It is coastal communities which are part of our heritage. We cannot have a natural heritage without communities being part of that. We have good conversations with coastal communities in recent months on what they want to achieve out of this. There are coastal fishers, heritage fishers and many community groups involved in activities in coastal areas that require support and protection as well. We want to ensure that is included. It has been outlined well in the high-level report of the marine protected area advisory group led by Professor Tasman Crowe, as I said. That is very much reflected in the report.

In response to Senator Higgins, I again give that assurance around the marine protected areas and the marine framework. The marine protected areas are not a planning tool. They are features we are seeking to protect. The marine planning will have to adhere to that once we have the legislative part of it in place because we do not have a definition of marine protected areas in an Irish context. We want to do it specifically to an Irish context that recognises those coastal communities that we are talking about. In that regard, we are not saying that activities cannot take place in MPA zones but they may be limited to or have mitigation in place around certain species or features that we are trying to protect in those MPAs, be it the marine birds, corals or other features in the marine environment.

I give an assurance in that regard that these are interrelated and not separate processes. The work being done by the marine unit in the Department of Housing, Local Government and Heritage, is interrelated with the planning side of it and with the Department of the Environment, Climate and Communications. We are quite clear. We have gathered significant data on what we need to try and protect. As I said, the expert group report gave a large volume of information on how we do this in an Irish context. I give that assurance in relation to that.

Senator Victor Boyhan: On amendment No. 8, which relates to the European Union instruments, I mentioned in some detail integrated coastal zone management and the marine strategy framework directive, more commonly known as the marine directive. Is the Minister of State saying this Bill will have full regard to those? I am simply proposing that they be included but for some reason there seems to be a difficulty with including them. We have signed up to them. I do not want to draw this matter out. I am somewhat taken aback that the Government has a difficulty with including two simple EU instruments in the legislation. I do not quite understand that. Is it that there is repetition, which I would understand, or is it that the Minister of State does not feel it is necessary or important? I ask him to elaborate on that.

I want to be helpful and constructive. I want to put these issues to bed as much as possible now rather than introduce further amendments on Report Stage. The more clarity we have, the better. This is a democracy and this is a chamber for democratic debate. If I could have a greater understanding of the logic and rationale behind that decision, I would be happy to rest my case. I need clarity as I simply do not have the answer. That is why I am asking.

Deputy Malcolm Noonan: I again want to give assurances to the Senator. The recommendation is not referenced and it would not be appropriate to include it here. Section 6(5)(h) of the Bill requires the Minister to have regard to any current policy of the Government. The specific line refers to the current policy of Government relating to maritime planning and that would likely include any EU recommendation on integrated coastal zone management. I hope that gives assurance to the Senator.

Senator Victor Boyhan: The “likely” is the bit that is causing the problem but I hear what the Minister of State is saying.

Amendment put and declared lost.

Senator Victor Boyhan: I move amendment No. 8:

In page 24, between lines 20 and 21, to insert the following:

“(f) European Union instruments:

(i) EU Recommendation on Integrated Coastal Zone Management;

(ii) Marine Strategy Framework Directive, which offer a comprehensive and integrated approach to the protection of all European coasts and marine waters;”.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 9:

In page 24, between lines 24 and 25, to insert the following:

“(j) any interim measures to protect areas of the marine environment as agreed by Government.”.

Amendment put and declared lost.

Acting Chairperson (Senator Aisling Dolan): Amendments Nos. 10, 11 and 18 are related and may be discussed together. Amendment No. 18 is a logical alternative to amendment No. 10.

Senator Alice-Mary Higgins: I move amendment No. 10:

In page 24, after line 38, to insert the following:

“(10) *Subsections (2), (3), (5), (6), (7)(a)* shall, with all necessary modifications, apply to an amendment made to or a revocation of a Marine Planning Policy Statement issued under this section as those subsections apply to a marine planning policy statement issued under this section.”.

Amendments Nos. 10 and 11 are very similar. Amendment No. 10 is probably the preferential framing but I always try to provide options. This amendment addresses and corrects section 6, where there is a strange anomaly at the moment. While there are requirements for the development and approval of a marine planning policy statement, there do not seem to be the same kind of processes and checks and balances around changes to the statement thereafter. That is inconsistent. According to this amendment, amendments or revocations of marine planning policy statements would be treated in the same way as the original marine planning policy statement in how they are developed and approved by both Houses of the Oireachtas. It does not make sense to create a back door into the process whereby a marine policy planning statement goes through the process of approval by both Houses of the Oireachtas and then a Minister independently makes changes to it thereafter without those kinds of checks and balances. It is not in the spirit of things and it creates an ambiguity. Others would question whether the policy statement is an appropriate instrument at all. Some environmental NGOs have highlighted that

question but for now, if there is a policy statement, at the very minimum it should be subject to proper scrutiny, in whatever form that ends up.

I welcome that the Minister of State has responded previously to some concerns around the Bill as initiated as regards amendments or revocations. Specifically, there was some shift on policy directives but the marine planning policy statement is still subject to that same loophole. Having addressed some of the concerns about policy directives, I ask that the Minister of State be consistent and ensure there is proper scrutiny for marine planning policy statements.

Amendment No. 11 is another version of my proposal in amendment No. 10. Amendment No. 18 relates to exactly the same issue but with regard to ministerial guidelines. I am proposing that there be proper oversight and a proper process in order that, when ministerial guidelines are changed, they be subject to appropriate scrutiny. Otherwise, I worry we might have a base point policy statement or guidelines wherein points that might have invited proper Oireachtas debate and scrutiny could be introduced later simply by ministerial discretion. Could the Minister of State address those issues, particularly regarding amendment No. 10 on the policy statement and amendment No. 18 in terms of guidelines?

Senator Victor Boyhan: I thank Senator Higgins for bringing these amendments to the House. I will touch on amendments Nos. 11 and 18 concerning the revocation of the ministerial guidelines and the revocation of the marine planning policy statement or proposal to revoke a marine planning policy statement. I would like greater clarity and would really like to hear the Minister of State's response.

Deputy Malcolm Noonan: The marine planning policy statement is a high-level document that sets out the Government's principles and priorities for maritime planning. Section 6(5) sets out a brief list of the high-level policy framework that will be taken into account when preparing this statement. However, this list is not exhaustive. Of course, any matters that inform the high-level policy document will be considered. Similarly, section 8 applies to ministerial guidelines and any amendments to those guidelines. In that regard, I will be opposing these amendments.

Senator Alice-Mary Higgins: The Minister said these are high-level principles. Surely if high-level principles are revoked or modified, it merits the same kind of process and scrutiny given that Ministers change. We do not want to have lots of debate and discussion around what those high-level principles should be in terms of marine policy planning, be it the precautionary principle, and then for that policy statement to change without due scrutiny and engagement. Ministers and priorities change, which is why we have a process of parliamentary engagement with the Executive on these matters. I recognise it is being addressed in terms of policy directives but not I understand in terms of policy statements or guidelines.

Deputy Malcolm Noonan: Regarding section 10, where the Minister proposes to prepare, amend or revoke the marine planning policy statement, he or she shall publish a notice, which is among the three items the Minister needs to publish, in not less than one national newspaper inviting members of the public to make representations in writing thereon to the Minister not later than four weeks after the date of publication of the notice in the newspaper or if the notice is published in more than one such newspaper, the last date of publication at an address. The mechanism is there for members of the public to make an input into that.

Senator Alice-Mary Higgins: What about the Oireachtas?

Deputy Malcolm Noonan: That includes the Oireachtas.

Senator Alice-Mary Higgins: As I understand it, the approval of the Oireachtas is required regarding a marine planning policy statement so, again, there is a difference between being able to give a submission as a member of the public and having that agreement between the Parliament and the Executive. Could the Minister of State provide some clarification? I believe it is the case that the approval of the Oireachtas is required regarding the initial marine planning policy statement. Again, it is around ensuring that same consistency. Could the Minister of State seek clarification so I can address that issue on Report Stage because it is very important to be consistent? As I recognise, the Minister of State has sought to be consistent in some of the other amendments in similar and parallel processes in the engagement in the Dáil. Perhaps we can engage on this on Report Stage. I will withdraw the amendment and reserve the right to introduce it on Report Stage.

Amendment, by leave, withdrawn.

Acting Chairperson (Senator Aisling Dolan): As amendment No. 11 is a logical alternative, it cannot be moved.

Amendment No. 11 not moved.

Acting Chairperson (Senator Aisling Dolan): Amendments Nos. 12 and 13 are related. Amendment No. 13 is a physical alternative to amendment No. 12. Amendments Nos. 12 and 13 may be discussed together by agreement. Is that agreed? Agreed.

Senator Victor Boyhan: I move amendment No. 12:

In page 25, to delete lines 6 to 12 and substitute the following:

“(b) stating that a copy of the proposed statement, amendment or revocation may be inspected on a website of the Government, and available for inspection at a local authority planning office, and

(c) inviting members of the public and prescribed bodies as follows: a local, regional or planning authority, the Commissioners of Public Works (OPW) and a body referred to in Article 28 or 137 of the Planning and Development Regulations 2001 (as amended), to make representations in writing thereon to the Minister, not later than six weeks after the date of publication of the notice in the newspaper (or, if the notice is published in more than one such newspaper, the last date of publication), at an address (which may be an electronic address) specified in the notice.”.

At subsection (b) of my amendment I have added the phrase “and available for inspection at a local authority planning office”. I am sure the Minister of State and all of us know the importance of a local planning office. It is a reference point for communities in terms of planning. It is where many planning issues are co-ordinated and put on public display. Other Government agencies and Departments use a local planning office as a hub for information on planning issues. That is right. I always try to bring everything back to local and community matters. They are the natural planning authorities in the 31 local authority areas and, therefore, it is not too much to stipulate “and available for inspection at a local authority planning office”.

The second part of my amendment reads: “(c) inviting members of the public and prescribed bodies as follows: a local, regional or planning authority, the Commissioners of Public Works

(OPW)". The Minister of State will know what prescribed bodies means. It was important that I included the OPW in the list because we underestimate the work of the OPW in terms of maritime development. For many years I was a director of the Dún Laoghaire Harbour Company and we had a very close working arrangement with the OPW. Indeed, the Office of Public Works ran and administered the harbour very successfully for many years.

My amendment continues:

..and a body referred to in Article 28 or 137 of the Planning and Development Regulations 2001 (as amended), to make representations in writing thereon to the Minister, not later than six weeks after the date of publication of the notice in the newspaper (or, if the notice is published in more than one such newspaper, the last date of publication), at an address (which may be an electronic address) specified in the notice.

There has been much talk about engagement and I know the Minister of State is committed to that. It is important that we have public participation, which has been echoed by everything he has said about heritage and planning. That is right and we, as a House, are committed to that. My amendment is very simple, obvious and practical and I hope it has the support of the Minister of State.

Senator Alice-Mary Higgins: My amendment No. 13 has been grouped with amendment No. 12. I agree with everything Senator Boyhan said with the slight exception that I do not believe six weeks is adequate and I do not believe the four weeks that is currently stipulated in the Bill is adequate. Let us bear in mind that a marine planning policy statement, MPPS, as the Minister of State said, has high-level principles. It is quite wide-ranging and has significant implications. There may well be a requirement for a strategic environmental assessment, SEA, and certainly an appropriate assessment, I would imagine, of the implications, any significant changes or significant matters in an MPPS. The four-week timeframe that we might apply to a building is just not appropriate for something so significant and it creates an inequality of arms for the public.

Again, people say everybody is able to go in through these public processes. They are there and it is important that everybody is able to go in. It is part of the public's democratic right. Also, that is why prescribed bodies and their expertise are important. It should not be that this is only available to those who can afford to do so. We know that companies may have a large number of full-time staff and be very well resourced. These for-profit organisations will be in a position to produce and turn things around very quickly. For the public to engage in something so significant and wide as an NPPS will take time because, for many people, this is an extra thing that they do but they have an important insight to give.

I am asking that the Minister of State would make it 16 weeks. Such a period would allow for the conduct of SEAs or AAs and the knowledge that comes out of those. It would also allow for members of the public to conduct their own research and, perhaps, agree positions. If, for example, we have coastal communities that are trying to work together or respond to something significant, it would allow for better decision-making and engagement by those communities, which would then engage with the process. If the Minister of State accepts Senator Boyhan's amendment, which involves a six-week period, I will bow to that because there is so much else that is good in his amendment. However, I urge the Minister of State to consider the fact that a period four weeks is deeply inadequate in the context of this process.

Senator Victor Boyhan: I hear what Senator Higgins is saying. Clearly, four weeks is not enough. I have to remind Senators and the Minister of State of something, and it is not because he is a member of the Green Party. I know many of his colleagues and his party's counsellors and I am aware that they became politicised through their advocacy for planning, environmental and community issues. They were to the fore on that. There are six or seven of the Minister of State's party colleagues on my local county council. That is testimony to their work, commitment and advocacy on the environment, especially the marine environment. All of them had track records in community and environmental advocacy initiatives before they were ever elected to the council. It followed that they then got elected, which is a fantastic achievement and I have been talking to some of them.

While a period of four weeks is proposed in the Bill, I am suggesting a moderate increase of two weeks in order to make it six. Four weeks is very tight and I am suggesting six. It would be fantastic to have a 16-week period but that will not happen; it is an increase of 12 more than I had am suggesting. It would be unreasonable if a modest increase from four weeks to six weeks was not facilitated. I know that it is the end of the year, that the Minister of State is completing the cycle of this Bill and that he does not want to go back into the Dáil and bring in changes but that should not limit the scope for getting this right. It is two weeks of additional time to allow the citizens that the Minister of State and I represent to prepare. I am suggesting six weeks with a heavy heart, but I am trying to be practical and realistic and more importantly I am trying to be pragmatic.

Deputy Malcolm Noonan: I thank both Senators and agree with them on public consultation and how hugely important it is. Senator Boyhan and I have spoken on a number of occasions in this Chamber about the importance of good, robust public engagement and how that brings about better outcomes for all parties. That is something we agree on. However, I consider that much of what is proposed in these amendments would be more appropriately addressed in secondary legislation. When the Bill is passed, my Department will commence the preparation of regulations, which will include further detail on public consultation. This will also include identifying prescribed bodies for specific functions of maritime planning. This is similar to the Planning and Development Regulations 2001, as amended, which support the 2000 Act and set out the detail for prescribed bodies and timeframes.

I would again take the opportunity to highlight that the Department, throughout the process of developing the current marine planning policy statement and the NMPF, has consistently engaged early and often with all bodies which have a role to play, including the environmental NGOs that are hugely significant and important to us, relevant public sector bodies, and many more. This is the correct way to develop policy rather than by means of the top-down approach of old. The proposal to increase the public consultation period for the marine planning policy statement from four weeks to 16 weeks is considered excessive. We have a continued and significant engagement with all parties as well as the mechanism of online engagement. There are many mechanisms that we have learned about, particularly during Covid, which have allowed us to have good and robust engagement with all sectors and with NGOs, which are significant in all of this as I said.

Senator Higgins referred to public research in coastal communities and to having parity and a level playing field. It is embedded in the Aarhus Convention and many national NGOs particularly have developed a very good means of engagement both at a political level and with the officials on this particular piece of legislation. In that regard, therefore, I will not be accepting these amendments.

Senator Victor Boyhan: I must say I am disappointed and will be calling a vote on this because I believe it is a very important principle.

The Minister of State spoke about the Aarhus Convention, under which we know the public has a right to participate effectively - “effectively” is the key word - and in a reasonable and timely manner in the decision-making processes with regard to all environmental, planning and sustainable development matters. Public authorities and State agencies should enable the public to comment in a reasonable time, for example, on proposals and projects affecting the environment or plans or programmes relating to the environment by the Government. The outcome of the public participation process should be taken into consideration in all decision-making. This is the backbone of the Aarhus Convention that is so much talked about.

When we come to actually putting in the votes and legislation to support that, however, we seem to back off. Everyone is talking about the Aarhus Convention and decision-making and engagement but somehow it does not go further in terms of the legislation. It is important, therefore, as the Minister of State rightly said, that a public participation process should take into consideration the decision-making process. We need to facilitate information to be made freely accessible and available to members of the public particularly but also the NGOs, environmental networks and all the other prescribed environmental bodies with which the Minister of State will be very familiar, and which have high hopes for Government and particularly for him and the Minister responsible for driving this legislation through. There is a great expectation that we here would stand in solidarity with people. It is important, therefore, that we have participation in the decision-making process. People need a reasonable amount of time, however, which is what we are talking about here. As the Minister of State knows, the four-week period is only part of this amendment. It is a very important amendment. I believe it will potentially be the subject of litigation and will possibly be referred further afield for some determination and argument. I think it right that we have on the record where people stand regarding this key amendment because it is an important one.

I take it from the Minister of State’s summary that he is suggesting, and I am open to correction so correct me if I am wrong, that he would see a possible situation that there might be secondary legislation for NGOs and other organisations affected, and in the secondary legislation, the Department and his officials might be mindful of a possible six-week period. I am only saying six weeks because I suggested that. It may be longer; I do not know. I need some reassurances on that, however. Is it being suggested that it would be in secondary legislation? If that is the case, is the Minister of State committed? The Green Party is in government. As I keep saying, it is an important aspect of Government. That is one of the key issues. Green Party members are unashamedly environmentalists and are very proactive. The Minister of State personally and his party are very proactive with regard to the Aarhus Convention so we want to send a message clearly here. Am I right in saying the Minister of State is in favour of extending the four-week period possibly out to six weeks and perhaps even more? Is that the direction the Minister of State feels he would like to go? Would he be absolutely committed to driving that in terms of his own agenda within the Department?

Senator Alice-Mary Higgins: The fact, which has been very well articulated, is that the Aarhus Convention requires that there be appropriate time to the scale of the decision and, again, this is not a small environmental decision in terms of marine planning policies. That is a very substantial aspect of environmental decision-making. I believe the timeframe is disproportionately short. The Minister of State may not wish to embrace my 16 weeks but I certainly suggest that a further amount would be considered. I urge the Minister of State to consider that.

As I said, we know Ireland is often reviewed under the Aarhus Convention as falling a little bit short and it has been challenged on that matter. Therefore, simply in terms of best practice of the precautionary principle, the Minister of State would be advised to try to ensure it ends up that we have a week too long because that is less of a problem than if it turns out we have a week too short in the timeframes that are required. It is important that we have an adequate timeframe.

There have been references to consultations with non-governmental organisations, civil society and all of that. However, it has happened in an amorphous way. All of those groups have been part of a large process to come up with the Bill. We are looking to the processes under the Bill. Those are the process that will come next. We are not talking about how this legislation was arrived at but about what happens on an ongoing basis. Some relevant organisations were not mentioned as prescribed bodies, as we discussed earlier. I do not see where those organisations will be included. Perhaps there will be supplemental legislation and statutory instruments in which those bodies will be named. However, I do not know if those bodies will be anywhere near any of the rooms where anything is being decided.

As Senator Cummins articulately put it, all of these organisations which have a key voice and are key environmental actors are not a substitute for the public. Each individual member of the public should have a say. That includes somebody who may never have thought about marine planning but who knows a section of coast and has a view on a particular species, who cares about birds, for example, or some other specific aspect of biodiversity and knows that the place of such a species might be affected by a shift or change in its circumstances or by a particular marine planning policy statement. Such people may have an important input. They may wish to talk to their neighbours. They may then wish to gather. It will not only be organisations that already exist that will wish to have an input, although the input of such organisations is important because they comprise a depth of expertise. It is also important that each individual has adequate time to engage with the process on an equal footing.

I know the Minister of State has referred to that idea and I am sure he is committed to it. However, the timeframe does not allow for it. Four weeks is too little. It is hard enough to submit an opinion about a specific building within four weeks. Four weeks to engage around an entire marine planning policy is a very tight window of time. If the Minister of State will not accept our amendments, I encourage him to consider coming back to us on Report Stage with an adjustment to that time period. I do not know whether he can be flexible when a period of four weeks is written in the legislation. I do not know what can be done about that. However, if there is any scope for the Minister of State to extend or supplement that period within other aspects of the legislation, even through pre-consultation or other means, I encourage him to do so. I worry that the timeframe is inadequate.

Senator John Cummins: It is important to say that any periods of time we are adding to this process has implications. We all say we are in favour of meeting our targets in terms of wind energy, for example. However, this amendment, as is the case with many of the proposed amendments, will add time to the process. We must be realistic with the public and tell them that will have a tangible impact on our ability to meet our targets. If that is what is being proposed, I think we need to be honest and say that is what is being proposed. I have a real fear that if we keep adding time to the process, it will have negative consequences. I accept the bonafides of Senators Boyhan and Higgins in terms of what they are trying to achieve but we must also be honest about the implications of the changes they have proposed.

I had another point on which I am now drawing a blank. Perhaps other Senators will be able to jog my memory when they return.

Senator Alice-Mary Higgins: I do not know if I will be able to jog Senator Cummins's memory. I would say that if we are being honest, we must be honest and factual about what has delayed this process. The failure to get the process right and deliver it properly has often contributed to delays. In the area of forestry, we know the issue was that Ireland was found not to have done proper environmental impact assessments and used other environmental tools. Those tools and obligations were there but Ireland did not use those tools or meet those obligations. That is what led to the position whereby it was being reviewed and whereby the Forestry Appeals Commission was getting a number of appeals.

As the then Minister with responsibility for agriculture acknowledged in this Chamber, the European Union rightly called Ireland out for not applying a proper process at the beginning. This is a case of the more haste, the less speed. If we get the process right at the beginning, we will get better outcomes, people will be happier with the decisions and we get more buy-in from people on major shifts in marine policy, which we may have.

Similarly, judicial reviews only review whether a process was done properly. They are not differences of opinion about a judgment but challenges to whether the proper process was conducted. An Bord Pleanála consistently loses judicial reviews because it does not apply the proper process. It is constantly found to have disregarded an EU directive here, to have glossed over an obligation there or to have skipped a stage in the consultative process somewhere else. We are trying to help in order that we have better and clearer planning that anticipates the issues that will arise and where people will get it right earlier. That is the whole issue and the goal. Ultimately, that will speed up the making of good decisions that stand.

Senator Victor Boyhan: I want to bring the focus back to the section. We are dealing with the marine planning policy statement. I take on board what Senator Cummins said. I know he is committed to the maritime area. He lives on the wonderful Waterford coast. I live in Dún Laoghaire, one of the finest harbours in Europe, if not in the world.

Acting Chairperson (Senator Aisling Dolan): It is.

Senator Victor Boyhan: It is truly an amazing place, as anyone living in the area will say. As a former councillor, Senator Cummins knows about public participation. He advocates it strongly when we discuss county development plans, local government, regional government and national government. I have no doubt everyone here understand the importance of public participation. We would not be successful politicians if we did not engage and advocate strongly with our electorate regarding public participation in decision making. For this reason, I do not know what the big problem is.

Amendment No. 12 proposes to include a new paragraph (b): "stating that a copy of the proposed statement, amendment or revocation may be inspected on a website of the Government, and available for inspection at a local authority planning office". Surely the Minister of State does not have a problem with that. Is he, a Minister in the Department of Housing, Local Government and Heritage, going to tell me there is a problem with that? Let me break it down and simplify it. All that is being requested in paragraph (b) is that copies be available for inspection at the statutory local planning offices which have planning hubs and a mechanism to facilitate the public display of proposals. I want to hear the Minister of State tell me if he is against that.

The amendment also proposes to include a new paragraph (c) providing for the invitation of “members of the public and prescribed bodies as follows: a local, regional or planning authority.” Those are arms of the State. Paragraph (c) also provides for the invitation of the Office of Public Works. We have a designated Minister of State with responsibility for the OPW. I am surprised. I would say the Minister of State would be shocked if he thought we were excluding the OPW. Paragraph (c) further provides for the invitation of a body referred to in the prescribed bodies and for a period of six weeks for the making of representations. The Bill, as drafted, provides for four weeks but I propose it be six weeks. An additional two weeks is not a long time.

I would like to think we could put this Bill to bed today rather than defer it. However, I am happy to come to the House on Friday and tease this matter out further. Let me break the amendment down into three simple asks. It is about the local authorities, the Office of Public Works and moving the time allowed for the making of representations from four to six weeks. Taking each segment of that, will the Minister of State tell us with what aspect of that proposal does he have a difficulty?

Acting Chairperson (Senator Aisling Dolan): I call Senator Cummins from the great coastal town of Waterford.

Senator John Cummins: Senator Boyhan is far more experienced at legislation than I am but he also knows that when amendments must be taken in their entirety.

Senator Victor Boyhan: Yes.

Senator John Cummins: He cannot take little bits of it to suit the agenda of the day. I am sure the Minister of State will reply on that.

I wanted to make one other point regarding the Senator’s original comments. He said he was aware this legislation would be challenged in the courts. That is very disappointing if that is the case. Senator Boyhan is aware that already before we as Oireachtas Members pass legislation, there are already bodies and people lining up to challenge the legislation in the court. That is a disappointing situation if that is in fact that the case. Senator Boyhan put it on the record of the House that he is aware that this is the case. I am saying here that it is disappointing that we as legislators are not being given the space to pass legislation before people are lining up to challenge it in the courts.

Senator Victor Boyhan: There are two aspects. I am not going to talk on one of those. Anyone has a right to judicially review or legally challenge----

Senator John Cummins: I did not suggest that they did not.

Senator Victor Boyhan: I am just saying anyone has a right to do so----

Acting Chairperson (Senator Aisling Dolan): Please could Senator Boyhan keep to amendment No. 12?

Senator Victor Boyhan: This is about the amendment. This is a reference to how my colleague suggested that it was going to be considered. Everything is going to be considered. Indeed, I might even consider it myself. Let us not deal with someone outside the room. Let us take it inside the room. I may myself decide to do so, if necessary, as is the right of a citizen. Let us not shake our heads because that is the right of a citizen.

For clarification, I do not take an item of legislation and break it up. That is why I had subsections (b) and (c). I broke up the points and I did not put them all in one amendment. I clearly set them out. The first one states “available for inspection at local authority planning office”. That is simple for anyone to read and is in my proposed section 6(10)(b). As subsection (c) is another section, this is not all a conglomerated effort. However, we are having a healthy debate here and we are having banter. I am a democrat and will I go along with the decision about this amendment. The bottom line is that I would like to think that the Minister of State could support this amendment. If he does not, I will call for a roll call vote. This is because this is too important to have bits of hearsay and then everyone goes out of the room and talks about the Aarhus Convention. Let us call a spade a spade. We are either for it and we support it, or we do not.

Deputy Malcolm Noonan: I would like to again address the Senators’ queries and their concerns about the issue of public consultation. It is our view that this could be addressed by secondary legislation via regulations. That is what we are saying. We will commence the preparation of regulations which will include, as I stated in the opening statement on this particular amendment, detail on public consultation. What is in the legislation is there as a minimum. It is not limited to that. I am giving assurance to the Members present this afternoon that within the regulations, details on further public consultation can be clarified and teased out in relation to some of the points raised by Senators Boyhan and Higgins.

We have had significant challenges around public consultation over the last 18 months. We all accept that, particularly in and around Covid-19. That is not to say, however, that public bodies have not responded positively. These include Departments across Government. First, the Government was formed during Covid-19. Many public consultations have taken place online and in other spaces. Our city and county development plans have largely been led through online portals. They have led to huge engagement from members of the public in prescribed time periods. We should take the lessons from that. Many members of the public and the organisations that have been part of those processes have found them useful. There is much to be gained from that, not just from time periods for engagement, but from how we engage. That is critically important here. It is important that we move away - as Senator Boyhan and I have discussed on a number of occasions - from linear consultation to more participative and inclusive methodologies, whether at local level, or in high-level legislative items or policy, such as the marine planning policy statement that we are talking about here this afternoon. I want to give that assurance to the Senators.

I know that Senator Boyhan will press this amendment. However, again, we consider that the detail on public consultation should be included around the drafting of regulations. The Aarhus Convention has been mentioned on a number of occasions here. It is significant and important from the point of view of people’s engagement, communities’ engagement, access to environmental information and access to environmental justice. The Government takes this seriously.

Acting Chairperson (Senator Aisling Dolan): I thank the Minister of State for his engagement with Oireachtas Members on those points. It is appreciated. I ask Senator Boyhan how stands amendment No. 12?

Senator Victor Boyhan: It is being pressed.

3 o’clock

Amendment put:

The Committee divided: Tá, 10; Níl, 25. Tá Boyhan, Victor. Boylan, Lynn. Craughwell, Gerard P. Gavan, Paul. Higgins, Alice-Mary. Keogan, Sharon. Moynihan, Rebecca. Ó Donnghaile, Niall. Wall, Mark. Warfield, Fintan. Níl Ahearn, Garret. Ardagh, Catherine. Buttimer, Jerry. Byrne, Malcolm. Byrne, Maria. Carrigy, Micheál. Casey, Pat. Cassells, Shane. Chambers, Lisa. Conway, Martin. Crowe, Ollie. Cummins, John. Currie, Emer. Dolan, Aisling. Dooley, Timmy. Fitzpatrick, Mary. Gallagher, Robbie. Garvey, Róisín. Horkan, Gerry. Kyne, Seán. Martin, Vincent P. McGahon, John. McGreehan, Erin. Murphy, Eugene. Ward, Barry.

Tellers: Tá, Senators Alice-Mary Higgins and Victor Boyhan; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

Senator Lorraine Clifford-Lee has advised the Cathaoirleach that she has entered into a voting pairing arrangement with Senator Eileen Flynn for the duration of Senator Flynn's maternity leave and accordingly has not voted in this division.

Senator Alice-Mary Higgins: I move amendment No. 13:

In page 25, line 9, to delete "four weeks" and substitute "sixteen weeks".

Amendment put and declared lost.

Section 6 agreed to.

SECTION 7

Amendments Nos. 14 to 17, inclusive, not moved.

Senator Alice-Mary Higgins: I move amendment No. 18:

In page 25, between lines 37 and 38, to insert the following:

"(9) *Subsections (5), (6), (7) and (8)* shall, with all necessary modifications, apply to an amendment made to or a revocation of a Ministerial Guidelines issued under this section as those subsections apply to Ministerial Guidelines issued under this section."

Amendment, by leave, withdrawn.

Section 7 agreed to.

SECTION 8

Acting Chairperson (Senator Eugene Murphy): Amendments Nos. 19 and 20 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: I move amendment No. 19:

In page 26, between lines 3 and 4, to insert the following:

"(3) The Minister shall ensure any new policy directives, or revocation or amendment of policy directives made under this section, shall first be subject to a screening determination for both Strategic Environmental Assessment and

Appropriate Assessment, and such assessments shall be conducted where the screening concludes they are required.”.

This amendment ensures that where there are amendments and revocations of original policy directives, a SEA or AA will be required in respect. There may be cases where new SEAs are required.

That was the issue I hoped to highlight in this. In the interests of time management, I will move past it for now unless the Minister of State wishes to comment on the matter.

Acting Chairperson (Senator Eugene Murphy): Are you withdrawing the amendment?

Senator Alice-Mary Higgins: I will withdraw it but may follow up with the Minister of State directly on the matter.

Amendment, by leave, withdrawn.

Amendment No. 20 not moved.

Section 8 agreed to.

Sections 9 to 11, inclusive, agreed to.

SECTION 12

Senator Alice-Mary Higgins: I move amendment No. 21:

In page 27, to delete lines 27 to 36.

I am open to clarification on this. I had a concern that, where approvals were granted for applications before new subsections were in place, some such approvals may have been granted under previous regimes which did not have many of the considerations we are putting into place in this regime. I understand there is a desire to maintain that but I worry that inappropriate approvals may have been granted and may effectively continue under this carve-out.

I am also conscious of some of the activities and usages involved. We have had situations where people have been granted exploration licences and been approved for certain activities. Based on that previous approval, they claim, I would say incorrectly, legitimate expectations of continuance and so forth. I want to give the State as much scope as possible to ensure best practice. If best practice required the revocation of an approval which turned out to be contrary to our overarching goals, I want to make sure that scope is there. I do not know if the Minister of State can comment again. I am uncertain on this and may bring forward a more detailed amendment on Report Stage on it but I wanted to check the scope was still there and we did not have situations where we are not told we are tied in to bad practices that may have received approval under a previous regime.

Deputy Malcolm Noonan: While I appreciate the motivation behind the amendment, section 226 of the Act refers to the local authority development on the foreshore. This amendment would effectively nullify existing permissions for local authority development and have significant consequences for the delivery of essential public infrastructure such as wastewater treatment facilities. I am certain the Senator would agree that we have to move on such infrastructure. I oppose the amendment.

Senator Alice-Mary Higgins: I will not press the amendment but suggest it is important there might need to be a review of some of them. I appreciate we do not want approvals falling off a cliff but we also might need to ensure, as part of that engagement with local authorities we have discussed at other points, that there is a review. Something that might have responded to a need identified by a local authority now has to be considered with regard to its intersection with multiple other needs. The issue can be teased out and I do not want to create an inadvertent cliff effect in terms of existing approvals but it is important that we looked at the mechanisms in local authorities for reviewing previous uses. We know it is an area where practice, learning and information available evolve all the time

Deputy Malcolm Noonan: I appreciate that. The Senator's point is noted.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Sections 13 to 15, inclusive, agreed to.

SECTION 16

Acting Chairperson (Senator Eugene Murphy): Amendments Nos. 22 to 24, inclusive, are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: I move amendment No. 22:

In page 29, between lines 8 and 9, to insert the following:

“(b) to contribute to the preservation, protection and improvement of the environment, including resilience to climate change impacts,”.

There is a real omission here. I do not really understand why these factors are not reflected in the objectives of marine spatial plans. I propose to insert that a key goal of our marine spatial plans is “to contribute to the preservation, protection and improvement of the environment, including resilience to climate change impacts,”. That should be there already. It is important that when we talk about maritime spatial plans we name and centre the preservation, protection and improvement of the environment as something that needs to be addressed.

We talk about achieving ecological, economic and social priorities. We can use a very extractive and utilitarian approach in relation to our strategic planning. Sometimes it is not about usages or taking and using but about protecting, preserving, supporting and creating resilience. I recognise that the ecosystem-based approach is there “for the purpose of supporting proper planning and sustainable maritime usages in the maritime area” but it is all about use and what nature will do for us and how we can get it to deliver for us.

I recall the Conference of the Parties in Madrid, the one before Glasgow, which was more disappointing than Glasgow in some ways. There was an idea that nature must almost have to audition for everything: should we consider preserving a bit of seaweed? Only if we can designate exactly its use and purpose. Even whales were considered in terms of how much carbon one can store in one. Our spatial plans would benefit and would be more complementary to the marine protection regime we hope to put in place if we made it clear that our marine spatial plan is thinking about the marine space. I reserve the right to bring in an amendment on Report Stage. There are strategic development goals on life under water. There are things that are just

good and important that we should plan for and protect that are not necessarily usages. Perhaps it is a philosophical point but it is important. Our relationship with nature affects how we plan for nature. Therefore, I hope the Minister of State will consider amendment No. 22. I will not move amendment No. 23.

On amendment No. 24, I recognise that these are issues that were already debated at length in the Dáil. This is about trying to ensure that the MSP directive would be more centred in the process and that we would make visible the considerations around the MSP directive. They are in the background but it might be advisable and useful for the State to make it clear in the process.

Deputy Malcolm Noonan: I am speaking to amendments Nos. 22 and 24, since the Senator withdrew No. 23. I thank her for making those significant points about nature. I appreciate that.

Amendment No. 22 proposes to cherry pick elements of Article 5(2) of the MSP directive. This is contrary to the directive. Article 3 of the MSP directive defines maritime spatial planning as “a process by which the relevant Member State’s authorities analyse and organise human activities in marine areas to achieve ecological, economic and social objectives”. The Senator referred to that. Article 5 requires member states to consider economic, social and environmental aspects to support sustainable development and growth in the maritime sector. The preservation, protection and improvement of the marine environment, although hugely significant, is not the only objective to be pursued. The Bill has been crafted to ensure that it transposes the directive consistently recognising the need to achieve ecological, economic and social priorities. I would invite the Senator to read through the NMPF and she will see that the first section is dedicated to ocean health. The first 21 marine planning policies of the 80 odd policies instruct decision makers to have regard to ocean health. If we do not have a healthy marine environment everyone suffers, including those making a living from the sea. The points were well made by the Senator in relation to COP25 and while there were significant disappointments with regard to COP26, there were also significant gains, particularly with regard to the marine area. The Irish Government participated virtually in COP15 on biodiversity in Kunming in China. We will be participating again next year with a suite of policies and our objectives around the marine area and marine protection will ensure that we have the high-level ambition that we consistently speak about. The complementarity to which the Senator refers will be embedded in all of the work we do and within that, the adherence to the sustainable development goals is something of which we are critically aware. In particular, we are focused on sustainable development goal No.17 which refers to the partnerships for the goals, which is what we have achieved in our discussions and deliberations here this afternoon. We are very clear that this is a partnership approach, with Government leading on policy but also working with the State and semi-State sector, industry and NGOs to ensure that we have a thriving blue economy and thriving nature and biodiversity protection in our marine space. This is something of which we are consistently mindful in this legislation and in the work we are doing on marine protection. I am really delighted that the Senator has raised it here this afternoon.

Specifically with regard to amendment No. 24, I am confident that the wording of Article 16(5) adequately addressed the requirements of the directive. I remind the Members that the directive states that while it is appropriate for the European Union to provide a framework for maritime spatial planning, member states remain responsible and competent for designing and determining the format and content of such plans. Any marine spatial plans or designated maritime area plans must meet the requirements of the national marine planning framework and in

so doing the requirements of the Maritime Spatial Planning Directive. While I appreciate the spirit of these amendments, I am confident that all of these aspects have already been covered in the Bill and, therefore, I am opposing these two amendments.

Senator Alice-Mary Higgins: Again, I would note the subtle difference between maritime activities and maritime usages. The Minister of State read from the directive itself and maritime activity is a bit different from maritime usages. I appreciate his engagement on this and his good faith on the matter but I will press this amendment because it is important to put down a marker. Again, I thank the Minister of State for referencing those points of concern to me, including the sustainable development goals. Indeed, that is something I would have liked to see in our Climate Action and Low Carbon Development (Amendment) Bill as well. It would be no harm to put the sustainable development goals into more of our legislation because it copper fastens them and in that way we are not reliant to the same extent on the goodwill of individual Ministers in their consistency and engagement on it but so be it.

Amendment put and declared lost.

Amendments Nos. 23 and 24 not moved.

Section 16 agreed to.

SECTION 17

Senator Alice-Mary Higgins: I move amendment No. 25:

In page 29, line 34, after “Articles” to insert “7, 8, 9,”

Again, I was just trying things down with regard to Articles 7, 8 and 9 of the Maritime Spatial Planning Directive but we have had a good engagement on that matter and in that context, I will withdraw amendment No. 25.

Amendment, by leave, withdrawn.

Acting Chairperson (Senator Eugene Murphy): Amendments Nos. 26 to 29, inclusive, will be discussed together.

Senator Fintan Warfield: I move amendment No. 26:

In page 30, to delete lines 1 to 9 and substitute the following:

“(2) Not later than one month following the passing of this Act, the Minister shall commence and carry out a review of the existing NMPF to—

- (a) review its compliance with the MSP Directive,
 - (b) provide for interim protections for the marine environment, and
 - (c) in respect of the inclusion of relevant projects in the existing NMPF—
 - (i) to specifically review the compatibility of the inclusion of the relevant projects in the existing NMPF with the requirements of the MSP Directive,
- and

(ii) to address consequences arising from the delayed implementation of marine protected areas and adequate designation of sites under the Birds Directive and Habitats Directive.

(3) Notwithstanding anything elsewhere in this Act, no Maritime Area Consent or Development Consent can be granted pending the conclusion of the review under *subsection (2)*.

(4) The Minister shall conduct a public consultation as part of the review and shall also consult with at least with the following organisations:

- (a) the Marine Institute;
- (b) the Environmental Protection Agency;
- (c) the Heritage Council;
- (d) Fáilte Ireland;
- (e) An Taisce, the National Trust for Ireland;
- (f) Sustainable Water Network Ireland.

(5) The Minister shall assess the compliance of the existing NMPF including in particular how the existing NMPF complies with the following articles of the MSP Directive:

- (a) Article 1;
- (b) Article 4(4);
- (c) Article 4(5);
- (d) Article 5(1);
- (e) Article 5(2);
- (f) Article 6;
- (g) Article 8(1);
- (h) Article 8(2);
- (i) Article 10;
- (j) Article 11;

(k) the requirements of recital 2 relating to the overarching constraint that development and decision making in marine environment has to be done whilst achieving good environmental status as set out in Directive 2008/56/EC.

(6) The Minister shall consider the implications of at least the following assessments in reviewing the adequacy and compliance of the existing NMPF and the need to provide for interim protection areas, pending the designation of further sites as marine protected areas under Article 13(4) of Directive 2008/56/EC:

(a) Article 17, 10 and 11 of the Maritime Strategy Framework Directive;

(b) Article 16 and 17 of the Habitats Directive;

(c) Article 10 of the Birds Directive;

(d) any data gaps and deficiencies in the assessments highlighted in the consultation responses to *paragraphs (a) to (c)* above;

(e) the latest Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) report, and its relevance and conclusions for marine biodiversity and relevant avian species including native and migratory bird species relevant for the area of the MSP;

(f) migratory and foraging pathways for marine biodiversity and relevant avian species including native and migratory bird species, to and from, and through the MSP;

(g) outstanding and or inadequate designations in the marine environment or in coastal sites under both the Birds and Habitats Directive;

(h) the requirements for the strict protection of species and habitats listed under Annex IV of the Habitats Directive;

(i) take account of the effect of climate change on patterns of migration; and

(j) take a precautionary approach to data gaps and deficiencies in respect of ecological surveys in respect of the MSP.

(7) The Minister shall detail his detailed reasons and rationale for amending or not amending the existing NMPF including in light of the criteria and considerations above.”.

The Minister of State is aware that there will be a review of the national marine planning framework within the next six years. We want the review to be sooner than that. The Department and the Ministers will know this. Can the Minister of State tell us when the review will happen? We would like to see it happen within 12 months.

Senator Alice-Mary Higgins: This is the question of the review which we discussed earlier. Six years is too far away for a review. The Minister of State indicated, and maybe he will confirm, that his intention is to have a review within two years. This amendment is saying that, ideally, it should be sooner than two years and it should be as soon as possible. This is the precautionary principle and the idea that while a full review should ideally be commenced and carried out within the immediate period, there are a couple of key areas of high concern which should be reviewed, even pending a fuller review. One is compliance with the maritime spatial planning directive. We have quoted that directive back and forth to each other. The Minister of State can hear the real concern about the detail of that directive and how that is reflected in these processes. It is not enough for it to be there in the background. It is a matter of making sure that the processes under our national marine planning framework are fit for purpose and fully compliant with the marine spatial planning directive. I have made my case about interim protections.

The Minister of State has expressed positive sentiments that agree with me about many

matters but I have not really had assurance about what happens in the meantime. New research has recently discovered new coral reef areas and shark habitats. How do we protect them and ensure that nothing happens to them, pending a proper review or marine protected areas being designated? The projects under the current national marine planning framework need to be consistent with the marine spatial planning directive. This is all in the context of the delayed implementation of marine protected areas. I should point out that marine protected areas are not the only thing that we are waiting on. There is also the question of sites designated under the birds and habitats directives. Moving from sea to land, there are many areas designated as special areas of conservation. I urge the Minister of State, who has the power to designate special areas of conservation, to move more rapidly on this if it is to happen within the term of this Government. All of these processes are in play. This is a set of urgent reviews to make sure that we do no harm in the interim.

What was the grouping?

Acting Chairperson (Senator Eugene Murphy): Amendments Nos. 26 to 29, inclusive, are grouped together..

Senator Alice-Mary Higgins: I am not going to move amendments Nos. 27 or 28.

Acting Chairperson (Senator Eugene Murphy): We will come back to that in a moment.

Senator Alice-Mary Higgins: They are grouped.

Acting Chairperson (Senator Eugene Murphy): I want to give the Minister of State a chance to reply, then we will come back to Senator Higgins.

Deputy Malcolm Noonan: Amendment No. 26 proposes that a review of the national marine planning framework be commenced within one year of enactment of this legislation. These proposed amendments contain deficiencies. These include providing for particular pillars of sustainable development and sectors to the exclusion of others, and thus upsetting the neutrality of the legislation, requiring compliance with very specific and selected provisions of directives other than the MSP directive - some of which are already covered elsewhere in the Bill, such as the birds and habitats directives, as referenced by the Senator - and other matters outside of the requirements of the MSP directive, which this Bill is giving effect to.

It appears that the intention is to up-end a plan that has only been adopted and is not properly embedded. This simply is not acceptable to the Government. I understand that the Senator is not happy with the NMPF but it is Ireland's national marine plan, the first of a series of interconnected and related spatial plans for the maritime area. We will simply not go back four years to the beginning of the process, holding off progress on all aspects of the NMPF. This Government takes marine management seriously and we take decarbonisation seriously. We need to move forward with this Bill.

The requirement in the Bill is that the review will be carried out within six years but it is our intention that we will carry out this review sooner, particularly for the first national maritime spatial plan. Now we must focus our resources on getting the new system up and running. I am happy that the existing NMPF underpins this system appropriately in its current form.

In terms of the detail of the proposed amendment, it has the effect that no maritime area consents or development consents can be granted pending the conclusion of the aforementioned

review. This would simply have the effect of rendering significant parts of the Bill inoperable for a period of time.

This proposal, in itself, is extremely concerning as it would also mean that where one is currently permitted to obtain planning permission on the foreshore under Part 15 of the Planning Act, this right would effectively be removed. Just to be clear, under this amendment, no harbours could be expanded, no boathouses constructed, or no recreational jetties or pontoons erected pending a review of a national plan that would only be six months old.

As to the bodies that should be consulted during the proposed review, many of these bodies were already central to the production of the NMPF and sat on the marine advisory group for the four-year period in which the plan was being prepared. The NMPF has, I should note for the record, been broadly and widely welcomed by the members of the advisory group and further afield.

I appreciate the Senators' intention to ensure participation of certain organisations. This is why public participation, including the input of relevant organisations, is stitched into the very formulation of maritime spatial plans, ensuring that relevant views are taken into account throughout the entire process.

As regards specific points raised by Senator Warfield but particularly by Senator Higgins, they referenced the habitats and birds directives and the Wildlife (Amendment) Act. Some of those will be brought forward again early next year. There are also mechanisms by which certain species can be afforded protection under the Wildlife Act and those can be given consideration. We are certainly of the view that these processes are fully compliant with the NMPF directive. In that regard, I will not be accepting this amendment.

Senator Alice-Mary Higgins: I will address a couple of the other amendments so.

In terms of the amendment which the Minister of State has replied to, there is one aspect which I neglected to mention and which it would be useful to get a response to. There has been a concern about whether there was adequate and robust sensitivity mapping in the development of the current NMPF. If I was satisfied that that had been adequate these concerns would not arise but the opportunity was missed in that development for doing more sensitivity mapping.

One area that I specifically wanted to highlight is the issue of the migratory and foraging pathways in terms of marine biodiversity. I am always concerned. The studies of cetacean sonar, for example, has been an area of real importance. The Minister of State will be aware of the research on that matter.

The migratory patterns are very significant and we know that there has not been adequate consideration. In a separate debate, which we do not have to have, we have seen the issues arising at Annacotty Weir in terms of the migratory patterns of marine life. I will not make the Minister of State answer on the Annacotty Weir right now but it relates to that same issue of the migratory patterns. Is the Minister of State satisfied that those matters are properly being captured in the framework as it is?

Amendment No. 29 proposes that the review under the NMPF be carried out in accordance with section 17(3), which provides for the review of the MSP six years after it is published. It is basically trying to ensure that the review of the NMPF be carried out in accordance with the same criteria as set out in section 17(3) for the review of an MSP.

Deputy Malcolm Noonan: I again thank the Senator for her contribution. Going back to the point on marine protected areas, this Bill does not legislate for this. Marine protected areas are the subject of separate legislation, as we have discussed previously. There is no requirement to conflate the MSP directive with the marine strategy framework directive in one piece of enabling legislation. The latest MSP global international guide on maritime spatial planning, prepared by UNESCO and the EU Commission and published this year, reinforces the distinction between the two maritime governance tools. This is a national plan and further iterations of it will cover the localised issues the Senator has raised.

Migratory species have been, and are being, covered in the marine protected areas, both in the legislation and in how we design the MPAs. We are conscious of species such as basking sharks, which migrate from the North Sea to the west coast of Ireland and how they are protected as a species when they enter Irish waters. There will be a clear level of protection there for iconic species like that but also other species that migrate.

Senator Alice-Mary Higgins: I appreciate that these will be part of the marine protected areas but my concern is about the marine planning framework, especially with regard to annual or biannual migration patterns. They will not wait for the marine protected areas to be declared. Migration patterns cannot be damaged or disrupted. It is one of those areas where that kind of interim measure of protection is a concern. While it is fine that this issue might come under the marine protected areas, is the Minister of State confident that, until we have them, there are measures within the marine planning framework that will give due and appropriate consideration to this factor? Will it be considered in the granting of MACs and the drawing up of other things or is that something the Minister of State intends to address in guidelines?

Deputy Malcolm Noonan: There are several layers of protection there. If the Senator wants to consider it in terms of an interim measure we can give and are giving active consideration to statutory instruments, particularly around species like the basking shark, in order to include them as a listed species under the Wildlife Act. There is a possibility of using that mechanism to protect specific species across Irish waters.

Senator Alice-Mary Higgins: I thank the Minister of State. I look forward to engaging with him on that matter.

Amendment put and declared lost.

Amendments Nos. 27 and 28 not moved.

Senator Alice-Mary Higgins: I move amendment No. 29:

In page 30, line 2, after “thereof” to insert “in accordance with *subsection (3)*”.

Amendment, by leave, withdrawn.

Senator Fintan Warfield: I move amendment No. 30:

In page 30, between lines 9 and 10, to insert the following:

“(3) Within two months following enactment, the Minister shall implement a process to provide for interim protection in the marine environment of the existing NMPF to ensure the designation of marine protected areas in accordance with Article 13(4) of Directive 2008/56/EC is not compromised and notwithstanding anything elsewhere in

this Act no Maritime Area Consent or Development Consent shall be granted until that process is completed.”.

This was touched on in the previous contributions. Separate to this Bill is the marine protected areas legislation. We think such areas should be designated in parallel with the planning regime. It would be better if we knew what a marine protected area was or was not, for example, when it comes to wind developments.

That is not the case and we are not going to get that marine protection legislation for another two years or so. In the meantime, what measures is the Government is taking that go above and beyond the existing protections - the existing planning schemes - to ensure we do not have more biodiversity loss in our marine environment? We think more protections are needed and we have put forward amendment No. 30 in this respect so I would welcome the Minister of State's response. I know Senator Higgins co-signed this amendment.

Senator Alice-Mary Higgins: Amendment No. 2 probably has better wording in respect of this but, unfortunately, was not deemed to be in order. I know there are imperfections in the wording of amendment No. 30 but I think the principle is really important, namely, that there would be a process to provide for interim protections. This is all about what happens in between. Simply stating that we are happy with this process and will be happy with the next process regarding the marine protected areas is fine but the space is that space in between. While I understand the Minister of State's personal interest in and engagement in all of these areas, I am still not satisfied as to what the interim measures may be. Perhaps it is not a pause, as some of our amendments have looked to, that is, that there would be a pause pending the proper things being put in place. Certainly there should be interim protections to ensure that the designation the Minister of State hopes to do in terms of marine protected areas is not compromised. I will be really frank and this is not so much on the Minister but rather everybody who has had a role in this area. The delays in designating special areas of conservation in Ireland have led to areas becoming degraded and damaged. In respect of the delays in marine protection area designation and the failure to achieve the very basic 10% we were meant to achieve last year, we lose ground, space and opportunities. Biodiversity loss can be significant. The kind of things that may be allowed for under the marine planning framework have real impacts. I reserve the right to introduce an amendment on this issue on Report Stage. I will certainly engage with the Minister of State regarding the regulations on this. It involves things like the kind of surveys done regarding maritime usages and the kind of activities around even applications for maritime usages. All kinds of things may happen.

Again, what I am trying to suggest here is that the Minister of State should put interim measures in place to ensure that the position our maritime areas are in at the point when our marine protected areas are introduced does not in any way deteriorate between this moment and when that legislation comes in. This is where the interim protections come in. Maritime area consents, which, again, allow for different maritime usages, have the potential to compromise biodiversity. Even the very act of the surveys associated with maritime usages have had a knock-on effect. We know of multiple companies conducting annual surveys again and again. The survey on cetacean audio impacts has been quite significant in that regard. It is a similar case with development consents because if we issue them, there is that concern. I know this is not perfectly worded but if we have that situation, it is very hard to roll back on something. There is a reluctance to do that. We saw it even with the Climate Action and Low Carbon Development Bill. Frankly, it is ludicrous that we are prohibiting certain kinds of things in the Climate Action and Low Carbon Development Bill but then say, “If you've already had

an exploration, we should allow you to potentially go on and apply for an extraction licence.” There are knock-on effects. We create legal liabilities. We do not want to be in a position where in two or three years’ time we are told that, unfortunately, X, Y or Z company on legal advice mysteriously from the Attorney General, which none of us can see, states we are not a position to address something as the horse has bolted on that and our legal advice is that we cannot do X, Y or Z. We have seen the chill effect in that regard in lots of areas. For example, the banning of liquefied natural gas which should have happened already. I am not going to go into other areas of environmental planning but these are examples. Amendment No. 30 seeks to ensure that we avoid creating hostages to fortune and we do not lose ground.

Deputy Malcolm Noonan: I will give the response and just try to specifically address the concerns that were raised by both Senators.

Again, this amendment conflates the MSP directive with the marine strategy framework directive and seeks to up-end the implementation of one over another. Both will need to be provided for in the Irish Statute Book. We know that and we are acting on same.

On marine protected areas, the progress to deliver the commitments contained in the programme for Government has been significant and encouraging. Following on from the independent expert advisory group, which was led by Professor Crowe, a report was published in January of this year. In tandem with the review and analysis of the huge amount of submissions that were received through the subsequent public consultation process from February to July, we have now commenced work on developing a general scheme for the new marine protected area legislation. The development of this legislation is expected to continue into 2022. Officials from my Department provided a progress update on marine protected areas to the Oireachtas Joint Committee on Housing, Local Government and Heritage at the end of November. I urge Senators to read the transcript of that contribution because it gives significant reassurances concerning the common thread that we have spoken about here this afternoon. I refer to the interrelatedness of these policies, Bills and legislation.

The substance of the amendment is about the protection of the marine environment. It requires that nothing happens in the maritime area until such time as interim measures are put in place to protect these potential MPAs. First, I am not sure that the Senators fully appreciate the impact of this amendment on local coastal communities. I have said previously that this Bill is for all maritime users. This amendment would have significant and severe consequences on local fisheries, ports, harbours, tourist facilities, local boat clubs and persons who privately own parts of the current foreshore. None of these could be expanded, amended or improved until the work referred to in this amendment was completed. Existing rights under Part 15 of the Planning Act could be lost. Where is the justification for this severe action? Where is the timeline for these measures? How will the public know when they can start to interact with their maritime area again? There is an overreach here that impacts all maritime users, the net has been cast too widely in our view and please excuse the pun.

Second, there is no definition of exactly what these interim measures are or how they would interact with the relevant provisions in either the MAC assessment criteria, or the criteria that coastal planning authorities and An Bord Pleanála must have regard to when assessing planning applications. There is no indication as to how they would relate to the maritime licensing system being proposed, which is separate from both the MAC and planning parts. This is extremely important from a legislative point of view. How would it work? It appears that there are no express obligations to have regard to these so-called interim measures in decision mak-

ing and no further thought put into their operation.

Third, the amendment presumes that there are currently no environmental protections in the maritime area and this is not the case. Not only are there existing designated European sites, the NMPF, which is a live and implemented plan, contains a suite of environmental policies to ensure that applicants and decision makers alike clearly demonstrate in a detailed and objective way how proposals can co-exist with the marine environment. I would draw the Senators' attention, in particular, to Chapter 5 of the NMPF in this respect. We have said continuously that any application in the maritime area will be subject to rigorous environmental assessments commensurate with the nature and scale of what is being proposed and where it is being proposed. This can and will be added to through the designated maritime area plan process in a new and innovative way. Indeed, I have previously committed to looking at how this can be done. The DMAPs will form part of the decision-making policy framework as legislated for but we need an operable Act in order to do that.

I will not accept an amendment that not only affects so many maritime users without any indication as to when they might be allowed to resume their plans for their local coastal communities, but also runs contrary to other work that my officials are currently undertaking to implement the marine strategy framework directive. I oppose the amendment. Again, I urge Senators to read the transcript of the meeting of the Oireachtas joint committee that took place in November. I urge Senators to read the contributions made by our marine environmental unit. Significant assurance was given in that regard in terms of marine protection and how all of these plans are interrelated.

4 o'clock

Senator Alice-Mary Higgins: It is a bit disingenuous to state that we do not have specifics. We provided many detailed specifics in amendment No. 2, which related to interim protections. That amendment was ruled out of order because our dictating such matters to the Minister would constitute a charge on the State. We suggested a timeline of two months for beginning the review. The matter of how long such a review would last would have been the prerogative of the Minister. The Minister could state that it would be a six-month process if he or she so wished and he or she could give that certainty to coastal communities and others. While we outlined in amendment No. 2 what we considered might be the kind of interim measures that need to be considered, in amendment No. 30 we leave scope in that regard to the Minister and we are not overly prescriptive.

The big issue is the gap in interim measures. The Minister of State talked about the considerations. I will look back at what the marine environmental unit is saying between now and Report Stage, but I would like to see interim measures that do not just relate to the general process and system that are in place. Some things can be improved and given a fresh start and then they can be changed again. Protection, by its nature, needs to be done each minute, week, month or year in the interim period. I understand the considerations that will be feeding into the processes, but this amendment is loosely worded in order to give the Minister scope to put in place a plan for interim measures. It is designed to allow the Minister to set something out and not to simply say that we should trust the officials and their goodwill and intentions, the processes and so forth. The Minister of State should give us, as parliamentarians, an assurance that as we let this legislation through, there is a plan for interim measures. I would much prefer it if the Minister of State was bringing forward an amendment - maybe he will do so on Report Stage - indicating clearly that he recognises that this law is landing at a certain time when cer-

tain important decisions have not yet been made and that he understands that there is an interim period when particularly sensitivity might need to be applied, including the precautionary principle and so forth. That is where the gap lies.

We have a detailed proposal in amendment No. 2, which, unfortunately, cannot be debated, and we have a very loose proposal in amendment No. 30. The latter includes a proposal to give the timetable over to the Minister such that the process would commence in two months, would last for as long as the Minister would consider to be necessary and would involve such interim measures as the Minister might deem to be necessary. I agree that it is looser than we might like but it was seeking to strengthen the hands of the Minister, as well as seeking to strengthen our understanding and confidence as we vote for this legislation. If we are to vote for the Bill, we should know that the position regarding interim measures will be addressed.

Deputy Malcolm Noonan: I thank the Senators for the general thrust of what they are trying to achieve in the amendment. I assure them that these matters are interrelated. I will continue to reiterate that, and it is important to say that. I do not see this amendment as being loose. It is quite prescriptive in the sense that it states: “notwithstanding anything elsewhere in this Act no Maritime Area Consent or Development Consent shall be granted until that process is completed.” It will cost considerable-----

Senator Alice-Mary Higgins: It could be a four-month process.

Deputy Malcolm Noonan: As I have outlined, the MPA legislation is moving along significantly. We hope that the legislative draft will be ready in the first half of 2022. We are moving on that with significant pace. It is important to look back at the transcript of the meeting of the joint committee that took place in November, which focused on MPAs. That engagement with marine environmental unit gave significant reassurance to members of the committee on how these interrelate.

Amendment put and declared lost.

Acting Chairperson (Senator Sharon Keogan): Amendments Nos. 31 to 33, inclusive, are related and may be discussed together by agreement.

Amendments Nos. 31 to 33, inclusive, not moved.

Section 17 agreed to.

NEW SECTION

Senator Alice-Mary Higgins: I move amendment No. 34:

In page 30, between lines 18 and 19, to insert the following:

“18. (1) The arrangements for public participation on the review, preparation and amendment of a new MSP developed under this Act, and a review and amendment or replacement or revocation of the NMPF in place on enactment, and other relevant documents, shall be consistent with the requirements of Article 9 of the MSP Directive, relevant provisions in European Union legislation referred to therein, and the Aarhus Convention which is an integral part of the EU legal order, and in particular, Articles 3(2), 6 and 7 of the Aarhus Convention.

(2) The Minister may by regulations specify requirements relating to any of the following:

(a) appropriate time periods for public consultation, where—

(i) such time periods when calculated shall not include excluded time periods, and

(ii) shall be generously specified to provide adequate time for the public and relevant authorities and prescribed bodies to plan and prepare so they can participate effectively,

(b) arrangements for the publication of notices relating to relevant documents where such requirements include—

(i) online notification systems including Government websites, and

(ii) more traditional methods including newspaper notices in both national and regional newspapers, given the need to provide for equal access and opportunities to participate in areas and amongst demographics where digital access may present barriers, and to reach the public on matters of concern and interest to the public at large,

(c) the contents of notices, including the following:

(i) public consultation timeframes, including periods during which submissions may be made;

(ii) information on how submissions received will be acknowledged, considered and published;

(iii) information on the proposed methods of public participation;

(iv) the fact that there is no charge to make an observation or submission;

(v) where the relevant information can be found online, and where it can additionally be inspected, and that there is no charge for access to either,

(d) specific additional arrangements (including, if the Minister considers it appropriate to do so in the interests of clarity, separate sets of regulations made under this section) in relation to MSPs that fall within *section 16(3)(a), (b) or (c)*, and of consistent standard to *paragraphs (a) to (c) of subsection (3)*.

(3) Where the Minister makes regulations under *subsection (4)*, in addition to having regard to the other provisions of this Act, he or she shall also—

(a) act consistently with—

(i) the Convention on Access to Information, Public Participation in Decisionmaking and Access to Justice in Environmental Matters done at Aarhus, Denmark on 25 June 1993;

(ii) Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of

certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC;

(iii) Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;

(iv) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast);

(v) Article 9 of the MSP Directive;

(vi) Article 10 of the MSP Directive,

and

(b) have regard to the following principles and policies:

(i) the opportunity to incorporate national and international good practices relating to public participation;

(ii) public participation in the process is inclusive;

(iii) the balancing of the administrative burden on the competent authority (M) and participants is considered, making use, where possible, of existing public participation processes and methods, while recognising any disproportionate burden on the public is neither desirable or permissible;

(iv) that public participation must be initiated at an early stage and continued throughout the development of MSPs;

(v) that appropriate use is made of a wide range of media to raise awareness to maritime spatial planning and public participation opportunities;

(vi) that appropriate use is made of information technology and is also accompanied by more traditional non-digital methods to ensure fair access is provided for;

(vii) particular additional requirements relating to MSPs that fall within *section 16(3)(a), (b) or (c)*.

(4) In this section, “relevant document” means—

(a) a review of the NMPF in place at the time of enactment,

(b) an amendment or revocation of the NMPF in place at the time of enactment,

(c) a draft of a MSP that falls within section 16(3)(a), (b) or (c), or

(d) a draft of a DMAP or an amendment or revocation of a DMAP.”.

Amendment put and declared lost.

Sections 18 to 21, inclusive, agreed to.

SECTION 22

Senator Alice-Mary Higgins: I move amendment No. 35:

In page 34, between lines 30 and 31, to insert the following:

“(c) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive),”.

Amendment, by leave, withdrawn.

Senator Alice-Mary Higgins: I move amendment No. 36:

In page 34, between lines 30 and 31, to insert the following:

“(c) the requirement of the MSP Directive to address marine spatial planning whilst ensuring Good Environmental Status the objective of Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) and where Good Environmental Status is as defined therein,”.

Amendment, by leave, withdrawn.

Acting Chairperson (Senator Sharon Keogan): Amendments Nos. 37 and 39 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: I move amendment No. 37:

In page 35, between lines 4 and 5, to insert the following:

“(c) as appropriate the species and or habitats or ecosystem features or characteristics of the area of the marine the subject of the DMAP which are to be protected,”

I understand Senator Warfield will move amendment No. 39 in the same grouping. Amendment No. 37 provides that the draft DMAP specify species or habitats and ecosystem features and characteristics of the area in the DMAP that is to be protected. The draft DMAP would provide the kind of detail that would become useful, in terms of species, habitats, ecosystem features and characteristics, and might specify not simply that we are in a marine environment that needs to be protected but the specifics of what needs to be protected in the area in question. This will lead to a better quality of care and thought, be it with regard to a migratory species that passes through the area.

It should not be the case that a list of factors qualifies an area. There must also be real consideration of the granular detail. As we know, each thread in an ecosystem does different work and is of different importance.

Amendment No. 39 highlights other matters that should be respected notwithstanding the use of a designated maritime area plan for any particular development purpose or activity. I will let Senator Warfield speak further to amendment No. 39.

Senator Fintan Warfield: I am conscious that the Joint Committee on Agriculture, Food

and the Marine has completed six or seven sessions on this Bill. At three hours per session, that means 20 or 21 hours of work has been done by the committee and I commend the committee members on that. I also know that this issue was discussed at length on Committee Stage in the Dáil.

There is a hierarchy of plans, and sitting at the top of it is the EU legislation. Beneath that is the marine spatial planning directive and other directives. Beneath those is the Twenty-six Counties marine planning framework. The marine policy statement is the practical implementation of the planning framework. Beneath that again are the spatial plans, which can be in the areas of the seas. Beneath those are the DMAPs, which can be regional or sectoral. When doing a marine spatial plan, there are a lot of processes that need to be gone through to ensure full consultation while adhering to EU requirements. We would prefer if the rigorous approach that is applied to the maritime spatial plan was also applied to DMAPs. I know this was discussed on Committee Stage in the Dáil but we still do not understand why the same process that is used for a maritime spatial plan is not being used for a DMAP. We were not completely satisfied by the Minister of State's response in the Dáil and I would appreciate a more detailed answer here on Committee Stage in the Seanad.

Deputy Malcolm Noonan: What needs to be highlighted here is that the State intends to create management plans for areas within the maritime area. It is not simply a case of defining a boundary and specifying what activity will take place in this zone. In its development, the management plan for the area must take into account all activities that currently use that area or could potentially use that area in the future. It must also take into account environmental aspects of the area. All data generated in this development will be collected under the ethos of collate once, reuse many times, and will be added to the maritime database as set down previously in the Bill. This is a considerable shift in how we protect an area, a tailored product that puts the environment at the heart of the management plan. Furthermore, all DMAPs will have to undergo screening for strategic environmental assessment and appropriate assessment.

Amendment No. 39 effectively seeks to apply the requirements of the national maritime spatial plan to what is the comprehensive subnational planning process, namely, DMAPs. It would, in my view, upset and interfere with the intention of the DMAP concept.

In accordance with section 20 of the Bill, DMAPs may be prepared in respect of specified activities for one or more than one designated geographical or sectoral area or for both. The procedures set out in the Bill are sufficiently flexible to enable the development of regional, local or sectoral plans by a designated competent authority subject to the oversight of the Minister for Housing, Local Government and Heritage and Oireachtas approval. DMAPs will be prepared in the context of the existing national marine planning framework and are required to specify the objectives of the national marine planning framework that it seeks to attain.

The DMAP concept differs from the national maritime spatial plan, which provides an overall framework for the entire maritime area, incorporating ecological, economic and social priorities. The national marine planning framework provides a holistic, overarching policy position in relation to the maritime spatial plan in Ireland and is the State's primary response to commitments under the maritime spatial planning directive. DMAPs should not duplicate this but operate within the general framework and enhance it by responding to more specific maritime planning needs, be they sectoral or localised. It is, therefore, not appropriate to apply all of the requirements of a national marine plan to a sectoral or geographically specific plan as to do so would undermine the purpose and functionality of a DMAP. However, in accordance with sec-

tion 21(4), it is the Minister's responsibility in reviewing a DMAP proposal to consider whether it satisfies requirements of the MSP directive and, again, when reviewing the draft DMAP.

In effect, the overarching objective of this amendment to comply with certain provisions is provided for by reference to the NMPF in sections 21, 22 and 28 and the MSP directive in sections 20, 23, 24 and 28. In addition, the requirements referred to in section 17(1) will already flow through from the NMPF and MSP in any event. While they may not be applicable to every DMAP being proposed, where they are relevant they will absolutely be adhered to.

In short, these amendments, as proposed, would undermine the flexibility required for the DMAP concept and are not necessary and, as such, I am not in a position to accept them.

Acting Chairperson (Senator Sharon Keogan): Is Senator Higgins pressing the amendment?

Senator Alice-Mary Higgins: I will press it.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 38:

In page 35, line 10, to delete "colocation or".

This amendment relates to language introduced on Report Stage in the Dáil that is a little concerning. It relates to the phrase "colocation or" in subsection 2(f). The paragraph currently states "any proposed colocation or coexistence of the maritime usages referred to in *paragraph (c)*". I am a little lost in my thinking on this. I had it clearly in my head earlier. The concern relates to the word "or" between the word "colocation" and the word "coexistence" and the preference, from our side, is that the word "and" would be used rather than the word "or" to ensure maximum protection in terms of both scenarios.

Deputy Malcolm Noonan: Amendment No. 38 seeks to delete "colocation" from section 22 in relation to proposed maritime usages within a DMAP. The inclusion of both "colocation" and "coexistence" here is designed to reflect the intended versatile nature of DMAPs. I am sure the Senator can appreciate that. The proposed amendment would unduly limit the scope and potential of DMAPs.

Flexibility is required in this regard. Once again, I remind Members that what we are doing here is creating a framework within which plans can be made. It is important we do not use primary legislation as a development control tool. I note to colleagues that this is a new system that is revolutionary in its approach. We want to enable competent authorities to create plans that are all encompassing. We would negate that paradigm by building in inflexibilities such as those suggested in this amendment.

This section was amended on Committee Stage in the Dáil to provide for colocation and coexistence. As such, I am opposing this amendment.

Senator Alice-Mary Higgins: My concern relates to the word "colocation". There are cumulative impacts that can happen. I am a little concerned when I hear the word "revolutionary" used in the context of the new system. If it is revolutionary we should definitely get the reviews in place first, if new major pieces are going into it. In the interests of saving time because I understand the constraints we are under, I will not press the matter further. I will wait to

address further issues I have with DMAPs. I am concerned about that matter and having heard the Minister of State's response I am no less concerned about it.

Acting Chairperson (Senator Sharon Keogan): Is the Senator withdrawing the amendment?

Senator Alice-Mary Higgins: I will withdraw it and reserve the right to reintroduce it on Report Stage.

Amendment, by leave, withdrawn.

Senator Fintan Warfield: I move amendment No. 39:

In page 35, between lines 24 and 25, to insert the following:

“(3) Notwithstanding anything elsewhere in this Act, the competent authority (D) shall prepare a DMAP, or any amendment to a DMAP, in accordance with the following sections, and as if the reference to “MSP” in those sections was construed to read “draft DMAP”, and the references to “competent authority (M)” was construed to read “competent authority (D)”:

(a) *Subsections (2), (4) and (5) of section 16, and*

(b) *Subsection (1) of section 17.”.*

Amendment put and declared lost.

Section 22 agreed to.

Section 23 agreed to.

SECTION 24

Amendment No. 40 not moved.

Senator Alice-Mary Higgins: I move amendment No. 41:

“In page 37, to delete lines 33 to 39, and in page 38, to delete line 1 and substitute the following:

“(3) Where the Minister ascertains an inconsistency referred to in *subsection (2)*, he or she shall—

(a) make a recommendation in writing to the competent authority (D) to amend the draft DMAP to address the inconsistency, or

(b) in relation only to an inconsistency in respect of *paragraphs (b) to (e) of subsection (2)* give notice in writing to the competent authority (D) of the inconsistency and in that notice state that the draft DMAP does not need to be amended to avoid or mitigate the inconsistency,

as the Minister thinks fit in all the circumstances of the case, and shall state their reasons in full for such a decision.”.

The Minister of State signalled that there are all these other considerations in relation to DMAPS and mentioned section 24 in that regard. Section 24(3) is of real concern. Section 24(2) states that the Minister will ascertain whether there are inconsistencies between a draft DMAP and all of the aspects we have said are important, such as the MSP directive, the national marine planning framework and all of the different guidelines and policy directives. However, under section 24(3)(b), the Minister can write to a competent authority to say there is an inconsistency in a DMAP, that a DMAP is inconsistent with the MSP directive or with the national marine planning framework, but that it does not need to be amended. It states that the Minister is notifying the competent authority of the inconsistency but that the draft DMAP does not need to be amended to avoid or even mitigate the inconsistency. What is the point in telling us that section 24 has all these checks with which DMAPS will line up if there is a straightforward get-out clause where the Minister will say to a competent authority that an inconsistency can effectively be disregarded and that not only do measures not need to be in place to avoid it but that it does not even have to put in measures to try to mitigate the inconsistency? That is a serious concern.

Deputy Malcolm Noonan: Amendment No. 41 seeks to limit the Minister's ability to issue a direction in respect of a DMAP. It would specifically limit the Minister's ability to not require an amendment to a draft DMAP to those matters referred to in the preceding subsection that are not in the MSP directive. In other words, where there is an inconsistency with the MSP directive, the Minister must require an amendment to the draft DMAP if it is issuing a direction on that basis. The Minister has a responsibility to comply with the directive.

This matter was discussed at great length on Dáil Committee Stage. The Minister cannot issue a direction that would run contrary to the MSP directive. While I understand where the Senator is coming from in this case, or at least her intention, this amendment is wholly unnecessary. If there were a serious inconsistency between the DMAP and the MSP directive, the Minister of the day would have to act accordingly. That is a given.

This amendment would essentially tie the Minister's hands from issuing certain directions, if the Minister finds inconsistency with compliance which differs from different parts of the MSP directive that would not perhaps amount to a direct contravention of the directive or that could be resolved some other way than amending the draft DMAP, such as perhaps amending the public participation statement or engaging in further consultation. It is our view that this amendment is not only unnecessary, but that it is inappropriately limiting and confusing, because it carves out a specific reference to the MSP directive. In that regard, I cannot support this amendment.

Senator Alice-Mary Higgins: It straightforwardly states that the Minister will be writing to say that there is an inconsistency and then it states that it does not need to be amended to avoid or mitigate an inconsistency. It does not say alternatives for avoidance or mitigation would be put in place. It is strictly a disregard clause. I have no trouble telling the Minister of State that it should not be able to bypass all of these factors. We should not have ministerial direction telling a competent authority that an inconsistency does not matter. That sets a poor precedent. Given that it was debated at such length in the Dáil, it should have been improved by the Department before it came here. I will press the amendment.

Amendment put and declared lost.

Section 24 agreed to.

Sections 25 to 27, inclusive, agreed to.

Amendment No. 42 not moved.

Section 28 agreed to.

Sections 29 to 32, inclusive, agreed to.

Acting Chairperson (Senator Sharon Keogan): Amendment No. 43 in the name of Senator Higgins has been ruled out of order.

Amendment No. 43 not moved.

Section 33 agreed to.

Sections 34 to 43, inclusive, agreed to.

SECTION 44

Senator Alice-Mary Higgins: I move amendment No. 44:

In page 49, between lines 25 and 26, to insert the following: “(e) relevant EU law and policy including the Habitats Directive, the Birds Directive and the Aarhus Convention.”.

Again, this is relevant to EU law. In the interests of time, and as the issues have been addressed elsewhere, I propose to withdraw it for now.

Amendment, by leave, withdrawn.

Section 44 agreed to.

Sections 45 to 47, inclusive, agreed to.

SECTION 48

Acting Chairperson (Senator Sharon Keogan): Amendments Nos. 45, 46 and 52 are related and may be discussed together by agreement.

Senator Malcolm Byrne: I move amendment No. 45:

In page 52, to delete line 25.

I raised this issue with the Minister, Deputy Darragh O’Brien, on Second Stage. It applies in general to State boards, but to the specific exclusion of members of local authorities from serving as members of State boards. This makes perfect sense in the case of Members of the Oireachtas who have been involved in the legislative process in the setting up of this body and so on, but I do not see any reason a member of a local authority should be excluded from consideration to be a member of this authority. This also relates to consideration of such members for the role of chief executive of MARA.

I am not saying that just because somebody is a member of a local authority he or she would be automatically appointed. I certainly do not believe it should be the case that a councillor would be allowed to ask a Minister to appoint him or her to a board. If at some stage in the future we have a councillor who is an eminent marine biologist, a specialist in the engineering

of wind turbines or who has an intricate knowledge of marine matters I do not believe he or she should be excluded from being allowed to sit on the board of MARA on the basis that he or she is a councillor.

I am asking that the relevant provision around local authority membership would be removed from this legislation. I note in particular that even though local authority members are being excluded, the legislation provides for a representative of the City and County Management Association. This does not make sense. The argument that may be made is that local authorities have some involvement in the early stages of the planning process. It would be extremely peripheral if there is, but we are excluding councillors on that ground while allowing for a chief executive of a local authority to be appointed. The language used within the legislation is “representative” rather than “nominee”, which is also of concern. It is not making sense to me.

I will give an example with regard to Wexford County Council, with which I am familiar. Let us say we had elected somebody with an extensive knowledge of the marine as a councillor. That is perfectly possible in some of our coastal communities in say, Kilmore Quay or up in Courtown or wherever. He or she is qualified to be a member of this authority on all other grounds but because he or she decided to serve his or her local community by being elected to a local authority, he or she is automatically ruled out of consideration. Despite this, the chief executive of Wexford County Council, who, arguably, might have far greater say in the planning process in any licensing or foreshore issues that emerge could be considered for appointment. Frankly, I do not think that is fair.

By the way, I do not have a problem with a chief executive being there but it is completely unfair to exclude members of local authorities simply because they are serving. The request here is not about the Minister being allowed to appoint any member of a local authority. The individual concerned should be qualified. This must apply to all State boards. A habit has developed in recent years where we exclude local authority members from everything. As the Minister of State will know from his other role with the electoral commission legislation, we are trying to get some of the best people into local government. We are trying to encourage them. We should also be trying to encourage the best people onto State boards but we should not be forcing extremely qualified and skilled people to have to choose between the two.

I raised this the Minister, Deputy Darragh O’Brien, on Second Stage and privately. He said the case I was making was interesting and compelling. I am interested in hearing the Minister of State’s response. I do not believe there are solid grounds as to why, all else being equal, members of local authorities should be excluded.

Senator Victor Boyhan: I find myself in the extraordinary situation that Senator Malcolm Byrne and, I take it, Senator Fitzpatrick, who are both Government Senators, and I have, without any collaboration, proposed exactly the same amendment. That makes for a very interesting dynamic in the House. We look forward to the outcome of our proceedings.

I absolutely agree with Senator Malcolm Byrne. Rather than the bigger question of city and county councillors and other boards, I wish to stick with this particular issue. We are dealing with the board of MARA here. Let us be clear that MARA will not be granting planning permissions directly. It is ultimately the board. We need to be clear because there was a case made by some officials when I discussed this with the Minister. He said there was always that potential conflict and mentioned the planning tribunals and the distance between the elected

members and planning decisions. However, while MARA will be granting licences, it will not be granting planning permissions. That is an important point. I served two terms on the Dún Laoghaire Harbour Company. There were four councillors nominated to it from the local authority from all parties and we did an exceptionally good job. I am familiar with Galway, Waterford, Wexford, Drogheda and all the ports around the country. We all know councillors play a meaningful role. They are elected but they also have their finger on the pulse. They understand the community. They understand the connection it has with the sea, be that to do with leisure and recreation, the new dimension and dynamic added to the coast with the 5 km, which will be falling back into the planning authorities and the challenges with renewables, as well as all the potential they bring. It is going to be an enormous thing. Elected city and county councillors have skill and local knowledge and they represent people. We talk about bringing people with us and councillors are elected by the people and they should have a meaningful role in this.

Ultimately however, this legislation was passed in the Dáil and I cannot see the Minister of State coming in here and changing it and then going back to the Dáil tomorrow or the day after. Here we are now with Government Senators suggesting we amend it. It is an interesting dynamic and an interesting debate. I am absolutely supportive of it. I never apologise for making the case for city and county councillors in relation to their role, function and for valuing them as people who represent the community. I support Senators Malcolm Byrne and Fitzpatrick. I hope we will get agreement across the House on this important initiative.

I also want to speak to support the amendment, which Senators Byrne and Fitzpatrick are not involved with, which is amendment No. 46. It states: “In page 52, lines 27 and 28, to delete “or a local authority”.” Yet again, there is a reference to the local authority, which I propose should be removed. We need to do business with local authorities. They are the planning authorities and they have a whole load of other functions.

Amendment No. 52 is included in this group of amendments. Again, it has been tabled by Senators Malcolm Byrne and Fitzpatrick and it refers to elected members being chief executives. I draw the line at that. I am fully supportive, but there are many other skill sets required. A person could not be both, but he or she could be a sitting member of a city or county council and be a member of MARA. I do not see any conflict there. Senator Byrne must tease out the amendment further. That said, I support him. I hope the Minister of State will agree with him. No doubt this will then go back to the Dáil if it is accepted here today.

Senator Barry Ward: I support the amendment as well. Senator Boyhan mentioned the Dún Laoghaire Harbour Company on which he served a number of terms on the board. When I first became a member of Dún Laoghaire-Rathdown County Council in 2009 I was selected by the council at that time to be a member of the harbour board, but before I had a chance to take up the position these Houses changed the law to remove the involvement of local councillors in harbour boards, so I never got a chance to take the seat. That happened just a month after I was elected.

The experience we had in Dún Laoghaire is that thereafter – I cannot speak to a great extent of what happened before that – the members of the local authority, and by extension the population of the local authority area, were excluded from the management of the harbour company. The Minister of State will be aware of what an important asset Dún Laoghaire Harbour is for the local community and for Dublin as a whole. It is an area of enormous historic and heritage importance. During my 11 years on Dún Laoghaire-Rathdown County Council, I saw an enormous decline in the management, maintenance and use of Dún Laoghaire Harbour. Part of that

is linked very closely to the departure of the ferry service to Holyhead, which cut off a revenue stream, but to my mind there was a body of people who had a real interest in maintaining the harbour in the local authority, who were completely excluded from involvement in it. This is part of a greater malaise at the heart of central government that ignores the capacity of local government to deliver for the local community. It is not just in this Bill, but it is a whole raft of legislation that excludes elected people, including Oireachtas Members. The amendments are primarily about councillors and members of local government. It excludes them from positions like this.

When Senator Boyhan and I were on the council together, he spoke often about conflicts of interest. Officials often talk about a conflict of interest, as if, for example, there would not be a conflict of interest if the chief executive of the local authority was serving on the board. Exactly the same conflict would exist. One would hope it would exist because one would hope that the chief executive would have similar goals and interests in terms of delivering for the local community, although I suppose that is not necessarily true.

There is a problem with the overarching view that somehow councillors do not have something to contribute, that they could not deliver at that level or that unlike officials they would not be able to spot the conflict of interests and excuse themselves, even though they are expected to do so at council level all the time, and they do so all the time.

What these sections and provisions in the Bill ignore is the fact that at local government level, in the 1,000 or so people who are elected to be city or county councillors around the country, there is an enormous body of experience and expertise and perhaps, most importantly, connection to the local area. By excluding them through what is put into section 48 and later sections, what this totally fails to recognise is the added value they could bring to such a board.

I mentioned Dún Laoghaire Harbour Company because I believe that one of the major problems the company suffered from during my time on the local authority was the disconnect with the local authority and by extension with the local community. As a result of that, we saw a harbour in decline. There were major governance problems during that time. I say that in circumstances where I am not pinning blame on any person in particular, but the fortunes of Dún Laoghaire harbour declined significantly over that decade or so. It just so happens that I do not think it is a coincidence that the council and its councillors were cut out of the deal during that time.

We need to have a reckoning with the powers that are afforded to local councillors and local government. We need to recognise the position acknowledged in Article 28A of the Constitution and we need to acknowledge the fact that there is a role for these people. Gone is the day when councillors were people without expertise, education and their own skill set. In fact, councillors have an enormous skill set that is frequently ignored. People of enormous qualification and education will be found on local authorities throughout this country. Even those who are not are generally people of enormous experience. They have something to add to a board like this. It is incredibly myopic, if the Minister of State does not mind me saying so because it is not his fault, to continue with this legislation in circumstances where there is this kind of blanket exclusion of Members of the Oireachtas and members of European authorities and local authorities, which is repeated in much of our legislation. It is an arbitrary “see no evil, hear no evil” approach that totally fails to recognise the role these bodies could have.

The conflict of interest argument does not stand up. It was said already that these are not

planning authorities. Even if they were, councillors have been cut out of the deal on planning at local level in any event. If there is a conflict of interest, as does arise from time to time on local authorities, councillors are well able to distinguish themselves from that situation. What is more important, they bring with them expertise and connection to the people who are supposed to be served by MARA and the people who are supposed to be the beneficiaries of the outcomes of these authorities. I support the amendment not only because of that contradictory element but, as a general rule, we are cutting off our noses to spite our faces, if we say councillors can never be involved despite the fact that they have a great deal to add.

Senator Alice-Mary Higgins: I support the amendments. It is particularly egregious if an inequality is created through city and county managers being unable to engage on the one hand, while board members who are, in effect, employees of a Minister, represent a local area where representatives might not. It is part of a general concern with the Bill and the movement on planning, unfortunately, where local authority members, and those structures people have created to represent concerns and democratic expression, are precluded. Many people ran for a local authority because they were concerned, had views and expertise, and brought that to the service of their community in areas such as planning. Those people will be precluded and yet, at the same time, those who may have business interests in these areas are simply trusted and are not precluded. The Bill may preclude people with business interests, in a limited way, from the CEO role, but they can just recuse themselves when they have a conflict of interest relating to a particular decision. They can still be in the room most of the time. That creates an inequality.

Section 110, which we will come to, is another example of where there are concerns around access to justice and the democratic piece, which are the pieces we already have in planning that include access to justice principles and engagement in the planning process. We will come later to the section where I have concerns about some of the things on costs. The costs of cases creates an inequality. This is not to create a conflict because there is a lot to be contributed, but those who may have commercial and business interests and so forth are able to be in the room and recuse themselves using their judgment, as described by Senator Ward, whereas local authority members whose key role and mission is the mandate of expression are placed in a position where, in fact, caring and serving disqualifies them from being able to contribute.

As I said, I have similar concerns about access to justice and issues around participation in legal action, which will become potentially become more difficult for citizens under this Act.

Deputy Malcolm Noonan: A number of points have been raised by the Senators. I will try to get through the ones primarily relating to the governance element of MARA first. I will then speak specifically to the elements raised by the Senators, in respect of local authority members in particular. I served 16 years on a local authority, was elected on four occasions and feel proud of the work we achieved in my time there. Local government has consistently proven itself, especially over the time of Covid. It stepped up and was counted. The Government and the three Ministers in our Department value the role of elected members at local level. They are critical to the success of our collective actions around climate and biodiversity amid the huge challenges we face into the future.

During the Committee Stage review of the Bill in the Dáil, Deputies were advised that to ensure confidence in the governance arrangements for the maritime area regulatory authority, MARA, a governance review of the establishing provisions was being undertaken. That review focused on the code of practice for the governance of State bodies to ensure that MARA

is established applying a best practice approach to achieve the highest possible standards of corporate governance. The code of practice for the governance of State bodies covers such matters as the role of the board and chief executive, codes of conduct, ethics in public office, MARA's relationship with the Oireachtas, Minister and parent Department as well as business and financial reporting requirements.

The governance review was completed in advance of the Dáil Report Stage and a number of amendments were proposed on Report Stage and accepted which reflected the best practice recommendations arising from the review. Some of the amendments proposed on Report Stage related to terms of office of board members, placing the board as decision-maker with regard to the employment of chief executive officer and reducing the time for the production of corporate strategies from five years to three. I am fully satisfied that MARA as it is set out in the text now provided will operate with a best practice approach to governance from the first day of its establishment.

There may be requirements in the future to review the composition and corporate structure of MARA but that review should only happen once MARA has had the opportunity to show what it can achieve, when it has become operational and existed in a physical rather than purely legislative form. Following the governance review, I have assurances that MARA as provided for in the text is sound and balanced. I cannot accept these amendments, which seek to trouble this balance.

I will speak to the issues raised by Senators, particularly Senator Malcolm Byrne, who moved this amendment. On amendment No. 52, local authority members can apply for a chief executive role but if they are successful, they cannot hold both positions at the same time. They have to make a decision. Local authority members can and will be invited to sit on MARA committees, where they can have significant input at a local level. The issue of Dún Laoghaire has been raised, and that is where it is most important to have that local decision-making. The chief executive of MARA will review the governance arrangement and can review this again when appointed.

Another important point is that local authorities will be responsible for DMAPS in their own areas. This is devolving responsibility to local government where it matters, at local level. From the point of view of local authority members having a role on behalf of the communities they represent, the mechanism is there to do that. That should be recognised.

Senator Higgins raised democratic expression and access to justice. These themes have run throughout this afternoon's proceedings. I have an interest in and passion for that, particularly around Aarhus. In the early days before Aarhus was transposed into Irish law, I took cases around protection of costs in environmental actions taken by NGOs. This is core to our democracy, to what we are trying to achieve and to the function of NGOs and their participation. This Government has supported NGOs in their ability to carry out their work and be critical of Government. It is their right to do that. The support to ensure NGOs and communities play that vital democratic role in our planning system is important.

I cannot say enough about the role of elected members at local level. That role is hugely important and valuable. That has been shown time and again, both in our planning system and in how our development plans or policies come about. It is also part of what we are trying to achieve in the next decade and beyond. They have a vital role to play and they will do so in this space.

Senator Malcolm Byrne: Respectfully, I will not disagree with anything the Minister of State said but he avoided the core issue. There will be input at local level and so on. However, he spoke of the chief executive reviewing the governance. The chief executive cannot change what is within the legislation, and the legislation is clearly excluding from the board of MARA anyone who happens to be a member of a local authority. Conversely, it ensures that there will be a chief executive of a city or county council on the board. Senator Ward is correct that the level of skill and qualification of councillors throughout the country is top class. It is not about any councillor being appointed. It is if someone, all else being equal, is able to serve on the board and they are only being excluded because they are a member of a local authority.

I will provide an example. The Minister of State's colleague, Deputy Leddin from Limerick, who is Chairman of the Joint Committee on Environment and Climate Action, is an engineer who specialises in renewable energy. He is the kind of individual who in normal circumstances would be an excellent appointee to the board of MARA. He is someone who has a deep understanding of many of the areas around renewable energy. If he was to apply and came out on top over all the other candidates, were he was still a member of Limerick City Council, he would be excluded from being considered for appointment. That is wrong. All we seek with this amendment is that the exclusion on that basis be removed.

I do not have a problem with a city or county manager sitting on MARA, but I am sure that the Minister of State will see where the problem lies. I have raised this matter but I have not received guidance on it. It is a fairly minor issue. It is not about someone tugging at the Minister of State's sleeve who says "I am a councillor. Appoint me to the board". This is about ensuring that we get the best people on the board and if one of the best people happens to be a councillor that they will not be excluded. I know the Minister of State is in agreement with us. I ask him to accept the amendment.

Senator Barry Ward: I want to make two points in the context of the Minister of State's reply. I respect what he said about the importance of the local authorities. He said that a local authority member is not precluded from becoming a chief executive of MARA. With respect, that is a slightly silly comparison. The people who get involved in local authorities do so because they have an interest in getting involved. Earlier, I referred to a problem with myopia across the Government. Another problem is the failure to recognise that there is a very particular type of person who makes the sacrifices they make to get involved in local government, and we should make no mistake, that is what is involved. We are making it harder and harder for people to make that sacrifice. We are closing more and more avenues for those people by this kind of a provision in legislation which, as I said, exists in several pieces of legislation. It means that if you want to work as a councillor, you are precluded from doing other things that you might be interested in doing or in which you might have a professional or academic interest or be qualified to do. I do not think there is a solid basis for that.

I agree with Senator Malcolm Byrne. Obviously, I accept the Minister of State's bona fides as a former local authority member - he served on a local authority for longer than I did - but there is a general move on the part of the Government away from granting powers to local authorities. The Minister of State spoke about giving powers to local authorities. I do not think that is the case. I do not agree that you can say that they can be involved in committees but not on the board. I do not think that is empowering them. It excludes them from the central decision-making body. The end result is it excludes them from the decision-making process. My experience in Dún Laoghaire has shown that to be a bad thing. There is also the issue that we are telling people that if they become a member of a local authority that they must shut

down lots of other aspects of their life, which is a regressive thing to do. As Senator Malcolm Byrne said, what we really want is to have the best people available in the pool of individuals who can be made members of board but the provisions in section 48 and other sections specifically preclude that. The Government is saying that it does not want councillors, whether they are on committees or not, and it is refusing to acknowledge the role they could play. It is also refusing to widen the pool to the extent that it would include all of the people who might do a very good job.

This is not, as happened in the past, about jobs for the boys and girls, an issue of public concern. This is something that is thrown around but in actual fact, we know very well that the Government has put in place a whole load of structures to ensure that the application process is rigorous. People have to go through interview and qualification processes conducted by independent civil servants who do not give jobs to the boys. It is not about that.

In Dún Laoghaire-Rathdown County Council there are people, for example, who are very well acquainted with issues in the harbour and who have specific skill sets who are precluded from being on the board and the board suffers as a result. I do not understand the logic behind pushing this section and saying that we must preclude members of local authorities. I also do not understand why Members of the Oireachtas and of the European Parliament should be excluded but I can see a certain practical logic to that because they are removed from local communities in a way that councillors are not. Specifically with regard to members of the local authorities, they are close to the ground and close to the very people we hope will benefit from a MARA. They are connected to the community in a way that an official or ordinary member of the board never will be. I say this in the context of all kinds of local government activities. The chief executive, the director of services or the local engineer will never knock on the door of local residents, introduce themselves, ask the residents how they are doing, what they think of something and how they can help. That is not their job but it is the job of the councillor. The councillor can transmit the views of the ordinary citizen, the residents of the area, the business owners, the concerned key stakeholders or whatever one wants to call them, right into the centre. Obviously, assuming they are the type of qualified person we want on the board, they will either accept or reject what people are saying or suggest ways in which we can accommodate public opinion. One of the real dangers that comes with the MARA is to put in place an authority that is either ignorant of or unconcerned about the issues facing local communities, including residents and businesses. Having a member of a local authority as a potential member of the board is important. I am not saying that they should automatically become members of the board in the way, for example, that the old harbours legislation provided but having the option to have an appropriately qualified and positioned member of a local authority as a member of the board is a tremendously important opportunity for the MARA and for this Bill. It would make this legislation more inclusive and more all encompassing and would ensure that the Bill genuinely does what it seeks to do.

I understand what the Minister of State has said on this. I understand that the legislation has already gone through the Dáil and that we are in the last week of term. There may be a particular view in terms of getting this through but that does not mean that it cannot be done. It does not mean that the amendment cannot be accepted on a reasoned basis. It could then be put to the Dáil for approval. It is a very simple, net issue that could be put to the Dáil if deemed appropriate. It is very important to recognise that this amendment does not come from a place of trying to cause trouble. Its aim is to improve the legislation, the board of the MARA and the effectiveness of the authority in order to allow it to function in the best possible way. I agree with my

colleagues that to arbitrarily lock out members of the local authorities who could add so much to the board is a problem. To do so is a myopic action by Government which will discourage people from getting involved in local politics. It will discourage people from getting involved in that side of their local community because it shuts them out of so many areas unnecessarily. I hope the Minister of State will reflect on this and acknowledge that it is a reasonable amendment that could be accepted to improve the legislation.

Senator John Cummins: I will be as brief as possible. I agree with many of the comments of my colleagues. I was a member of a local authority from 2009 and while I never served on a harbour board, my father did. He worked in Bell Lines shipping company and had a very good, in-depth knowledge of the area. Indeed, he had an all-encompassing view and served on the Waterford Harbour board and Waterford Harbour Commissioners.

5 o'clock

There is a distinction between appointing a person to the board because he or she is a councillor and allowing people independent of their role as a councillor to apply for a position and, all things being equal, if they are qualified and come through the process, that they should not be precluded from that position. That is an important distinction that is being made by Senators. Perhaps that can be reflected on for Report Stage.

Acting Chairperson (Senator Sharon Keogan): As it is now 5 p.m. I am required to put the following question in accordance with the order of the Seanad of this day: "That amendment No. 45 is hereby negatived in Committee, that section 48 is hereby agreed to in Committee, in respect of each of the sections undisposed of, the section is hereby agreed to in Committee, Schedules 1 to 12, inclusive, are hereby agreed to in Committee, and the Title is hereby agreed to in Committee".

Question put and declared carried.

Bill reported without amendment.

Acting Chairperson (Senator Sharon Keogan): When is it proposed to take Report Stage?

Senator John Cummins: Next Friday.

Acting Chairperson (Senator Sharon Keogan): Is that agreed? Agreed.

Report Stage ordered for Friday, 17 December 2021.

Sitting suspended at 5.01 p.m. and resumed at 5.30 p.m.

Finance Bill 2021: Committee and Remaining Stages

Acting Chairperson (Senator Gerry Horkan): The Minister for Finance, Deputy Donohue, is welcome the House.

Sections 1 to 5, inclusive, agreed to.

NEW SECTION

Senator Alice-Mary Higgins: I move recommendation No. 1:

““Report on Help to Buy scheme

6. The Minister shall, within three months of the passing of this Act, lay a report before both Houses of the Oireachtas on—

(a) the impact of the Help to Buy scheme on prices and affordability in the housing market, and

(b) potential alternative policy options which would increase housing affordability by reducing prices, rather than increasing available credit.”.

The Minister will be aware of the shocking figures in the increases in the cost of housing over the last number of years. House prices have doubled since 2012. There was an increase of 12% this year. There are significant projected increases in house prices if we continue according to the model we have.

We will come to the many commercial investments shortly. We have been told the solutions to the housing crisis lie with commercial investments. In fact, it has been found that, as I think might have been predicted, the priorities of the speculative market are not necessarily aligned with the priorities of the provision of housing. This is because the goal of a market is to exert every pressure it can in order to maximise the return for its shareholders, in investment funds and so forth. We have constantly seen a flip whereby affordability has moved away from what we might expect from the houses that are purchased. Instead, affordability is now about how we bridge the gap between house prices and affordability. I have spoken about this to the Minister for Housing, Government and Local Heritage, Deputy Darragh O’Brien, and the idea that we must bridge this ever-widening gap in the cost of housing. This allows and supports the inflation of housing prices, through all of our various investment incentives, mechanisms, measurements and our de-risking of the sector. Then, we try to bridge that gap by making people pay those higher prices. While we provide some bridging for them to pay those higher prices, we do not address the core problem, which is the inflation of housing prices.

This recommendation proposes a report on the help-to-buy scheme. The Minister will be aware that his own officials, the Economic and Social Research Institute, ESRI, and many other bodies all signalled the concern that the help-to-buy scheme would effectively contribute to the kinds of increases in prices, such as those we are seeing. While I know that the help-to-buy scheme is not doing this on its own, the scheme simply allows for the bar to keep rising. It puts yet another measure in place to try to bridge that gap as house prices go up. Again, the help-to-buy scheme was signalled as having a potential further additional inflationary impact.

I would like if the Minister would be minded to produce a report on the impact of the help-to-buy scheme on the prices and affordability within the housing market. He might perhaps set out alternative policy options because, having tried multiple versions of the same thing over a decade, it is probably time to consider how we can prioritise housing provision in a way that is not dependent on rooting through a market that seeks to constantly raise and increase its returns. This could include housing affordability by reducing prices and introducing measures to deflate the cost and prices of houses. The Minister might outline those, rather than simply increasing credit and indeed increasing debt for our citizens.

Senator Maria Byrne: I thank the Minister for coming to the House. I am asking that the

Minister might review the help-to-buy scheme early in the new year. This is because there are so many measures, as outlined in the Housing for All scheme. Approximately 30,000 people have availed of it to date. The Minister might review it early in the new year to see its impact. He might come back with a report.

Minister for Finance (Deputy Paschal Donohoe): Before I respond to the nature of the recommendation tabled by Senator Higgins, I have a couple of opening points about the State's involvement in the provision of homes. First, it is wrong to suggest that the Government is subcontracting out the need to meet housing needs to the private sector. This year, the State is spending €4.1 billion in either directly building homes itself, or enabling the delivery of more homes. If one takes even a short walk around Dublin city centre at the moment, one will see the homes that are being completed in, for example, Dominick Street, and Sean Foster Place. These are all city centre, local authority-built homes. It is vital, both in this discussion and in the ones that will happen later on in the Finance Bill, to recognise that the State is playing a leading role, not only in regulating the provision of homes but also by directly building homes, or indirectly by funding them.

As to the discussion on the help-to-buy scheme, I ask Senators to keep in mind the figure of 12.7% when evaluating the impact of this on the housing market. This figure of 12.7% is the total number of housing transactions that happened in 2020 that were partially funded by the help-to-buy scheme. I do not accept that a scheme that only influences less than 13% of all of the transactions for the purchase of homes within the country is of itself a significant cause of house price inflation.

Senator Higgins referred to us increasing credit. We have macroprudential rules that have constrained the availability of credit. What the Government has not done in response to the challenges that have been made more acute during the pandemic is look to increase credit or change the rules on borrowing. Leaving aside the fact that they are decisions made by the Central Bank, which is independent of us, what we have avoided is increases in credit that are driven by changes in rules or Government action. If higher levels of borrowing are happening, which is the case, in particular by those who are seeking to buy a home for the first time, it is still done in the context of the application of the macroprudential rules.

Section 5 provides for the help-to-buy scheme to continue to apply to applicants who sign a contract for the purchase of a new house or who make the first drawdown of the mortgage in the case of a self-build during 2022. With regard to the Senator's recommendation, it should be noted that housing policy is primarily a matter for the Minister for Housing, Local Government and Heritage, so I will limit my comments to tax measures.

As I have stated previously, the need to activate the delivery of additional new houses is an important priority for the Government. That is why the Government is committed, through Housing for All, to achieving progress, as a matter of the utmost priority, in the interests of the people of Ireland.

In relation to the Senator's points on prices and affordability, policymakers were aware at the time that the scheme was being developed that it was not without risk and that there was a danger that, against a background of constrained supply, the initiative could serve to increase prices for new homes and thus potentially undermine, to some extent at least, the affordability aspiration of the scheme. However subsequent formal reviews of the scheme did not bear out these fears. There have been two reviews, one in 2017 and one in 2018. The main findings

were as follows: with regard to prices, while there may have been a very small increase in prices attributable to the introduction of the scheme, the primary driver of house prices remains the continued misalignment between demand and supply. With regard to affordability, the analysis also found that the availability of the scheme had reduced the time needed to save for a deposit and improved the overall affordability of housing for help-to-buy claimants.

With regard to supply, the evidence suggests that, following the introduction of the scheme, there was an increase in supply which can be attributed, at least partially, to the scheme. Furthermore, the analysis found a benefit-cost ratio of 1.28, indicating a moderate positive effect for the incentive.

The recent tax strategy group paper on help to buy concluded that should a decision be taken to extend the scheme, there would be a strong case for commissioning a further formal review of the efficiency and effectiveness of the scheme. The cost, the changing policy context in which the relief operates, and the advent of other non-tax Housing for All measures that have similar objectives, as well as the requirements of the tax expenditure guideline considerations, all support such a move. Accordingly, I announced in my budget speech that a further formal review of the scheme will take place in 2022. The review will be fundamental in nature, and it will inform decisions for budget 2023 and finance Bill 2022. Questions related to who will carry out the review, its terms of reference and a timeline for completion will be determined shortly.

The extension of the scheme for a further 12 months reflects the role it has played in facilitating greater numbers of first-time buyers to make their first step onto the property ladder, while also encouraging the delivery of new housing units by the construction sector. In addition, as I have noted previously, the extension of the help-to-buy scheme will allow time for other measures in the Housing for All strategy that will operate in the same policy space to be introduced in the period ahead. In the circumstances, therefore, I do not propose to agree to this recommendation.

Senator Alice-Mary Higgins: The Minister mentioned 12.6% of purchases, but if we pick another 12% figure, house prices went up by 12.4% and that is an extremely high level of inflation. He will be aware that inflation in housing is a massive outlier compared with other levels of inflation. Inflation in wages does not match this factor.

While I respect that housing policy is the responsibility of the Minister for Housing, Local Government and Heritage, the fact is that the financial and fiscal policies that have applied to housing have been very strongly directed through budgetary policies. For example, local authorities were for many years precluded from building or buying because they were encouraged to lease. Even in the new Housing for All strategy, in excess of 2,000 houses are due to be provided again by leasing. These are financial decisions. Leasing has been exposed as extraordinarily poor value for the State. In the case of cost rental, again, a margin of return for investors was built in to the cost-rental model to ensure a profit. Every time we add profit into the mix, or in the case of inviting private investors in some of those areas of housing provision where we provide that the financing costs would be incorporated for them, we are effectively adding extra costs to the State, when the State could be directly accessing more of that finance, and could be getting loans at a better rate than the private sector and providing more capacity. I accept some building is now happening at local authority level, but local authorities are still being pressed into partnerships which come with an additional margin and additional cost. The policies are dictated by the market. Affordability is only a percentage lower than the market rather than af-

fordability being based, for example, on a metric of income and what people can earn.

These are fundamentally financially irresponsible policies that the State has had. The State has had a choice where it is trying to ride two horses, one which is a property investment market and the other is accommodating the need of the public. For a long time we have been told these two horses are working in tandem and as soon as we satisfy the private investors they will provide supply. We should not be in that kind of hostage-to-fortune position.

With respect, I appreciate there will be a review of the help-to-buy scheme, but the second part of my recommendation, which is what are the policy options in terms of the deflation of house prices, what are our policies to increase housing affordability by reducing prices? How are we going to dampen this down? This is the inflation that started galloping when the capital gains tax measures were brought in and has continued apace since. It is not simply about that scheme. I do not suggest that, of itself, this is the source of inflation, there are a number of contributing factors, including the de-risking that the State has done by becoming a guaranteed customer in respect of many investment funds, but it is a factor.

The figures released by the Department of Finance showed 40% of those who benefitted from the help-to-buy scheme already had the necessary deposit. Did this just contribute, even partially, to the inflation of prices, where the deposit got them less far on the ultimate price of a house? In 40% of cases, the help-to-buy scheme was not the key determinant in them being able to reach a deposit for the purchase of a house.

Senator Pat Casey: I want to make a brief statement on housing. We are in a housing crisis and we have to look at every avenue and opportunity to deliver housing. Part of the reality is we must deal with the private sector. In Wicklow, in the areas of high demand for housing, there is not one piece of local authority land. The local authority has no choice but to work with developers in order to deliver social and affordable homes. Nobody knows which is the better option. In fact, we might be getting better value for money from the private sector than we would from building houses at local authority level. We have reports on that from years ago stating that it is more beneficial to buy homes from the private sector. In the context of the housing crisis, we cannot rule out any option that is on the table to deliver homes for people and deliver affordable and social homes.

Senator Micheál Carrigy: Senator Higgins made a few comments. The reality is that in the early 2010s we were precluded from purchasing houses and leasing was the most cost-effective way to provide them at the time. For us to develop or build housing, we need investors and we need people to develop it. It is the same in Longford as it is in Wicklow. It is a mixture of local authority housing plus private investment to make sure that we deliver the housing we have proposed. The Minister of State, Deputy Peter Burke, provided some figures earlier today. Between 2016 and 2021, we, as a party that was in government, were criticised for not reaching the housing target we proposed but we actually went over that target and built 39,000 houses. It is a mixture of private and local authority housing. We need developers and investors to deliver housing.

Senator Maria Byrne: It is very clear that one size does not fit all. All the local authorities are different. In Limerick, the council let its carpenters and other staff go and franchised the work out. Every local authority is different and, as a result, I do not think we can tie it all down under the one umbrella.

Deputy Paschal Donohoe: I fundamentally disagree with the Senator's description of housing policy being dictated by the market. Macro-prudential rules are not being dictated by the market. The State spending €4.1 billion on building homes directly or helping to get them built is not being dictated by the market. Senator Casey spoke about work happening in his community. The work Dublin City Council is doing in directly building new homes in the heart of our city centre is not being dictated by the market. The role of approved housing bodies is not an example of the Government or citizens' housing needs being dictated by the market.

The Senator's description of housing policy and how it is being developed in our country is fundamentally wrong. It does not recognise the many interventions being made by the State. The Land Development Agency, planning regulations and the work of our local authorities are not led by the market. They are trying to channel the market into helping deliver more homes in the right places. The Senator spoke about those who are involved in building homes for profit. What I am about to say feels nearly radical but somebody earning a profit is not a bad thing. Those who work in our private sector, those who create companies, those who go to work in companies, entrepreneurs, small builders and big builders work really hard at what they do. They have an expectation that if they work hard, whether they be somebody who is running a building company, a developer or a hotelier, they will earn a reward for their efforts. In some of the debates that gain a lot of traction within our politics and media, it feels at times as if we are losing sight of the fact that those who work hard, in whatever part of the economy they are working in, have a legitimate expectation to earn a return on their efforts. That coexists with the Government playing a huge role in building homes in our country. To describe what we are doing as dictated by the market does not recognise all the things that are being done by this Government, or were done by previous Governments, to try to ensure we have a housing policy that meets more of the needs of our citizens more often. However, I acknowledge all the difficulties and challenges we face at the moment and how much more we need to do.

On the recommendation, I will go back to the point I made earlier. Some 13% of all house transactions in Ireland in 2020 were covered by the help-to-buy scheme. If it is playing any role in contributing to house price inflation, at 13% it is a small one. The far bigger issue here is constraint of supply. We need the private sector to play a role in increasing supply but we also need an active State doing its part too. That is what is happening. We want to do it quicker and better but this is not a housing policy that is dictated by the market.

Senator Alice-Mary Higgins: It is important to be very clear. I am not objecting to the concept of profits existing. Nobody objects to that part of business. The question is whether the State should be factoring in profit levels, dividend levels, reasonable levels of return and profit, and unnecessarily adding profit levels into our expenditure. I have no problem with private developers that wish to build houses and sell them for profit. So be it. I hope they will be appropriately taxed, but I have no problem with them doing that. My question is about the model of how the State develops. It is unfortunate that we still do not have a strategy for the deflation of house prices. That is the fundamental point here. We have runaway inflation in house prices and further runaway inflation is projected for the future, to the point where home ownership will move out of the reach of most people. We will come to the build to rent apartments later. The Minister and I have a difference of opinion on this matter but it is important that we represent each other correctly. My position is not against the private market existing or, indeed, playing a role in providing housing; my concern is that the State should manage its finances better to ensure it does not unnecessarily build additional costs, such as dividends and profits for shareholders, into the money we spend. Of course we need to work with people but let us do so from

a position of strength that recognises that the State is fundamentally the stronger actor in these situations. It needs to act as the stronger actor in these agreements and unfortunately we have not seen it do so. Perhaps the review of the help-to-buy scheme in 2022 will offer potential for further measures to address inflation in pricing. If the Minister believes that the help-to-buy scheme is only a small factor in inflation, then let us identify the other factors and address them.

Deputy Paschal Donohoe: We are doing that. That is why we are trying to build more homes. As already stated, the fundamental reason we have house price inflation at these levels is that we are not building enough homes. We need to build more homes and we need to do it more quickly. That is the answer to many of the challenges as regards affordability at the moment. We need to build more homes and, within that, have local authorities and State-led schemes that play a role in getting the prices of those homes down. That is what we are doing. We accept that for many people we are not making progress quickly enough on an issue that matters so much to them but we do not have a housing policy that is led by the market. We have a housing policy that acknowledges within it that the market has a role to play. Those are two very different things.

Acting Chairperson (Senator Gerry Horkan): I remind Members that there are 34 recommendations that are in order.

6 o'clock

The debate on the first one has taken 30 minutes of the four hours we have available. At that rate, we will get to recommendation No. 8. I am not trying to curtail debate but I remind Senators that this business must be concluded by 9.30 p.m.

Senator Paul Gavan: I support my colleague, Senator Higgins. We can agree to disagree with the Minister on the ideologies involved, but I am not clear as to why the Minister will not accept this reasonable recommendation. It asks the Minister to lay a report to investigate these matters. Given that we have a housing crisis which has happened entirely on Fine Gael's watch over the past 11 years in government, why would he not want to go ahead with this report? What is he afraid of in terms of what might be discovered?

Deputy Paschal Donohoe: We have already given a commitment to go ahead with a review of the help-to-buy scheme. I indicated that in my statement earlier today and on budget day. The reason I am not accepting the recommendation is that I do not believe the Finance Bill is the right place to make commitments about when and by when reports are to be done. This is legislation. I have given a commitment that I will compile a report and described what I believe the priorities should be in the context of that report. That is why I do not believe an amendment to the legislation is merited.

Recommendation put and declared lost.

Section 6 agreed to.

NEW SECTION

Senator Alice-Mary Higgins: I move recommendation No. 2:

In page 14, between lines 8 and 9, to insert the following:

“Report on lowering of High Wealth Individual threshold

7. The Minister shall, within three months of the passing of this Act, prepare and lay before

both Houses of the Oireachtas a report on the introduction of a new threshold for High Wealth Individuals defined as persons in possession of net assets of the value of €20 million and above.”.

I am seeking information here rather than change. I am aware that a recommendation was accepted by Revenue in 2019 that the threshold for high wealth individuals would be lowered from €50 million to €20 million on the advice of the Comptroller and Auditor General. It is not so much to suggest that this be done as to ask for a report on if and how it has been done. How has it played out since that recommendation? The recommendation from the Comptroller and Auditor General was accepted in principle by Revenue but has it been implemented?

Acting Chairperson (Senator Gerry Horkan): This is more of a question than a recommendation.

Senator Alice-Mary Higgins: I am seeking a report on the introduction of the new threshold, but the new threshold has been accepted in principle. I want to know about how it has been introduced.

Deputy Paschal Donohoe: As part of its national structure, Revenue has adopted a large cases-high wealth individuals division. That division is responsible for all taxation matters relating to high wealth individuals, who are currently defined as people with net wealth of €20 million or more. Revenue has also established a medium enterprises division and tax affairs of the next tier of high wealth individuals with wealth below the €20 million threshold are managed in this division. Responsibility for these cases in both divisions includes ongoing risk evaluation and, where necessary, targeted programmes.

I do not have any information available for now regarding the performance of those divisions within the Revenue Commissioners, but I will see if I can get some information for the Senator regarding their operations and the difference it has made in tax collection from that group of taxpayers. If it is made available with me during this debate, I will share it with the Senator in a moment.

Senator Alice-Mary Higgins: I thank the Minister for indicating that he might provide me with information on that. It would be useful to see how it has panned out.

Recommendation, by leave, withdrawn.

Sections 7 to 15, inclusive, agreed to.

NEW SECTIONS

Senator Paul Gavan: I move recommendation No. 3:

In page 20, between lines 28 and 29, to insert the following:

“Report on Trans-Border Workers’ Relief in the context of Cross-Border Workers

16. The Minister shall, within six months of the passing of this Act, prepare and lay before

Dáil Éireann a comprehensive report on the Trans-Border Workers' Relief in the context of people who reside in the State and work in the North and the tax status and options of people who reside in the North and work in this State.”.

The issue of transborder workers was raised in the debate on last year's Finance Bill debates, specifically in the context of people who reside in the State but work in the North and who avail of a domestic tax relief, known as transborder workers' relief, as provided for in section 825A of the Taxes Consolidation Act 1997. Transborder workers' relief is for people who are resident in the State but travel daily or weekly to work in another country and pay tax in that other country. This tax relief is not normally available for Irish residents who work from home in the State. In light of the unprecedented circumstances arising due to the Covid-19 pandemic and the resulting public health restrictions to limit movement, for the tax years 2020 and 2021, Revenue confirmed that a concessional treatment for this relief would apply, whereby if employees are required to work from home in the State due to Covid-19, such days working at home in the State will not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief are met.

The relief effectively removes the earnings from a qualifying foreign employment from the liability to Irish tax where foreign tax has been paid on those earnings and such tax is not refundable. The effect of the measure means that individuals who qualify for the relief will not pay any Irish tax on their employment income. Irish tax will only arise where the individual has income other than income from the qualifying foreign employment.

There are a number of criteria that must be satisfied for an employee to be eligible. In particular, the employment duties must be exercised wholly outside of the State in a country with which Ireland has a double taxation agreement. None of the duties of employment can be performed in the State, save those considered incidental to the performance of the duties outside the State.

... it appears impracticable from a legal perspective, in terms of taxing rights, as well as challenging from a policy perspective when having regard to the interests of the wider body of taxpayers encompassing all Irish resident employees and employers, to place the concessional treatment on a statutory footing.

The tax strategy paper reached this conclusion based on issues of taxing rights, equity and competitiveness.

Deputy Paschal Donohoe: The Senator is requesting a comprehensive report on transborder workers' relief. This was discussed during the debate on last year's Finance Bill, when I undertook that the relief would be examined as part of the work of the TSG process for 2021. I fulfilled this commitment and this relief was examined by that process earlier this year.

This issue was also raised with me on Committee and Report Stages of the Dáil, in particular Revenue's temporary concession for the years 2020 and 2021, introduced in light of the exceptional and unprecedented circumstances arising from the pandemic. The concession provides that employees will still be entitled to claim transborder workers' relief where they are required to work from home in the State due to Covid-19 restrictions, provided all other conditions of the relief are met.

This concession is due to lapse at the end of this year. The question has been raised previously if the concession would be extended further due to recent public health advice recom-

mending that everyone should work from home unless it is necessary to attend the workplace in person.

The Senator may wish to note that the operation of the relief is a matter for the Revenue Commissioners. I am advised that Revenue has been reviewing this matter. Having regard to current circumstances, I can confirm that Revenue will continue to adopt a pragmatic and flexible approach by allowing for a further extension of the temporary concession. This extension will apply for the period of time in 2022 during which the public health advice recommends that everyone should work from home unless it is necessary to attend the workplace in person. I am advised that Revenue issued further guidance on this temporary extension, which is available on Revenue's website.

More broadly, in relation to the Senator's request for a further report on transborder workers' relief, as I said, a comprehensive examination of the issue was undertaken by the TSG that encompassed very detailed consideration of all relevant matters, including the equity of treatment between Irish residents who pay tax in the State, the competitive position of Irish employers and the established principles of international tax.

Ordinarily to avail of the relief, the duties of employment must be performed wholly outside the State and in a country with which Ireland has a double taxation agreement. When examining whether the temporary concession should be placed on a statutory footing, the TSG review identified a number of significant concerns from a policy perspective having regard to the interest of the wider body of taxpayers encompassing Irish resident employees and employers.

The review noted that if the temporary concession regarding transborder workers' relief was placed on a statutory footing, it would allow residents in the State to avail of the relief while working in the State and pay no tax to the Exchequer in respect of the foreign employment income. Where employment duties are carried out in the State, Ireland has a taxing right over that income and to not tax that income would be asking the State to give up a taxing right it rightfully has under the Irish tax code. It is unclear why Ireland would not exercise those taxing rights and it is unclear also how another jurisdiction would then have taxing rights over income earned in the State in respect of duties carried out in the State.

The review identified issues relating to equity for all Irish taxpayers. Currently, there may be different tax liabilities and different effective tax rates between those Irish residents who can avail of the relief as compared to those who cannot. However, there is a key distinguishing factor in that the employment duties are exercised outside the State for a non-resident employer. The move to increased levels of remote working, including blended working arrangements, within the State weaken that critical distinction.

If transborder workers' relief was relaxed to allow for work carried out in the State to qualify for the relief, there would no longer be a distinguishing factor between Irish residents as both sets of Irish residents would be exercising their employment duties in the State. In such circumstances, some - those with Irish resident employers - would be liable to tax at the Irish tax rates with income tax and USC, and a potentially higher effective tax rate, while others, those with non-resident employers, would be liable to tax at the tax rates in the other jurisdiction and a potentially lower effective tax rate. This is an example of some of the issues of equity that arise with regard to the report the Senator is requesting. Revenue has given an indication that it will extend the relief on a pragmatic basis given the current public health guidance. I am prepared to continue to look at the matter as I accept it causes issues for those affected by the current public

health guidance and the need for them to work in their homes while their employer is located in another tax jurisdiction. However, for the reasons I have outlined, there are really important issues of principle that mean that I am not in a position to make the kind of change the Senator is advocating for.

Senator Paul Gavan: I thank the Minister. I appreciate the lengthy reply. We are not going to agree on this but I note he is willing to keep an eye on the ongoing issue.

Recommendation put and declared lost.

Acting Chairperson (Senator Gerry Horkan): Recommendations Nos. 4 and 5 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Paul Gavan: I move recommendation No. 4:

In page 20, between lines 28 and 29, to insert the following:

“Report on tapering out of income tax credits

16. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on tapering out income tax credits for incomes between €100,000 and €140,000 at a rate of 2.5 per cent for each €1,000 earned.”.

Even before the pandemic an ageing population, potential over-reliance on corporation tax receipts and an inevitable decline in motor tax revenues combined to make the need for future tax rises likely. Emerging from the pandemic it is clear as never before that we need a more agile and responsive State, a stronger social safety net, a health service that works and a public childcare option for parents that is genuinely affordable. This can only be done through an increase in tax revenue in the form of additional taxation or less in the way of tax expenditure. The Commission on Taxation and Welfare will examine these options as the ESRI has done but the programme for Government all but rules out additional revenue measures other than behavioural tax measures the purpose of which, on the face of it, is not for revenue generation.

These recommendations call for the examination of measures to increase revenue through changes to the income tax system first, by tapering of tax credits on individual incomes in excess of €100,000 and, second, the introduction of a solidarity levy on individual incomes above €140,000.

In 2022 the effective tax rate on a full rate PRSI individual income of €100,000 will be 38.1% compared with 38.5% in 2021 and 41.1% in 2014. In 2022, the effective tax rate on a full rate PRSI individual income of €120,000 will be 40.4% compared with 40.7% in 2021 and 42.9% in 2014. In 2022, the effective tax rate on a full rate PRSI individual income of €150,000 will be 42.7% compared with 43% in 2021. We can see the direction of travel.

Tapering tax credits at a rate of 2.5% on individual incomes above €100,000 and introducing a 3% solidarity tax on portions of individual incomes above €140,000 would not change the effective tax rate on a full rate PRSI individual income of €100,000 but it would increase the effective tax rate on full rate PRSI individual income of €120,000 to 41.8%. It would increase the effective tax rate of a full rate PRSI individual income of €150,000 to 45.1%. Withdrawing PAYE and earned income tax credits at the previously proposed rate of 5% from those with taxable income above €100,000 would create an effective rate of 64.2% between €100,000 and €120,000 per year.

The British tax system incorporates a personal tax allowance which is subject to a tapered withdrawal for individuals whose income is in excess of £100,000 per annum. In this context it is worth noting that the tax allowance allows relief at a taxpayer's marginal rate whereas the PAYE and earned income credits are standard rate tax credits. The allowance is reduced by £1 for every £2 earned above this limit, tapering out in the 2017-2018 tax year once income reaches £123,000. The £100,000 threshold was chosen as all individuals with income above that level were already obliged to file a tax return each year. This facilitated the operation of the taper. By contrast there is no similar liability to file a tax return based on income level in Ireland at present. That would likely need to be reviewed were the policy of tapering the credits to be pursued. There is real merit in calling for these reports and I hope the Minister will support the recommendations.

Deputy Paschal Donohoe: The Senator's recommendations refer to reports on first, the tapering out of income tax credits at certain incomes and, second, the introduction of a high income levy. First, regarding tapering of income tax credits, there is already a substantial amount of research published on this subject. The income tax reform plan published by my Department in July 2016 examined this issue due to the fact that the Programme for a Partnership Government contained a commitment to consider the removal of the PAYE credit for high earners as part of a medium-term income tax reform plan. It pointed out that there are a number of technical issues and policy issues which would need to be addressed in order to achieve a tapered withdrawal of income tax credits, particularly for PAYE employees. The issue was also discussed in the 2018 tax strategy group papers on income tax. It is estimated that the tapering out of the personal income tax credit, PAYE credit and earned income tax credits in the manner outlined by the Senator could raise in the region of €855 million per annum. A significant issue arising with this amendment is that it would have a negative impact on the marginal rate of tax. The tapering out of a tax credit would result in a higher marginal tax rate within the taper zone than would apply at higher income levels. By way of example, were the personal tax credit of €1,650 to be tapered out at a rate of 5% per €1,000, the marginal rate within the taper zone would be just over 60%. Once the taper period has expired, at income over €120,000, the marginal rate would revert to 52%.

Another issue that has been pointed out in previous research is that tax credits and rate bands operate on a cumulative basis as Revenue issues a revenue payroll notification to the individual's employer, which then uses the information contained in the notification to calculate the tax to be deducted each time a payment is made. If it is known from the beginning of the year that an employee's income will exceed the chosen threshold, then the application of the taper of the credits could be applied from the outset, thereby spreading the tax burden equally over the year. However, where it appears during the course of the year that the employee's income may exceed the chosen threshold, Revenue will need to update the Revenue payroll notification to withdraw the relevant credits and this will result in the collection of arrears from the next payment of salary by the employer, resulting in an uneven distribution of its liabilities over the year and an uneven distribution of the yield for the Exchequer.

Tapering the tax credits could also affect the relative position of different categories of taxpayer. For example, consideration would need to be given to how the taper would work in the case of jointly assessed individuals, such as whether the value of a single personal tax credit or that of a married personal tax credit would be subject to the taper, and what income threshold would apply to a single-income couple. In addition, the effect of a deduction such as a loss available in respect of one spouse would need to be considered where the couple are jointly

assessed for tax.

Regarding the amendment for a report on introducing a high-income levy on incomes in excess of €140,000, there are a number of issues with the proposal the Senator has suggested, as it would increase the complexity of the income tax system and could negatively impact on marginal rates of tax as well as the competitiveness of our tax code. While the Senator has not specified a specific percentage for the levy, for illustrative purposes, if a 5% levy was introduced on the basis of the current structure of the income tax charge, it is estimated it could yield €505 million per annum. However, this would see the current two-rate income tax system expand to become a three-rate system. If introduced on the basis of the current structure of USC, it is estimated that such a 5% charge could yield an additional €520 million per annum but would see the current five rate USC system increase to six rates. This would be in addition to the PRSI system, which has further distinct features and would introduce complexity and an unnecessary additional administrative burden for taxpayers, employers and Revenue. The introduction of a higher rate such as this would increase the marginal rate of tax on earnings over €140,000 to 57% for employees and 60% for the self-employed if it was introduced as an income tax rate.

I believe those kinds of marginal tax rates would be a deterrent to the continued retention of workers in our economy, including individuals who earn a lot of money, whose presence here is important to the retention of jobs in Ireland. A practical example of this is hospital consultants. The difficulties we have in attracting consultants who were trained in Ireland but are working abroad to come back to work in our hospital system are well known. Rates such as those I have outlined would be a deterrent to encouraging those highly trained consultants to come back to work in our public services. There is a public service argument for why I would not accept this amendment, and a broader issue with the competitiveness of our economy and the need for personal tax rates to be competitive.

Senator Paul Gavan: I thank the Minister for the extended reply. I appreciate that. We have clear ideological differences here and should acknowledge that. I am fascinated that, when it comes to the wealthy in society, we need to give them incentive after incentive, or else they may not stay here. When it comes to ordinary working people, for much of the past six months, we have heard that pandemic unemployment payments are too much and employers are no longer able to find workers. There is one rule in place for people on low incomes and one for people on high incomes. The Minister's refusal to countenance even a report on what could be achieved by tapering income tax credits and a levy on high incomes puts him to the right of the British Tory party. Even Johnson, perhaps the worst and most extreme prime minister in recent times, has acknowledged that tapering income tax credits is important. Where does that leave Fianna Fáil and Fine Gael on the political spectrum?

Senator Alice-Mary Higgins: I note that if we wish to encourage the retention of hospital consultants or indeed anyone in the public service, it is in the Minister's remit to pay them more. We do not have to include a protection from tax for all those on higher incomes. If the concern is consultants, the mechanisms exist in the State's contracts with them. Among many of the concerns with regard to retention, tax has not featured highly. The terms and conditions, including those related to the silencing of consultants who engage in public debate, have been prominent factors in the discussions. The tax rate is something of a red herring.

The capital flight we have heard about over the years is not a sufficient argument. Taking the idea that a 5% levy will lead to large numbers of high earners leaving and taking their jobs with them, if those are the priorities of managers to such a degree that a marginal difference in

their income tax will determine whether they will carry out business in a state, even with favourable corporate tax measures in that state, that is questionable. Those are maybe side points.

The core point is that these are reasonable recommendations. Regarding recommendation No. 4, if there is a fall-off after €140,000, there is nothing to stop the Minister from bringing a counterproposal or indicating interest in a further report whereby he would look to continuing the tapering beyond €140,000 to avoid that disconnect. The crucial matter here is the idea of a high-income levy and the reluctance to look at that, with the idea that it is too complex. People earning €140,000 or more can handle the additional complexity. It is a very small additional complexity for persons on a substantial income, which would place them in the top 10% of earners in the State.

It is financially responsible to consider our GNI* and how we ensure its maintenance. The Irish Fiscal Advisory Council has been clear that we cannot continue to over-rely on the substantial windfall revenue that we have had from corporate taxes. It stated that we need to make sure we maintain a predictable and steady income tax. We should look at options such as a high-income levy. It is hard to look at this and not look at the fact that tax cuts are being talked about. We have heard the extreme measures in transformative public expenditure that are required. Tax cuts are expenditure. The idea that expenditure would go towards tax reliefs rather than public investment is a real concern. It affects public investment in the things that we share, including our collective public services and State measures. If we have a return of the fiscal rules, as the Minister has advocated for, and the ratios which the junior Minister spoke about when he was before the Seanad on the Finance Bill, then, if we consider the ratio of revenue to debt, by taking down revenue in any sense through tax reliefs or by failing to ensure a steady and continuous revenue by bolstering GNI*, not only is that money taken out of circulation for public investment but the ratio between income, expenditure and deficit also changes. It, therefore, becomes harder for us to spend on the other side, so we are losing twice on public investment in that context if we have tax cuts. We are taking away from one side of the scales and lowering the other side. It is surprising that tax cuts are being talked about now, even though the Irish Fiscal Advisory Council has been clear about the need for us to be clear. It would be more fiscally prudent if we at least did a report so we would know what our options might be around the introduction of an income levy on higher incomes if we need to bolster our GNI*.

Deputy Paschal Donohoe: There is a fundamental difference here. The two Senators will always see work as something to be taxed at a higher level. They will always see companies, entrepreneurs and innovation as things to get more tax from. They, frankly, ignore the fact that other countries want the innovative companies that are located in Ireland. That is an inescapable fact of having a small, open economy in which ideas and people are mobile. I find it extraordinary that in the arguments and facts the Senators have put forward to me, they give no credence to the fact that we already have one of the most progressive tax codes in the OECD. They have not acknowledged that at all. I will put the facts in that regard onto the record of the House. A single person who earns €120,000 in Ireland pays an average effective tax rate of 40.4%. If the same person earns €20,000, that tax rate is 6.4%. As one earns more in Ireland, one's average tax rate goes up as one's marginal tax rate goes up. Those are facts that are fundamental to considering how progressive and effective our tax code is. Those facts are relevant to the debate we are having here.

The Senators suggest that a higher tax rate for income above €140,000 would not have consequences that bear consideration. I believe those consequences would be difficult and potentially damaging for our economy. It is not an easy argument to make because somebody who is

earning more than €140,000 is exceptionally well paid, but those individuals have ideas, skills and training. They may have people reporting to them who I want to keep in our country. That is a difference between the Senators and me.

Senator Gavan suggested we have a different rule for people who are on low to middle incomes and those who are on higher incomes. If one is on a lower level of income, one's average effective tax rate is lower than those who are on higher levels of income. We have proposed tax changes that will primarily benefit those who are on low and middle incomes and the Senator's party voted against it. Sinn Féin thinks it is okay for somebody who is on the average wage in our country to continue to pay the higher rate of income tax. It is comfortable with that and wants that to be maintained. I disagree. I believe that if people earn a few extra euro each year due to getting a promotion, staying longer in a job, doing some overtime, getting a new role within their company or changing companies, it is appropriate that we look to ensure they do not always pay a high marginal rate of tax as their income goes up due to their efforts.

I make a similar point to Senator Higgins. She does not believe there is any role for a change in our tax policy as prices and incomes are going up. In the model the Senator has espoused, as incomes go up, as they are, and as prices go up, as they are, tax revenue will go up and those who are on low levels of income will progressively end up paying higher and higher rates of tax. That is something I believe we should be proactive in trying to change. The measures we brought forward in the budget are all about ensuring that somebody who is earning between €30,000 and €40,000 is not always paying the highest rate of income tax. I believe we should change that.

In the arguments they put forward to me, why can the Senators not acknowledge that we already have a very progressive personal tax code here in Ireland? There are high marginal rates of income tax for those who see their incomes grow and average rates of income tax that mean those on high incomes already pay higher levels of taxation than those who are on lower levels of income. For those reasons, I believe the tax changes we are making at the moment are appropriate. I am not going to accept this recommendation, which provides for a report, because I do not believe the Finance Bill is an appropriate location for committing to reports.

Senator Paul Gavan: If we get into a back and forth, it will probably not be particularly productive, to be fair. There are clear ideological differences between the Minister and me. I believe that someone who earns €140,000 can afford to pay a little more tax. We need that tax and we will need it in the years to come. One of the reasons we have exactly half the ICU beds we are supposed to have in this country, and we were told we would need in the 2009 Prospectus report, is because, year after year, this Government, unfortunately, did not ring-fence funding to expand the numbers of beds until such time as the crisis hit last year. That is a fundamental failure of planning and delivering ICU beds. That is a fact. We know we have one of the lowest rates of ICU beds in Europe. That is a fact. My point is that rather than being opportunistic, we are looking for ways to raise revenue in a sensible fashion over the coming years to ensure we can pay for decent public services. That is the responsible thing to do.

Senator Alice-Mary Higgins: Of course, when we talk about a rate of tax of 46%, we are talking about that as the rate on that portion of the income above the marginal rate. That factor can sometimes be blurred. It is also worth noting that Ireland has one of the highest levels of income inequality in the European Union. There is a redistributive function through our taxation system but it is redressing extremely high income disparity and income inequality. If we are committed to the idea of progressive taxation, a third level is something that perhaps needs

to be looked at down the line, and that would be consistent with a progressive system. It would be recognising that, for example, somebody earning €140,000 is not the same as somebody earning €30,000 or €40,000. It would be reasonable that somebody earning €140,000 might pay a higher rate than a person who has slipped into the marginal rate at €40,000 or so, as has been described.

Deputy Paschal Donohoe: A person earning €140,000 is already paying a higher average rate of tax. That is already the case. Politicians such as me who believe we have tax structures at the moment that are fair and effective, and that play a role in ensuring those who have more pay more, do a disservice to those beliefs if we do not challenge the views we are hearing from our colleagues here. Let me repeat that if one earns more in Ireland, one pays a higher average rate of tax and as one earns more, one pays a higher marginal rate of tax. I ask Senator Gavan not even to try to position Sinn Féin as the party of fiscal responsibility. The party wants to abolish local property tax. It does not want to go ahead with increases in carbon tax. With due respect to Senator Higgins, she is making the case for fiscal prudence while she is also advocating higher levels of borrowing to form particular forms of expenditure. I cannot accept that argument. I will not hear Sinn Féin make the case that it is fiscally conservative or prudent when it proposes to abolish taxes that the vast majority of analysts and economists, or at least those among them who are sensible, would argue for. Local property tax plays a valuable role in the tax code and Sinn Féin wants to abolish it. Sinn Féin says it is in favour of broadening the tax base but it argues against increases in carbon tax year after year. I do not accept, therefore, that it can make the case for being prudent about what we are doing or for prudence.

I accept that we need more ICU beds. The Government has a plan in place to achieve that. It is also the case that even though the number of hospital beds in Ireland came under real strain, we managed to ensure we had enough hospital beds for those who needed them during the pandemic. We know we need to build more. For Senator Gavan and Sinn Féin to position the pandemic as an example of public service failure, as his fellow spokespersons do all of the time, is a narrative I completely reject. Our public services came under strain and we need to invest more and support them in future. Our health services, hospital beds, nurses and doctors faced a huge challenge and many of them faced unimaginable strain in the work they were doing, nonetheless the State overall, facing huge tests in this pandemic, has managed to reduce the number of people who died in the country, put in place a really good vaccination campaign and protect the economy. They are arguments that we need to hear a little bit more of when Sinn Féin make the case that what happened in this pandemic is an example of the failure of our State. It is wrong.

On the overall substance of the recommendations, we have a progressive tax code. The more one earns, the more one pays. Average tax rates go up the higher one earns. The jobs we are talking about and the people we want here in Ireland are wanted by other jurisdictions. I want those jobs here. For this reason, I do not accept the recommendation or the policies being proposed.

Recommendation put and declared lost.

Senator Paul Gavan: I move recommendation No. 5:

In page 20, between lines 28 and 29, to insert the following:

“Report on income levy on high incomes

16. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the introduction of a high-income levy on high incomes in excess of €140,000.”.

Recommendation put and declared lost.

Senator Paul Gavan: I move recommendation No. 6:

In page 20, between lines 28 and 29, to insert the following:

“Report on income tax relief

16. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on an income tax relief equivalent in value to 8.3 per cent of annual rent to all private rental tenants not already in receipt of any State subsidy, examining the social and economic impact of this measure in the context of high levels of rent and other policy levers such as a ban on rent increases.”.

The latest rental report from *Daft.ie* shows that rents are continuing to rise across the State, with renters in Munster, Connacht and Ulster facing hikes of between 15% and 18% annually. The average monthly asking rent for the third quarter of 2021 was €1,516. The Government introduced legislation that pegged rents to inflation and allowed landlords to increase rents by 5.1%. Following that, it introduced legislation that would allow landlords to increase already unaffordable rents by another 2%, which is madness. These rent rises are the first data set reflective of the changes made to the rent pressure zone legislation that linked rents to inflation.

The report shows that 17 counties had double-digit rent inflation. Rents continue to soar outside of the Dublin area, increasing by over 20% in counties Mayo, Leitrim and Roscommon. This is a huge expense for households to shoulder.

The rental crisis continues unabated showing that tweaks to the failing rent pressure zone legislation have failed. Sinn Féin wants to see the introduction of a time-bound, refundable tax credit for renters in the private sector at a rate of 8.3% of annual rent and equivalent to one month’s rent, in conjunction with a three-year ban on rent increases. This will provide much-needed relief for renters, effectively reducing the burden they face.

In 2009, the Commission on Taxation recommended discontinuing income tax relief for rent paid but on the grounds that the relief would increase demand and, therefore, rents to the benefit of landlords. However, this problem would not arise as we are proposing a refundable tax credit for rent paid would be accompanied by a ban on rent increases for the period in which the relief was payable.

The fundamental point is that this budget did absolutely nothing for renters. People are pushed to the pin of their collars with extortionate rents. In my village of Castleconnell, rents of €1,400 a month are being charged for very poor quality houses. The belief that it is okay to slow down the rate of increase is missing the point. We need rent reductions and a rent freeze. That is the only way to address the rental crisis in the country.

Deputy Paschal Donohoe: As the Senator will be aware, this change was proposed in an amendment during Report Stage of the Bill in Dáil Éireann. However, allow me to set out once again why I believe the introduction of such a relief is not appropriate.

On Report Stage in the Dáil, Deputy Pearse Doherty noted correctly that relief in respect of rent paid by private tenants was previously available. However, as I explained, it was abolished in budget 2011 and it is no longer available to those who commenced renting for the first time from 8 December 2010 onwards. This was on foot of a recommendation in the 2009 report by the Commission on Taxation that rent relief should be discontinued. The view of this independent commission was that, in the same manner in which mortgage interest relief increases the cost of housing, rent relief could increase the cost of private rented accommodation. Accordingly, the result of re-introducing this relief would be a transfer of Exchequer funding directly to landlords, which would not have the intended effect of reducing the pressure on tenants.

In fairness to the Senator's colleague, Deputy Doherty, he acknowledged this point and argued on Report Stage that the measure be accompanied by a rent freeze for the period that the proposed support is in place. In reply, I would argue that the evidence suggests that long-term rent controls can give rise to their own problems, including a reduced number of landlords being available to provide rental accommodation in the first place. There is the risk that we would see a reduction in the overall availability of properties to rent, making worse the fundamental lack of supply already in evidence.

As I said previously, it should also be noted that a tax credit of this nature will be of little benefit to lower income workers, the unemployed and students who may not receive the benefit of the relief as they may not be paying sufficient levels of income tax.

Senator Paul Gavan: If anything shows how out of touch this Government is, it is the Minister's statement. We have a rental crisis, which happened under the Minister's watch. The problem has been getting worse year after year. We have hard-working families who simply cannot afford the rents they are being charged. Yet, a simple proposal to actually give those hard-working families a break in this budget has been rejected again by this Government.

I do not think the Minister understands the level of distress families are suffering due to these extortionate rents. I do not think he understands how much they are hurting. It is hugely disappointing but it does not surprise me because, let us be clear, we have had 11 years of Fine Gael government and during that time, Fine Gael has consistently failed in housing, renting in particular. That is why we have a housing crisis.

Deputy Paschal Donohoe: I fully appreciate that we have huge challenges in the rental sector. I understand the anxiety and stress faced by many tenants who find their rents going up and are worried about whether they will have rental accommodation in the future. The Senator makes the case that we have huge difficulties in the rental sector, as we do. At the same time, we are at the point at which "landlord" has now become nearly a term of abuse in the way Sinn Féin uses it. That is the reality of the debate we are in. Every time Sinn Féin members use the word "landlord", they drip with invective about them. We need more rental accommodation in Ireland and we need more landlords willing to supply that rental accommodation. To call someone a landlord is a term of abuse on the part of Sinn Féin. The Senator talks about the challenges that tenants are facing but in the debate in the Dáil, Sinn Féin voted against an extension of a tax relief that seeks to support landlords with the expense of turning unused rental accommodation into rental accommodation they can rent out. What will Sinn Féin say to the families who will be looking for rental accommodation in the future and who will be looking to have a better chance of finding a property they will be able to rent in the future when Sinn Féin voted against a measure that seeks to support landlords in making more rental accommodation available? We have to acknowledge what Sinn Féin's arguments are doing to the many challenges

we have in the supply of rental accommodation in Ireland.

Senator Gavan talks about the Fine Gael record in the housing market and I accept that there is much we need to do better, that we need to get more homes built more quickly and that they need to be more affordable. Our record is that we were in government at a time when there was not enough money available in our country to build the homes that needed to be built where they needed to be built. Year after year we have taken the measures and put in place the policies and money that have seen the amount of homes that are built by local authorities increase over time and the number of homes that are being built in our country increase over time. We acknowledge that for many it is not enough and that it is not happening quickly enough. The Senator cannot on the one hand argue that more needs to be done to provide more rental accommodation while on the other hand he continues to use the word “landlord” as a term of abuse. He cannot do both. The Government accepts that there is a huge challenge in how we can make more homes available for rent but we believe that the measures the Senator is proposing are a recipe for fewer homes and higher rents. It is for those reasons I am not accepting the Senator’s recommendation.

An Leas-Chathaoirleach: Does the Senator wish to make a comment before I put the recommendation?

Senator Paul Gavan: We are not finished yet. First, for the record I never used the word “landlord” at all in my contribution so the Minister might care to listen a little more closely. Second, the Minister’s contribution is extraordinary because one would almost think from listening to it that the housing crisis is some kind of natural phenomenon like an earthquake or storm but it is nothing of the kind. The housing crisis happened as a direct result of Government policy, or to be more explicit, it happened as a direct result of failures in Government policy. We should be clear and have some accountability from the Minister. His Government has been in place for the last 11 years. I note the sigh from Senator Casey and I also note the fact that there is not the width of a cigarette paper of difference between Fianna Fáil and Fine Gael on housing policy now. What does that tell us about how low Fianna Fáil has found itself going? We are in a housing crisis because of the failure of the Governments the Minister has been in over a decade. That is why we have a consistent housing crisis, not just in the lack of public housing but in the atrocious state of the rental market. That is the reality and nothing the Minister can say here avoids that fact. That is the Minister’s record in government.

Senator Micheál Carrigy: I want to repeat what I said five minutes ago and I would love to hear a comment from a Sinn Féin representative on it. The fact is that between 2016 and 2021 Fine Gael delivered more houses in the programme for Government than was in the Sinn Féin proposal prior to the 2016 election. What answer does Sinn Féin give to that? We exceeded the proposals Sinn Féin put in place and we failed? If Sinn Féin had been in government we would have an awful lot more problems. Sinn Féin’s housing spokesman, Deputy Ó Broin, might get his calculator or go back to school and learn his maths because he seems to be able to build houses in this country at €150,000 per unit, which is impossible in the current market. Senator Gavan is giving out about this Fine Gael, Fianna Fáil and Green Party Government that has put in place Housing for All, a plan that will deliver housing at all levels, including affordable and private. It will involve local authorities, private developers and investors, which are needed to make sure we can deliver this. I ask the Senator to go back and get his calculator out and get his figures right.

Senator Pat Casey: Sometimes it is hard to come here and listen to what is being said.

I find the statements being made in the housing debate disingenuous. While Senator Gavan might not have mentioned landlords, when he mentions private rental tenants he is indirectly referring to landlords because one cannot have them without landlords. The Senator can come here and take the stance he has taken because he is not responsible. He just wants a political line on a video clip. We need landlords and what has happened with them in the last two years? We lost 1,600 landlords last year and we have lost over 2,000 this year. This Government has brought in six Acts to control rents in the two years it has been in government. The interference of this Government in the housing market is the largest single investment in the history of the State. Some 50% of all houses delivered by this Government are controlled by the Government, be that through local authority housing, affordable housing or cost rental. Some 50% of the keys given out to individuals in this country are as a direct result of this Government's policy on housing. It is the single biggest intervention in the housing market ever. We have managed to build over 22,000 houses this year, despite being shut down for three months and we had commencements of over 31,000 units already in November of this year. We are addressing it and we are beginning to deliver. Everybody says it is all about supply. It is about supply and we are getting there through difficult times but let us not run down Housing for All and Rebuilding Ireland before that. They are delivering but we need landlords. All Sinn Féin's policy is doing is scaring landlords out of the market and making the situation worse than it already was. Some 86% of our landlords only own two properties or less. Over 90% of them own one property or less. These are the people Sinn Féin is targeting and running down every day. It wants landlords but it is running them out of the market with its lingo.

Senator Paul Gavan: In this city we have the highest rents anywhere in Europe.

Senator Pat Casey: I am not disputing that.

Senator Paul Gavan: That is the reality and that is the Minister's record. We should have some accountability on that and the figures are getting worse in the rental sector, not better.

An Leas-Chathaoirleach: We are getting very pithy in our speeches. Is the Senator pressing the recommendation?

Senator Paul Gavan: I am.

Amendment put:

The Committee divided: Tá, 10; Níl, 25.	
Tá	Níl
Boyhan, Victor.	Ahearn, Garret.
Boylan, Lynn.	Ardagh, Catherine.
Craughwell, Gerard P.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Malcolm.
Higgins, Alice-Mary.	Byrne, Maria.
Keogan, Sharon.	Carrigy, Micheál.
Moynihan, Rebecca.	Casey, Pat.
Ó Donnghaile, Niall.	Cassells, Shane.
Wall, Mark.	Chambers, Lisa.
Warfield, Fintan.	Conway, Martin.

	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Dolan, Aisling.
	Dooley, Timmy.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Garvey, Róisín.
	Horkan, Gerry.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	Ward, Barry.

Tellers: Tá, Senators Niall Ó Donnghaile and Paul Gavan; Níl, Senators Lisa Chambers and Seán Kyne.

Recommendation declared lost.

Senator Lorraine Clifford-Lee has advised the Cathaoirleach that she has entered into a voting pairing arrangement with Senator Eileen Flynn for the duration of Senator Flynn's maternity leave and accordingly has not voted in this division.

Sections 16 to 18, inclusive, agreed to.

NEW SECTION

An Leas-Chathaoirleach: Recommendations Nos. 7 and 13 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: I move recommendation No. 7:

In page 23, between lines 21 and 22, to insert the following:

“Report on the application of Capital Gains Tax to REITs

19. The Minister shall, within three months of the passing of this Act, prepare and lay before both Houses of the Oireachtas a report on—

(a) the introduction of Capital Gains Tax at a rate of 33 per cent where a REIT, IREF, or group of REITs or IREFs, disposes of a property of its property rental business,

(b) the introduction of a stamp duty surcharge on REITs buying up residential properties,

(c) the effect of REITs on the supply and prices of residential housing on the rental market, and

(d) the effect of REITs on the supply and prices of residential housing on the open market for private household purchase.”.

The Minister will be aware that there was debate in the Dáil where similar amendments were tabled. It is important to table them again, however. Currently, REITs do not pay capital gains tax when they are disposing of a property. The tax is only paid at the point where dividends are distributed to shareholders. The argument is often made around double taxation. I do not believe that applies here, however, because considerable things happen and in many businesses and many areas of activities, tax is paid along the way over different activities that happen. It is notable that in terms of IREFs, taxable events are not considered to be the disposal of an asset or the collection of rent. This seems to me to be a very significant omission.

I urge the Minister to take on board my recommendation, which would seek first of all to look at the options for the introduction of capital gains tax at a rate of 33% where REITs, IREFs, or groups of REITs or IREFs, dispose of a property and its property rental business, and the introduction of a potential stamp duty surcharge on REITs that are buying up residential properties. Again, that is something on which more could be done.

I refer to the effect of REITs on the supply and price of residential housing in the rental market. This is a factor. REITs are effectively competing with first-time buyers. That is part of it. We talked about things that are driving up inflation and prices. It is certainly not solely the help-to-buy scheme. Another factor is the fact that first-time buyers are competing against REITs. Killian Woods has given very detailed analysis and examples of this in his reporting, as have others, where local authorities must compete with REITs in terms of the purchase of housing. REITs that have the potential of getting leasing contracts with local authorities or others are effectively outbidding local authorities for what is often a limited supply of private housing for purchase in rural and other areas, as described earlier by Senator Casey. Local authorities then find themselves forced into leasing properties on which they were outbid. We need to know the effect of REITs on the supply and the price of residential housing, whether they are part of the inflationary effect if help-to-buy is only a small factor and their impact on residential properties available on the open market for private purchase. These are two factors that I hope the Minister might be able to address. Senator Gavan has tabled a similar recommendation on this issue.

Senator Michael McDowell: I have some sympathy with Senator Higgins’s suggestion that there should be a report on some of these possible changes in taxation policy. I am an admirer of the skills of the Minister for Finance, Deputy Donohoe, but what is wrong with the current Government is that we are not facing up to a fundamental issue, namely, the level of capital gains tax. When I served as Opposition spokesperson on finance for the Progressive Democrats in 2002, I proposed an amendment to the Finance Bill to reduce the rate of capital gains tax from 40% to 20%. Former Deputy Charlie McCreevy, who later became Minister for Finance, was an Opposition spokesperson as well and he and I teamed up on this matter. I had the good grace to lose my seat in the following election so my tuppence worth was simply offered on that day.

I strongly believe that the rate of capital gains tax is too high. I am looking at what is coming down the tracks in this debate by way of recommendations. For example, there is a suggestion in recommendation No. 14 that the rate of capital gains tax be brought back up to 40%. I am strongly of the view that we need to have a 20% rate of capital gains tax. I fully understand that people will say that we are already taking 35% or 40% of basic income and this, that and the other by way of taxation, and question how this would square up in terms of equity to a capital gains tax rate of 20%. On becoming Minister for Finance, Charlie McCreevy had the bottle to pursue his own views, expressed in opposition, and reduce the rate of capital gains tax from 40% to 20%. The result was a 500% increase in the yield from capital gains tax. This poses a fundamental issue for elected politicians: do you put theory before practice or practice before theory? My strong view is that a low rate of capital gains is a sensible arrangement in order to keep assets moving within an economy and that the rate of 33%, which was introduced in the aftermath of the financial crisis, was a knee-jerk reaction, which, I can well understand, was politically sensible at the time. We should, however, take a look at it now from the perspective of what transactions we are inhibiting. There are many people who, when they look at various transactions that are open to them, will note that a consequence of proceeding with one particular course of action is that 33% of the nominal gain that will accrue on that transaction will go straight to the Exchequer and their reaction is to hold off and to hang on to the asset in the hope that at some future date there will be a different regime.

I consider the former Minister, Charlie McCreevy, a friend and a good and decent man. He took the bull by the horns and cut the rate of capital gains tax from 40% to 20%. There was huge opposition to that at the time. It was regarded as ideologically indefensible, but the result was a 500% increase in the yield to the Exchequer. Leaving aside the housing bubble and the rest of it, when that money came in, it was available to the Exchequer to expend on redistribution and other things. A stance should be taken in this House against the current rate of capital gains tax of 33%. It should be reduced to 20%. In the final analysis, one can, of course, look to compare that with the higher rate of income tax, PRSI, etc., but I am convinced that the Minister should look at the outturn of such a low rate of taxation. I am convinced that if the rate of capital gains tax was reduced from 33% to 20% the result would be a very substantial taxation boost. The former Minister, Charlie McCreevy, proved that that was correct.

I can well appreciate that in the aftermath of the property market crash, the credit squeeze and all the rest of it, the Government of the day thought that on equity grounds, because we were burden-sharing across the economy, it should be increased from 20% to 33%, but the Department of Finance is not infallible. Very few of the people in the Department engage in any activity that would attract capital gains tax. There is a different world outside Merrion Street. That world is one in which the disincentive effect of taking one third of all capital gains by way of taxation is significant. The proof of the pudding is what happened when the former Minister, Charlie McCreevy, reduced the rate. I hope nobody is listening to me because on the basis of stamp duty measures that I once proposed they will probably think that this is a serious possibility. It is not in the mind of the current Government but a future Government should face up to the fact that 20% is the appropriate rate for capital gains tax to keep assets moving, transactions happening and to stop people engaging in massive tax avoidance schemes. There are transactions that are necessary. People who own land and who are faced with the proposition of whether to put it on the market often decide not to do so because before anything else happens, one third of the gains will accrue to the State. I am of the view that 20% is the appropriate rate for capital gains tax, as it is for the lowest rate of income tax, and that it should remain at that level.

Senator Paul Gavan: I want to speak to recommendation No. 13 in particular which, as Senator Higgins stated, is similar to her recommendation. I have tabled a number of recommendations calling for reports into the tax treatment of REITs and IREFs and the broader economic impact of institutional investment in the housing market.

I want to begin with the tax treatment of REITs and IREFs and the application of capital gains tax. Investment funds in the housing market pay no capital gains tax on disposal of their assets. We have just heard an interesting contribution from Senator McDowell, who argued for a lowering of the rate to 20%. I disagree with him. I am sure he will be relieved to hear that as well. We are talking about investment funds paying zero capital gains tax on the disposal of their assets. When property or land is sold at a profit it is normal practice that it is subject to capital gains tax at 33%, which is payable within a few months of disposal. This applies to individuals and companies, including large developers such as Glenveagh and Cairn Homes, but REITs and IREFs are exempt. This exemption is a massive and unjustified benefit for funds to keep accumulating money within a fund, tax free, with none of these gains subject to dividend withholding tax unless the money leaves the fund. It is striking that we have these outrageous tax reliefs for REITs and IREFs that Fianna Fáil and Fine Gael want to defend, while those parties have just voted against giving a tax break to ordinary renters. That is some contrast.

I will provide two examples. Last year, Kennedy Wilson sold one of its key Irish properties, Baggot Plaza in Dublin, for €141 million to a German property investor at a profit of \$85 million, with these gains exempt from capital gains tax, CGT. Kennedy Wilson made clear that these proceeds, exempt from CGT, would be “recycled into new opportunities”, which is a tax advantage not available to struggling homebuyers, small landlords or any other company. Yes, I used the word “landlord” but, hopefully, the Minister will approve. Similarly, last year, IRES REIT sold an 151-apartment portfolio to Orange Capital for €48 million. Again, this was a sale that was exempt from capital gains tax. If we are to rebalance our housing system, one that is out of control and failing in the delivery of affordable homes for purchase and rent, we must examine and remove the generous tax advantages that have been gifted to funds by this Government, including capital gains tax.

Senator Pat Casey: We are heading into a debate on capital gains. Capital gains tax needs to be looked at from a supply of housing point of view. It can form part of the solution. There are thousands of properties out there on short-term lettings because they are better value for money for their owners. We would much prefer to have those properties as part of the housing stock. There is a case to be made that if we reduce capital gains tax to 20%, we could get a lot of disposal of assets, which would in turn make up the revenue loss from a taxing measure point of view.

It is just an observation, but I am looking at this issue from a housing supply perspective and from the perspective of individuals who have a second property and are possibly basing their ownership on short-term letting at present. If capital gains tax was 20%, we might have a better opportunity to deliver that house into the supply chain rather than having owners sitting on it.

Senator Michael McDowell: I completely agree with the last contribution. This is not an ideological thing. It is about increasing the capacity of assets to flow into the market. A capital gains tax of one third is indefensible in that context.

Senator Gavan mentioned the Government’s view of the proposal to give some income tax relief on rental payments to taxpayers who are not entitled to other reliefs. I voted in favour

of that because I genuinely believe that people are being very heavily gouged by the housing shortage in respect of the rental payments they are making, especially in Dublin, where some of the payments being exacted by landlords and market forces are extraordinarily high.

The fundamental issue is whether we want assets coming into or going out of the market. As long as we have 33% capital gains tax, many assets will be withheld from market activity. On the point Senator Gavan made about a rate of 33%, 20% or 40%, it has to be borne in mind that it is not just a matter of how fair we think this is on some abstract level. If assets become more mobile and come into the market more quickly, that has a market effect. The market cannot be misunderstood. It is a thing where some assets are stodgy and will not become involved in sales and transactions, if 33% capital gains tax is applied to them. Charlie McCreevy took an awful lot of stick for his welfare reforms and so on, but he proved, in fairness to him, that if the rate is reduced, the yield is quintupled. That is what he did with a reduction from 40% to 20%. I do not think the yield would be quintupled at present but I believe the capital gains tax yield would be doubled or trebled, if the rate was reduced from 33% to 20%.

I strongly support a review of capital gains taxation. I know it is politically difficult. The Minister is probably thinking what his partners in government, the left and all *The Irish Times* columnists, with the exception of Senator McDowell, would think of it, but I honestly believe that the current rate of capital gains taxation is one of the influences on the market that is in fact working against the mobilisation of assets in order to deal with the housing shortage. I will not be persuaded otherwise. I will not call a vote on this matter but I am saying this is a case where effectiveness trumps ideology.

Deputy Paschal Donohoe: A whole variety of issues have been raised in this debate, from the taxation of REITs and IREFs to the issue of taxes on capital raised by Senator McDowell. I will say a word about each of the points I have heard.

I will begin with Senator McDowell's point regarding the level of transactions we have in our economy being influenced, in the first place, by the level of tax on those transactions, a point with which I agree. That is my opening point on where we stand with our housing market at present. I keep saying this every time we get into any debate about housing, but I absolutely appreciate the stress that is caused to many by what is happening with their rents, the worry so many have about their future and whether they will ever be able to buy their own home, and the insecurity that is being caused for many in our society who, despite their best efforts, worry that they will not be able to afford their rent in future or have a roof over their heads on which they are paying their own mortgage. With any issue that is so complex and causing such deep worry at present, unfortunately, the answers we are putting forward are ones that will make a difference over time. People, however, want a very quick response, they want homes to be built immediately and they want easy answers that are capable of delivering quick solutions. I understand why they want that, given the level of concern at present.

This brings me to the issue of REITs and IREFs and the role they play. I contend that their role has to be looked at in the context of the role the State is already playing. The largest builder of homes in our country at present is the State. This year, €4.1 billion has been invested in directly building or supporting the delivery of more homes. I will keep saying this again and again in this debate because I keep hearing the assertion that we have a housing policy that is led by the market. We have a housing policy in which the market plays a role. Those are two fundamentally different things. The areas of planning regulation, the Land Development Agency and local authorities, in particular, have not had more active building programmes for

many years than those they currently have.

The examples of this are literally concrete. If the Leas-Chathaoirleach goes to Dominick Street, he will see the quality of the accommodation that is being built by Dublin City Council and people who have been waiting for a home for too long, which I accept, now moving into accommodation and apartments that are of extraordinary quality, as they should be. As a rich country, which we are, and with the national income growth we have had in recent years, we should be in a position to build local authority accommodation of that kind of quality. It is being built. We will have tenants moving into such accommodation soon, for example, the development at Sean Foster Place, just down the road from the King's Inns. Senator McDowell should look at the accommodation that is being built at the moment, which will be opened in March. It is state-of-the-art accommodation being built by Dublin City Council. Examples of that have been replicated all over the country by local authorities. After many years of difficulty, due to the aftermath of the previous crisis, they have had the levels of funding in recent years which is bearing fruit and reaping dividends in new homes being built. That is relevant to the discussion that we are about to have on REITs and IREFs because if we want to make the kind of progress year-on-year on housing that we must make, we need more supply. We need more homes to be built. It is an increasingly unfashionable argument to make, both here in the Seanad and elsewhere, that the private sector has a role to play in the delivery of those homes, but it does. The Government cannot build every home that every citizen wants at every price level they want. The private sector has a role to play in that. If we want more homes to be built, which I do, and I believe this House does, there is a role for the private sector in doing that.

That simple argument leads on to a complex point, which is what is the role of REITs and IREFs. An increasing number of people do not want them to play a role in the country. I ask them to consider whether we want savings from other parts of the world to play a role in the provision of homes in this country. Do we want pensions that are being built up in other parts of Europe and elsewhere in the world to play a role in the delivery of homes in our country? Do we want those who have saved money elsewhere to play a role in building more homes, especially more apartments? I believe the answer to that question is "Yes". The reason is that we are a small economy. Two banks have left the country. We have two banks of scale and a third bank that is trying to build up scale. We have a young and growing population. We need billions of euro of additional investment from the private sector every year in addition to the billions of euro that the State is providing to build more homes. They are complex and increasingly unfashionable arguments to make but we cannot wish away that reality. If we want more homes being built in the country, there is a role for private capital in doing that, and by private capital I mean savings that we make or savings that people make in other parts of the world that they want to be used in a productive way. If we, as a country, decide we do not want that capital, which is the argument that is being put forward by Sinn Féin, we should be under no illusion that if we decide to change the taxation structure of REITs and IREFs – I understand why that is an attractive argument – that is investment that simply will not come to Ireland. It is savings that will be used elsewhere. I believe that those savings have a role to play in the provision in particular of certain kinds of apartments in this country, especially in Dublin city, which in turn will have an important effect of increasing the overall supply and allowing existing housing stock to be used in a different way. That argument may be one that will take time to have an effect, but ultimately, I believe it is part of the answer to what is a very difficult and very complex set of dilemmas that we face in housing at the moment.

The argument that is then made, for example, by Senator Gavan this evening, is that REITs

do not pay capital gains tax. He is partially correct in what he said, which is very typical of the arguments that Sinn Féin is making currently on many areas of public policy. It is the case that capital gains tax is not paid by a REIT when a gain is made, but of course where the tax is paid is when the income is distributed from a REIT or IREF, which is exactly the same way we tax pensions. We do not tax the gain that is made in a pension, we tax the gain when the income is distributed from a pension. For the record, when income is distributed from a REIT, a dividend withholding tax is paid on it of 25%. If an Irish investor receives that income, if the person is an individual, he or she must pay tax at the personal tax rate and a company must pay corporate tax on it. An international investor in an Irish REIT will pay tax on the income received from the REIT according to the tax paid in the investor's own jurisdiction. Tax is paid when the income is distributed. There is also a withholding tax in place for IREFs at 20%. That is where the tax is paid. Then again, depending on one's jurisdiction, one will then pay perhaps even additional tax on top of that. I know these are complex arguments in the face of arguments that say that REITs and IREFs should pay more tax or do not pay any tax at all, as some would assert, but that is where the tax is paid. There is a simple point at the heart of all of this complexity, and all of this technical language regarding withholding taxes, taxable events and what a REIT or IREF is, it is whether we want private capital to play a role alongside an active State in more homes being built in Ireland. I make the case in the Seanad this evening that the answer to that question is "Yes", because we are a small, open economy with a limited level of capital ourselves, with a young and growing population and we need more homes to meet our needs and, within that, the private sector has a role to play.

That is not to say that our housing policy is led by the private sector or that our housing policy equals the private sector. For those who make the claim that that is what the Government is doing, they should walk up Dominic Street and look at Sean Foster Place and what is happening at the moment. They should walk around Sean McDermott Street at the heart of my constituency and look at St. Mary's Mansions. I hear again this evening from the Opposition the condemnation of the role played, for example, by approved housing bodies, and leasing in the work of local authorities. They should look at the extraordinary renovations that have been made to St. Mary's Mansions in the heart of Sean McDermott Street. It is local authority accommodation that was run by Dublin City Council and it is now looked after by an approved housing body. Let them make the argument to the tenants who are now living in the apartments in a quality of accommodation that they deserve, that is far better than what they had a few years ago. The reality is that has now happened for them.

I make these arguments because there are consequences to the debate we are having. If we increasingly indicate as a country that we are unwilling to allow a role for private capital investment in either the provision of homes or jobs in this country, that will have consequences, but that is an argument that I am going to engage in and I am going to make the case here for a role for that kind of capital investment supported by the State, which has never invested more in housing and is determined to make a difference.

In response to the argument put forward by Senator McDowell, I must choose my words carefully in this regard, because if there is any area of taxation in which my words will be scrutinised, it is in regard to taxes on capital and capital transactions. I remind the House that we have a Finance Bill before the House that is not making any significant changes to the level of taxation on capital transactions.

I wish to make one point to Senator McDowell on the argument he has brought forward. At the outset this evening, I said I believe there is a relationship between the tax you have in

a transaction and the number of transactions that occur. However, we are in an economy that at the moment, for extraordinary reasons, is now experiencing many capacity constraints and shortages. Those relate to people to do work or to the kind of capacity an economy needs to ensure that if a transaction happens, it can be executed at normal and affordable prices. There is an economic cycle to the Senator's argument that bears consideration. One can ask whether we are at the right point in our economy at which changes in the level of taxation and transactions would have the kind of effect it did a number of years ago when the last big change was made. We are now in an environment in which rising prices and inflation are an increasingly important issue for us as we form economic policy for next year and beyond. There is an economic cycle dimension to the Senator's argument that I am sure the Senator understands and that is relevant to the argument he is putting forward.

For those reasons, I am not accepting the recommendations that are being put forward. The substantive recommendations that have been put forward here relate to the role of REITs and IREFs. The core contention I am making to the House this evening is we have an active State. It has never spent more. That which we must spend more on is how we deliver affordable homes. There is a role for the private sector in delivering homes and REITs and IREFs tell the rest of the world that we want their savings to play a role in increasing housing supply in Ireland. It is a difficult argument to make at the moment but not making it and potentially even losing it is a recipe for fewer homes to be built here in the future or asking the State to do even more. That itself is something we are willing to do, by the level of capital investment we have at the moment but no state can do everything when it comes to meeting the level of housing needs we have.

Senator Paul Gavan: I want to shine a light on the actual taxation situation. In 2019, tax paid by IREFs relative to pre-tax profits was 9.1%. That was less than the 25% paid by any other landlord or the 12.5% paid by any other company. Furthermore, as I said, they are entirely exempt from capital gains tax. We disagree with the Minister on this policy issue. We believe the tax advantage enjoyed by these funds is pricing struggling homebuyers out of the market and driving up rents. We also know these funds are, in the vast majority of cases, buying up properties subject to forward purchase agreements and not forward funding agreements, despite the commentary. These recommendations are calling for reports, as we have done every year. A report published in February 2019 by the Department of Finance entitled Institutional Investment in the Housing Market noted:

There is a risk that, should BTR investment continue at current growth rates, market forces would over the long-term create socio-economic polarisation in some urban areas. Under such a scenario average income earners would be priced-out of purchasing or renting from the private market ...

Is that not exactly what has been happening? It goes on to state, "there is a risk that at sufficient scale an institutional investor or group of investors could, over time, develop monopolistic or oligopolistic pricing power". That is a report by the Minister's own Department. It is very clear that is exactly what is happening. The Minister may be of the view the housing policies pursued in government over the past decade has been a roaring success. I am not. The power of investment funds within the housing market must be reined in. This threat has been recognised elsewhere. The Liberal Party has committed to measures to clamp down on the financialisation of the housing market in Canada. We have a different view of the success of Government housing policy and its impact on affordability. All this recommendation is calling for is a report.

Senator Michael McDowell: This debate is a valuable one. What the Minister has just said is in general something with which I can sympathise considerably. I fully accept that to cut capital gains tax from 40% to 20% in 2002 is possibly different from the scenario the Minister now faces where there is a massive amount of money sloshing around looking for places to land and where inflationary pressures are high. I am totally conscious of the cyclical and countercyclical implications of changes to capital gains tax. However, I make the point, which I am glad the Minister accepts, that to have a levy of the rate of 20%, 33% or 40%, as some of the recommendations suggest, does have market implications. Looking back to what happened when Charlie McCreedy took the bold plunge and said he was going to cut capital gains tax by half, he got a 500% yield. That cannot be forgotten. Maybe I am wrong on this but I assume that in the Department of Finance's files there are plenty of advices and memos stating the then Minister should not do this, that we would not get any extra money from it, that we would lose a lot of money and all the rest of it. In fairness to the very decent civil servants in that Department, that is the way they conservatively think in relation to rate reductions.

My second point is there really is a danger now that somehow, entirely simplistic snake oil solutions are being sold to the Irish people as to how the home building and housing crisis can be solved. In that context, I do not believe the present Government understands some of the things it is actually doing. In 2009 the then Minister, John Gormley, was persuaded by Threshold, a housing charity, to abolish bedsits. Across Dublin, in areas the Minister represents and in the one where I myself live, between 10,000 and 15,000 dwellings were extinguished by market forces because private landlords could not adapt old houses to the new requirements. It was well intentioned. I am not saying this in any way crabbedly about the then Minister. He was being urged by a charity to improve standards of accommodation. However, those involved did not look around the corner and see they were bringing about the extinction of an entire category that was the lowest and second-lowest rung of the housing market right across Dublin. I hope I am not revealing a terrible secret, but I live on Charleston Road in Ranelagh. Across the road from me is a series of large redbrick houses. When I originally went to live on Charleston Road, all those houses were divided into bedsits, as far as I could see. I used to canvas for both Fine Gael and the Progressive Democrats and knew what it was to go up to the hall door and see a thing that looked like an accordion, given the number of bells on it you could or could not press. When you went into the hall, because the door was left open, there were bicycles and you had to wander around the inside of the building to see was there anybody on the register still there three or five years later. By the way, when I was actively politically 15 or 20 years ago at least half of the houses on Palmerston Road in Ranelagh, now one of the wealthiest and most salubrious roads, were divided into bedsits. We changed things. To use the phrase the trendies use now, we gentrified Dublin. We handed over the market forces to those who had the capital to buy those houses and to turn them into trophy homes.

8 o'clock

We told the private landlords who took their rents from providing for the lowest rung on the rental ladder to get out of the business because they were no longer required. The moral of that story is one can do the wrong thing for all the right reasons. One can drive people out of a market and change a market in this way.

I mention that because the Minister referred to Dominick Street. I was going across from my place in Ranelagh to the Broadstone Luas station in King's Inns recently and saw the development on Dominick Street. I also saw across the inner city something which was apparent to me when I was Minister for justice, that is, that the area the Minister represents has atrophied

rather than prospered in the last 30 years in many respects. Gentrification is happening by degrees and only a fool would ignore it but north inner-city Dublin is a different world from south inner-city Dublin.

The Minister mentioned the role of local authorities in Dominick Street and, God bless them, they are doing some good work there but there is a blight across north inner-city Dublin. The Minister only has to open his eyes, look around and realise that it and areas of south-west inner-city Dublin are underdeveloped and in trouble, socially and economically.

When I was a colleague of the former Taoiseach, Bertie Ahern, in government, it struck me that he did not seem to have a sense of discontent about the state of north inner-city Dublin. He seemed to like it the way it was. Perhaps he was wise to do so. He got an enormous vote out of it. My view was that from the canal to the Liffey on the north side should be as prosperous and vibrant a property market as from the canal to the Liffey on the south side.

That brings me to the following point, which I would like the Minister to take on board. He sits at a cabinet where the Department of housing and whatever it is - we will call it the Custom House for short - is represented. The Minister, Deputy Darragh O'Brien, is doing his best to bring new thinking and dynamism to its activities but let it never be forgotten that over the last 20, 25 or 30 years, those in the Department did everything they could to get local authorities out of housing provision. Any compulsory purchase order, they sat on it. They did their best to ensure local authorities did not engage in the level of housing provision that happened at the time.

I will finish on this point. I know I am straying a tiny bit away----

Acting Chairperson (Senator Gerry Horkan): Not just straying, but long strayed.

Senator Michael McDowell: The Minister, Deputy Darragh O'Brien, is doing a great job in trying to revolutionise that Department but it, through its prefects across local government, has completely misunderstood the capacity under the housing Acts and local government and planning and development Acts to make a difference by acquiring land and helping in the process of redevelopment. Personnel in the Department just do not do that. They do not look at ten or 15 acres in Clanbrassil Street or off Dorset Street and say, "This could be radically different if we were to CPO it". They do not think in that way. This is the big thing about the Custom House which existed when I was Attorney General, when I was Minister for justice and before that. They think the Constitution somehow prevents them from using redevelopment powers to make a decent city, build more property and take over derelict land. It is sad how pathetic the implementation of the Derelict Sites Act has been.

If we want to address the housing crisis in urban Ireland, particularly in Limerick, Cork, Galway and Dublin, I urge the Minister to urge his colleagues in government to read the Constitution. It allows urban redevelopment and it allows the State to take a lead in this matter, not by doing all the building itself, as the ideologists would ask, but by doing what was done 100 and 200 years ago and saying, "This area must be redeveloped and this is the plan to which it must be done and these are the powers which we have to secure that". If we are dealing with the housing crisis, the time has come for the Government to tell the Custom House to tell local authority management that it has the power to do things. They can buy all those vacant sites and take them into public ownership. They did not do it until this Housing Development Agency came into being because they were reluctant to do it. God bless the Housing Development Agency. Perhaps it will achieve all these things. I do not know.

I agree, finally----

Acting Chairperson (Senator Gerry Horkan): Finally, finally.

Senator Michael McDowell: To finish in a positive mode, I agree with the Minister that to say private capital has no function in solving the housing crisis is crazy. It is ideological madness in the present circumstances.

Acting Chairperson (Senator Gerry Horkan): These two recommendations concern reports on the application of capital gains tax to REITs and IREFs and the Senator definitely strayed from that. It was an interesting contribution and I was happy to listen to it but this is not a housing debate. It is a Finance Bill. We are on recommendation No. 7 of 41.

Senator Aisling Dolan: Following on from the points Senator McDowell made, it is exactly as he said. I lived in an apartment on the North Circular Road. I was one of the people affected when they made changes to that legislation. They said that apartments could no longer have shared bathrooms and shared facilities. That is what that legislation brought in. When we look at what we have faced over the last year and a half, it was an impossibility. Back then, it was difficult. Many people had to move and find alternative accommodation. It raised the price but delivered a better quality of housing. That is crucial to remember as we come through this pandemic.

I highlight that there is a role for private investment. It is not solely the State that can deliver this. It is impossible for the State to solely deliver this for every person looking for a home. We already see €4 billion being dedicated. We have social and affordable housing being delivered. Through Galway County Council in my home town of Ballinasloe, social and affordable housing will be built in the next year.

Senator Pat Casey: I am worried that we are only on recommendation No. 7. We have ended up going through a complete housing debate.

Acting Chairperson (Senator Gerry Horkan): I made that point at 6 p.m. I left an hour ago on recommendation No. 6 and came back on recommendation No. 7.

Senator Pat Casey: There are other relevant sections we will not get to.

Acting Chairperson (Senator Gerry Horkan): There is a guillotine at 9.30 p.m. That is the order of the House. Members are entitled to contribute. Other people have been in the Chair. We will not get to every recommendation but the Minister is entitled to respond.

Deputy Paschal Donohoe: Sinn Féin quoted a paper from the Department of Finance. I was discourteous when Senators were speaking because I did not have the report to hand and wanted to get it so I could read out to Sinn Féin the conclusions of the report. I will not have papers from my Department being selectively quoted from to make arguments that the Department and I disagree with. The Senator quotes some points from the paper on institutional investors in the housing market but neglects to quote the conclusions from the paper. I will only pick one of them, which stated:

However, the paper acknowledges that such investors do play an increasingly important role in the private ... sector. While there may be a perception that institutional investors are purchasing large amounts of housing stock, the data in the paper show that their activity has been limited in the context of the overall housing market and largely confined to Dublin

apartments.

The paper goes on to advise that institutional investment in apartments is likely to be the driving force behind a significant recent increase in the number of apartment units granted planning permission in Dublin. If the Senator is going to refer to a paper from my Department, please be aware that I may be aware of the conclusions in it and will make them in debate on these topics.

The Senator again asserts that IRES REIT either pays no tax or a low level of tax. In 2019, the total amount of tax that IRES REIT paid in Ireland was €71.98 million. There were issues in respect of taxation of it. In the years before that, it was lower than it should have been, but due to changes made in the Finance Act by me and my predecessor, the former Minister, Michael Noonan, the level of tax that IRES REIT pays in Ireland has gone up considerably. The debate about the role of these structures and funds in Ireland comes back to supply. I know these structures are complex and I know the language about taxable events and withholding tax does not lend itself easily to the kind of debates that we sometimes have in here and in the Dáil. If we want more homes to be built in Ireland, accompanied by the State directly building more homes itself, savings in our country and elsewhere have a role to play.

We need billions of euro per year of additional investment and more homes being built in our country. We need billions of euro to meet the needs of tenants who are worried about their rents in the future and of families of young workers who worry that they might not be able to own a home either now or in the years to come, regardless of how hard they work. To meet their needs, we need the Government to invest more, which is happening, as well as the private sector playing a role to accompany our efforts. That is what we are doing. We know how much we have to do and the effect it is having on our society, politics and living standards, but we are determined to make a difference and we will. What will not make a difference are simplistic arguments that infer that a State in the future will be able to do everything and there is no role at all for the private sector in meeting those needs.

Senator McDowell put forward arguments about the north inner city, which I will briefly address. I agree with Senator McDowell that Dublin City Council and other local authorities should have done more in recent years to try to meet the housing needs that we are discussing this evening. I am, however, sympathetic to the executive and the dilemma it faces. I will give the example of Sean McDermott Street, O'Devaney Gardens and Oscar Traynor Road. These homes should have been built years ago. One can look at what happened at O'Devaney Gardens. I remember being a Senator in this House in 2008. Residents from O'Devaney Gardens were sitting over in the Visitors Gallery, by the most bizarre and poor of luck, on the day that the project collapsed. Nearly 15 years after that event, the good news is that homes are being built. That bad news is that it is years later than it should have been. We had private accommodation, cost rental, and local authority housing playing a role in it. There are homes there that we believed it would be appropriate for people to be able to buy if they could afford to. Nothing happened with the project for years. It was ground down. The same thing happened on Oscar Traynor Road. There is hypocrisy in parties of the left coming in to castigate this Government, which knows what its responsibilities are, for not being able to meet housing needs while fighting the delivery of those homes tooth and nail in local authorities. For example, on Oscar Traynor Road, hundreds of homes that should now be built are not happening. It is relevant to where we are with this debate on housing this evening. This argument has to be made more regularly and with more force than it has been to date.

Regarding the institutional role that the city council can play, one reason that I am so supportive of the Land Development Agency is that we need to assemble land banks within our cities more quickly than we are at the moment, and we need to come up with a new body to do it. The Land Development Agency will do it. By doing that, I hope it will encourage local authorities to play a similar role. The north inner city needs to make much progress. The next time Senator McDowell is on his way to Broadstone, I suggest that he go a step beyond it, to Grangegorman, to see what is happening there. A magnificent project has been delivered by the local authority, the National Transport Authority, NTA, and Grangegorman Development Agency. That is the vision for integrated development and proper planning that I want to see replicated all over the country. There is an extraordinary higher level institution and place of learning that benefits all. It took a long time to do but that is what can be done and we need to do the same with housing.

Recommendation put and declared lost.

Sections 19 to 22, inclusive, agreed to.

NEW SECTIONS

Senator Alice-Mary Higgins: I move recommendation No. 8:

In page 25, between lines 35 and 36, to insert the following:

“Report on Diesel and Kerosene Subsidies

23. The Minister shall within 6 months of the passing of this Act publishing a report outlining the amount of fossil fuel subsidies provided by the State, including subsidies through tax relief or revenue forgone, in respect of

- (a) Diesel for Agricultural vehicles
- (b) Diesel for HGVs and other Haulage Vehicles
- (c) Jet Kerosene.”.

This recommendation asks the Minister to produce a report on diesel and kerosene subsidies. We passed climate action legislation and we know the issue of fossil fuel subsidies has been highlighted internationally as a core concern. We seek to meet our climate targets. The Minister has spoken about the urgency of climate change and the centrality of the challenge which we face. I have supported the increase in carbon pricing. I do not believe that the basis for it should be any lifestyle measure and I do not think that would be appropriate. It is the Pigouvian principle, where costs have been externalised and the social, environmental and other costs have been carried by society. Those costs should be internalised and reflected within the cost of the fuel. We know the extraordinary costs of fossil fuels. When it is approached in that way, it is not a matter of rewarding or punishing. Our goal should and must be to protect those who are most vulnerable and most impacted. I am not addressing that issue here but wanted to provide it as context. This is consistent with that position. Even for those who do not support a carbon tax, I believe that these measures are appropriate.

Carbon pricing has gone up at a household level. We know that fuel costs are a key issue at a household level. More will be needed to address fuel and heat poverty going into this winter. The fossil fuel subsidies that we are making, however, are largely in commercial areas.

That is where the greatest amount of our revenue forgone, tax subsidisation and absorption of externalised costs from the fossil fuel industry can be found. I have figures from the Central Statistics Office, CSO, from 2019. I would of course appreciate if I could access later figures but those are the latest figures I have. The CSO figures show that indirect subsidies from revenue forgone due to tax abatements on fossil fuels accounted for nearly 90% of a €2.4 billion total. The single largest area of revenue forgone, through tax subsidisation, is jet kerosene used for domestic, international and commercial aviation. The revenue forgone from this measure in 2019 was €634 million. Revenue was also forgone through lower excise duty on diesel fuel. This was estimated at €400 million. There have been several calls over many years for this measure to be removed, not simply because of the costs in terms of emissions through diesel fuel which we are absorbing, but also because of the additional social costs carried by our health budgets and the nitrous oxide and particulates emanating from diesel fumes, both of which have been shown to be linked to premature death and strokes.

We are subsidising diesel and jet kerosene by extraordinarily large amounts even as we are telling everybody to do better at turning off lights, which is using fuel carefully, and taking all these household measures. We need to be clear and consistent. If we are telling people that we are in a point of transition and they need to change how they live and use fuel and to address those issues, we also need to be consistent and ensure we are not subsidising industry to a very large degree and subsidising jet kerosene. This is not necessarily always jet kerosene. We have a large private aeroplane leasing industry and there is a subsidisation issue there.

I have seen the recent protests and it seems to be a bit unclear who is leading them. A group has magically appeared, yet it is not the Irish Road Haulage Association. I know the pay and conditions of many who work in road haulage are a concern. That is the issue that needs to be addressed. I know there was extensive lobbying by the Irish Road Haulage Association. At one point, there was an invitation to patrons across the Oireachtas to attend an event. There was lower excise duty on diesel fuel in budget 2020. I hope the protest is a signal that the Minister is planning to address this subsidisation and remove it. Perhaps he might clarify that. I hope this is a last-ditch attempt to stop the Minister doing the right thing in this area.

Senator Maria Byrne: I acknowledge the contribution of the Irish Road Haulage Association to agriculture, industry and businesses. While I acknowledge that the subsidy involves a fossil fuel, given the higher fuel costs at present, the aim is to make road hauliers more competitive. The subsidy is significant for businesses that are reliant on deliveries from road hauliers. This measure needs to be kept for the moment and phased out eventually, which is the Minister's aim. If we are to keep our deliveries on the road and allow businesses to receive these deliveries, we need to keep this measure.

Senator Aisling Dolan: When it comes to support for agriculture and the challenges of just transition and moving to alternative fuels, the just transition is in place and is supported from an EU perspective until at least 2027. It has been acknowledged that certain sectors in our economy need support to be balanced - in other words, that we need to support them over the next number of years. This is what a just transition means and it is supported at EU level. We need to be cognisant that certain regions need this support even more.

Senator Alice-Mary Higgins: The phrase "just transition" is used quite a lot. I believe in just transition. I await the just transition territorial plan, which we are due to submit to the EU, with great interest. The Joint Committee on Environment and Climate Action has requested to see this plan but has not yet seen it. We all want to see just transition but we must be clear that

it relates to supports for those who are impacted when the necessary changes are made. It is not about delaying changes. It is about ensuring we address and support those impacted by them. It is important because there are really specific policy documents that relate to just transition that need to be addressed. In their absence, we are using it in this way. It is being used in lots of ways. It would be very useful if we had a debate on the actual just transition strategies at European and Irish level.

This is about subsidisation of something, which is unsustainable and creates and drives carbon emissions. If there is a desire to support an industry, the way we support it cannot be through subsidising the most damaging aspect of what it does, which is the use of diesel. If it was around subsidising companies which wish to change their vehicles, so be it but we certainly cannot subsidise the core cause of catastrophic climate change. We cannot negotiate in respect of the reduction of emissions. That has to be the bottom line.

Senator Aisling Dolan: We would welcome alternative fuels for tractors. Everybody would like to see that.

Deputy Paschal Donohoe: Senator Higgins raised the performance of the large cases division in the Revenue Commissioners. I am committed to coming back to her in the context of the debate. The high-wealth individuals division is dealing with approximately 2,700 high net worth taxpayers. This also includes spouses and related entities. On average, the division carries out between 250 and 300 interventions per annum with settlements in the region of between €40 million and €50 million achieved.

A similar case management approach is taken in Revenue's medium enterprise division, which deals with the tax affairs of individuals with worth of between €10 million and €20 million. A report on the methodology used to identify such high-worth individuals above this threshold is available on the Revenue website. Senator Higgins asked about the impact of the high-wealth individuals division's interventions. As I said, it is between €40 million and €50 million.

I thank Senator Higgins for her acknowledgement of the role of carbon taxation in this debate and her support for that measure. The rebate scheme for diesel is at a higher level than it has been in recent years but I believe this scheme is worth retaining in recognition of many of the costs and challenges that sector is facing. I am aware of the calls for me to phase out this scheme immediately. I do not believe that would be the right thing to do. What I want to indicate this evening, as I have done before, is to say that over time, we need to look at how we can scale back the scheme. If we look at many of the challenges the sector is facing at the moment, for example, with regard to Brexit and the fact that the price of its fuel is going up in any event, as has been evident for some time, I believe this particular relief scheme is worth retaining for now given the importance of the sector to the economy.

It is worth pointing out that the reason some of the protests are taking place at the moment is not a sense that this scheme is too generous. It is a fact that many of those who are protesting at the moment do not want me to go ahead with the increase in carbon pricing, or want the diesel rebate scheme to be extended.

On the Senator's point about fuel for the aviation sector, that debate is coming. However, the Senator will be aware that currently taxation on fuel for international transport is a difficult area for the State to take unilateral action. It needs to be done in conjunction with other col-

leagues within the European Union. Currently, Ireland is engaging with the European Commission in regard to its proposal on revising the energy taxation directive to take greater account of environmental concerns and the taxation of energy products. I believe there is a debate approaching on the taxation of the aviation sector. It is not a change that Ireland could bring about on its own. I have to say that I would be cautious about change in that area at moment. We are an island economy, and we depend greatly on access in and out of our country. I do not want to do anything that would jeopardise that access or undermine what is an important part of our economy.

We are doing something that few governments are in a position to do at the moment, and that is to make credible commitments to change the taxation on carbon in each budget. Budget 2022 was the third budget in which we have done this. That is an important way we could change the use of carbon in the future. For those reasons, and while I thank the Senator for the support she has offered for the changes we are making on carbon taxation, I am not in a position to accept the report that she is proposing.

Senator Alice-Mary Higgins: To be clear, it is not so much that I support these changes; it is just that I regard the cost of carbon as being high. I regard also that it is closer to an accurate reflection of those costs. It will be extremely hard to sustain. I am aware that climate change will have an extraordinarily negative and inequitable impact. On climate action, we should be taking every measure we can to ensure it does not have an inequitable impact. It is not so much that I support this, although, in a way, I have supported the fact the price better needs to reflect the costs. I would be clear that I think this is dangerous. Everybody has costs and challenges. Every household has costs and challenges. Some households coming out of this pandemic face exceptional costs and challenges. I am concerned precisely because I believe we need to have more accurate carbon pricing. The price of fuels just cannot go down and they cannot be subsidised further, as they have been for a long period of time. We have to have more genuinely reflective pricing on the cost of fossil fuels.

I am concerned that an unnecessary divide and political tension will be created if people consider that sectors, such as aviation, haulage and others, are targeted. Of course, there are difficulties with Brexit, but there are also opportunities coming through the haulage sector. We have more roll-on roll-off going directly from Ireland to the Continent and other places than before. I am concerned that people might think it is only hitting them and that it is not consistent and that there are not measures. I am also concerned that the words “over time” are a little vague. There should be a signal. Will there be a plan in the next budget, or will it be the budget after that, to end the diesel rebate scheme? Until there is a timeline on that, we will not see the kind of shift we need away from heavy diesel vehicles to those that run on alternative fuels.

We are talking about large amounts of money - €400 million on diesel fuel and €634 million on jet kerosene in 2019, as the Minister acknowledged. The amount in respect of diesel fuel has gone up since then. While I do not necessarily want it taken away from that sector, I would like to see that same amount of money re-routed towards pressing for entire fleet changes, for example. Otherwise, it will be there every single year. I would prefer that we would have front-loaded investments that encourage a transition and a major shift and a change in the haulage sector as well as a hard timeline, so that the sector knows that if it does not seize the opportunity to make the changes now, it will not be continuously underwritten. We should bear in mind that this tax subsidy is paid for by tax. Those who are paying carbon taxes in their households, and who are also paying income taxes, are indirectly subsidising diesel for this industry.

I understand that the Minister is saying it needs to come and that it will come. However, we need to be much clearer and more urgent in our action on this. I hope that next year we do not see the same diesel rebate scheme rolling on again, along with a general aspiration that the sector will change. Next year, if money is to go into this sector, let it go towards an exit.

Senator Maria Byrne: While I understand Senator Higgins's passion, as well as what she said, we have to deal with reality as well. The fact is that so many businesses will be impacted by this. There will be a knock-on effect. Businesses are going through a hard time because of Brexit, Covid-19 and so on. We are all talking about schemes to support businesses because they are going through a turbulent time. If we add an extra cost onto the hauliers, they will put that cost onto the businesses. It will impact on the cost of goods and on jobs. We have to deal with the reality.

Senator Pat Casey: If there was an alternative that was more beneficial to those in business, they would use it. However, there is no alternative to diesel at the moment. In talking the way we are, we are just wasting our time. The real solution for heavy use of diesel is probably hydrogen. Yet, we are a long way away from hydrogen being developed for use in heavy haulage or agriculture. It is fine to talk about these things. However, the reality for these people who depend on diesel for their daily income is that there is no alternative at the moment. Are they going to drive a tractor or an articulated lorry on batteries? Good luck to them.

Senator Aisling Dolan: I acknowledge Senator Higgins's points. It is a great intention and it is something I will welcome. However, I would ask the Minister for more investment in research and technology so that we get to a space where we are investing in research and development centres that will allow us to have the technology in place to offer alternatives. Currently, in different sectors, in terms of income and transport, we do not have that and we need to support those sectors.

Senator Alice-Mary Higgins: Can I please make a small but an important point? There is nothing more real than our planetary boundaries. While any business sector may change, finances might change, and our entire fiscal and monetary structures may change, there is one thing that is not negotiable. When we talk about being real, the thing we need to be real about is our planetary boundaries and the impact of emissions. It is more real and less negotiable than anything else. Effectively, going into the future, our economic planning, our models, our expenditures, our systems and our business models will need to sit inside our planetary boundaries. The planetary boundaries cannot be adjusted to suit the realities or even the accustomed realities of economic practice. I do not say that to be insensitive or to say that those issues are not important. However, we do a disservice to anything and any area if we do not acknowledge the hard reality of planetary boundaries and of emissions levels. For example, in the area of jet kerosene, emissions trading schemes mean that many of the emissions from the aviation sector are not captured in our carbon budgets. However, we have a responsibility if we effectively subsidise that sector to a large degree and are part of a large part of aviation. Of course we need to have a sustainable aviation industry, to a degree. We need to look to that, but we also need to be realistic. We cannot rewrite the facts on emissions. As of yet, carbon capture is certainly not, and I do not think it is in line to be, in a position to pull that back. I appreciate the constructive engagement from colleagues across the House.

Deputy Paschal Donohoe: It is precisely because of the planetary boundary, as Senator Higgins described it, that the Government decided to go ahead with an increase in carbon taxation. The Government could have done the easy thing. My fellow Ministers in Cabinet and

the Deputies who support this Government could have said the price of energy is going up at a time when many families and businesses are facing increasing pressure and now is not the time to go ahead with a carbon tax. That could have been an option for the Government to take. If we had taken that action, we would be in a situation where the price of carbon and the tax on carbon would not go up again for the foreseeable future. The Government decided not to take that course of action. We decided that, because of our recognition of the environmental and ecological chaos that could well already be approaching us, we would go ahead and stand by our commitment to raise the price of carbon, budget by budget.

I understand that Senator Higgins's recommendation is saying that, on top of that, we should have equalised taxation on diesel and petrol. The concerns she has about fairness and how we can maintain the case for putting up the price of carbon would at that point come into play. Is the Senator suggesting that on top of going ahead with an annual increase in carbon tax, we should also have equalised the tax on diesel and petrol?

Senator Alice-Mary Higgins: It is about the tax rebates that are provided-----

Deputy Paschal Donohoe: That is a €20 million scheme.

Senator Alice-Mary Higgins: -----for diesel for agricultural vehicles, heavy goods vehicles, HGVs, and haulage vehicles.

Deputy Paschal Donohoe: That is a €20 million scheme. The Senator has been quoting figures of €400 million.

Senator Alice-Mary Higgins: These are Central Statistics Office figures. The CSO did an analysis in 2019 of the amount of indirect subsidies arising from revenue forgone due to tax abatements. These are CSO figures. The revenue forgone in jet kerosene in 2019 was €634 million. The revenue forgone through a lower excise duty on diesel fuel was estimated at €400 million. These are the CSO statistics.

Deputy Paschal Donohoe: The Senator is comparing apples with pears. We are discussing the diesel rebate scheme, which is worth €20 million. The figures the Senator has produced are the difference in taxation between diesel and petrol. That is the €400 million figure. That figure is the disparity between the taxation of diesel and petrol. It is not the diesel rebate scheme. The diesel rebate scheme is worth approximately €20 million per year. They are different.

Senator Alice-Mary Higgins: I may have misspoken by focusing on the diesel tax rebate scheme. However, I note that my recommendation addresses subsidies through tax relief or revenue forgone. In fact, the equalisation measure may well be captured by my recommendation.

Deputy Paschal Donohoe: In that case, the Senator is supporting the equalisation of tax on petrol and diesel.

Senator Alice-Mary Higgins: I suppose I am, yes.

Deputy Paschal Donohoe: Given the concerns the Senator had regarding the impact of this measure on families and hard-pressed businesses, if she is proposing that on top of the change in carbon tax we should also equalise taxation between diesel and petrol, that is quite an argument to make. Many businesses, taxpayers and families are facing challenges at the moment. It is not an argument I would make or something I would do. The Government went ahead

with increases in carbon taxation despite all the pressures. To overlay that, as I now understand the Senator is proposing, with an immediate or gradual equalisation of tax on petrol and diesel, given the pressures we have just discussed, is not something I would support. We should not do it for now. In fact, it runs the risk of undermining the case for putting up the price of carbon.

Senator Alice-Mary Higgins: I draw to the Minister's attention to the fact that what I have proposed is a report. If, for example, the Minister wishes to produce a nuanced response to that matter, my proposal is a report on diesel and kerosene subsidies.

Deputy Paschal Donohoe: I am not sure if you are doubling down or rowing back.

Senator Alice-Mary Higgins: I am pointing out that-----

Deputy Paschal Donohoe: I am not sure what you are doing.

Acting Chairperson (Senator Gerry Horkan): Speak through the Chair, please. The Minister without interruption, please. I will let Senator Higgins back in after the Minister has concluded.

Deputy Paschal Donohoe: I am not sure what the Senator is doing. She quoted a figure of €400 million but that is not the value of the diesel rebate scheme. That scheme is worth €20 million. The €400 million figure is the cost of equalising the tax on diesel and petrol. If that is what the Senator is supporting, I am sure she will inform the House. If it is, I candidly say to her that it is difficult enough at the moment to win the argument for carbon taxation without overlaying that on top of it. If there is a time for making that move, it is not when the price of energy is as high as it is at the moment.

Acting Chairperson (Senator Gerry Horkan): For clarity, are the Senator and the Minister talking about the equalisation of tax on agricultural diesel, diesel and petrol?

Deputy Paschal Donohoe: I am clear that the cost of equalisation is €400 million for the equalisation of tax on diesel and petrol.

Acting Chairperson (Senator Gerry Horkan): Does that incorporate agricultural diesel?

Deputy Paschal Donohoe: No. I will conclude on the following point. I can see the value of the thrust of what the Senator is referring to. We need to look at how we can phase out fossil fuel subsidies over time and where we can. The Senator made a point about a roadmap for how we would consider whether we can do it and how we would do it. Under the climate action plan, the deadline for the production of that roadmap is the first quarter of 2024.

Senator Alice-Mary Higgins: The reason I raised my hand was because the Minister referred to the immediate introduction of the equalisation of taxation. That implied my recommendation proposed that immediate introduction. I am only looking for a report that would explicitly refer to diesel for agricultural vehicles in terms of tax relief or revenue forgone and the diesel for HGV and other haulage vehicles. It may well be that the rebate scheme is worth €20 million. That should be discontinued. However, I also believe that we need a pathway for the equalisation of tax on diesel and petrol. The Minister characterised it as me putting forward a proposal to do it immediately when that is not reflected in the language of my recommendation. It calls for a report on diesel and kerosene subsidies, and specifically names jet kerosene, diesel for HGVs and diesel for agricultural vehicles. The Minister did not present my proposal accurately.

The Minister asked whether I think we need to move towards an equalisation of tax on diesel and petrol and I think we do. I agree that it might take longer than the tax rebates. The main thing I want is more engagement and a report on these issues. We should not have a situation where, on the one hand, we are moving ahead with increases in carbon pricing in one area and, on the other hand, a general plan that we may move away from these specific diesel subsidies over time. We must bear in mind that from both a climate and health perspective, diesel is a damaging substance because it has a higher rate of nitrous oxide and particulates. We want to discourage and stop the use of diesel. That may be a longer piece but we can certainly start by addressing the rebate scheme.

Deputy Paschal Donohoe: We are committed to reviewing that rebate scheme. I have to do it each year as part of the normal tax decisions we make in the budget. Perhaps the record of what I said earlier will have to be corrected but I think what I said to the Senator was that it sounded to me like she was proposing the immediate or gradual removal of the lower level of tax on diesel versus petrol. I think I said both. That was what I heard. I heard the Senator say that, and she has repeated it.

Senator Alice-Mary Higgins: I said I think that is a part of a longer term strategy.

Deputy Paschal Donohoe: That is fine. I wanted to draw that out because it is important to note that the larger figures the Senator was using do not refer to the rebate scheme. That was my core point. As I said, I genuinely welcome the fact that the Senator is, on balance, willing to support the changes we are making on carbon taxation. I know she has reservations. She is balanced, and I welcome that. She is a rare voice at the moment in the opposition view on climate change. Many parties in opposition are, on the one hand, saying we have a climate crisis which is caused by the increase in the use of carbon but are, on the other hand, unwilling to admit that carbon should be taxed. I thank the Senator for having the intellectual consistency and bravery to make that point.

Recommendation put and declared lost.

Senator Alice-Mary Higgins: I move recommendation No. 9:

In page 25, between lines 35 and 36, to insert the following:

“Report

23. The Minister shall, within three months of the passing of this Act, lay before both Houses of the Oireachtas a report on the revenue raised by excluding developments from section 21 where the development is a facility consisting of one or more than one structure, the combined gross floor space of which exceeds 10,000 square metres, used primarily for the storage and management of data, and the provision of associated electricity connections infrastructure.”.

Given the time, I will address this at some other point. I believe we will not be having a Report Stage-----

Acting Chairperson (Senator Gerry Horkan): We will have a Report Stage. Committee and Remaining Stages are being taken tonight.

Senator Alice-Mary Higgins: That is regrettable. I hope that by next year progress will have been made so we do not have a situation where we are trying to create tax incentives for

data centres. Given their energy impacts, we need to be very carefully reviewing their role in our economy and environment. I will withdraw the recommendation because of the time constraints and with due respect to other Senators who have recommendations.

Recommendation, by leave, withdrawn.

Sections 23 to 27, inclusive, agreed to.

NEW SECTION

Senator Paul Gavan: I move recommendation No. 10:

In page 36, between lines 34 and 35, to insert the following:

“Report on the tax treatment and economic impact of institutional investment in the housing market

28. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the tax treatment and economic impact of institutional investors and corporate landlords in the housing market, including their impact on tenure, affordability, property price and rental price dynamics.”.

I am not sure there is much point in rehashing the arguments we had about an hour ago. It is very clear that we are operating along very different ideological lines. Like all our recommendations, this is a very reasonable recommendation. We are seeking a report on the tax treatment and economic impact of institutional investments on the housing market.

Acting Chairperson (Senator Gerry Horkan): Every recommendation involves a request for a report.

Senator Paul Gavan: This would be a useful report for the Government to have compiled. Unfortunately, the Minister has made it extremely clear that while he is proud to defend tax reliefs for vulture funds, he is in complete denial of the need for tax reliefs for hard-pressed renters. He has no interest in taking on board any of our recommendations for reports. I do not intend to rehearse the arguments we had earlier about the outrageous tax reliefs for REITs and IREFs. I will simply say that the Minister is out of touch with the desperate needs of the housing market at this point in time.

Deputy Paschal Donohoe: The Senator does a disservice to the desperate needs of those in the housing market when he brings forward simplistic arguments, which may be initially appealing but which will lead to a reduction in the number of homes being built in our country.

Senator Paul Gavan: It is a report. We are asking for a report.

Deputy Paschal Donohoe: It is a report. However, the Senator concluded his argument with a statement regarding my attitude and my views on the housing market. In such circumstances, I am equally entitled to make a point about his. I understand how appealing his arguments are, and I understand why the argument regarding REITs and IREFs is attractive to those who are facing difficulties at the moment. The reason I support the taxation structure that is in place is because, ultimately, I believe it will lead to the building of more homes. It will lead to an increased supply of apartments, particularly within our larger cities. For that reason, I am of the view that the taxation structures we have in place are appropriate. The reason I am not sup-

porting the compilation of a report is that the information the Senator is looking for is available through other means apart from requiring a report to be done through the Finance Bill.

Recommendation put and declared lost.

Sections 28 to 35, inclusive, agreed to.

NEW SECTION

Acting Chairperson (Senator Gerry Horkan): Recommendations Nos. 11 and 12 are related and may be discussed together.

Senator Alice-Mary Higgins: I move recommendation No. 11:

In page 94, between lines 14 and 15, to insert the following:

“Report on restriction of carrying forward of bank losses

36. The Minister shall, within six months of the passing of this Act, prepare and lay before both Houses of the Oireachtas a report on policy options which could be taken to restrict banks from carrying forward losses against taxability of their current profits, and where banking profits arise from loans guaranteed by the Minister under the Credit Guarantee(Amendment) Act 2020 and the Credit Guarantee Act 2012, no more than 50 per cent of such profits should be eligible for exemption from taxation under the Deferred Tax Assets Scheme.”.

I will be brief. I am keen to get to some of our later recommendations, particularly those relating to the gender equality-proofing of our private pension tax relief systems. This is similar to a recommendation I proposed last year. The former Minister, Brian Lenihan, previously placed a constraint on the amount of profit that could be eligible for exemption under the deferred tax assets scheme. I understand that how the scheme intersects with the banks is complicated. There is a role for the deferred tax assets scheme for businesses that have had a difficult period. However, when these institutions are restored to profit, the writing off of former losses should be a 50-50 measure. It would be reasonable for 50% of profits to be exempted and 50% to be eligible for taxation by the State, thus contributing to the State. Many of the banks have benefited significantly not just from the credit guarantee in 2012 but also from smaller credit guarantee schemes such as the one in 2020. I ask that the Minister prepare a report looking at what the policy options are to restrict banks from carrying forward losses against the taxability of their current profits, specifically banking profits arising from loans that have been guaranteed by the Minister under the credit guarantee scheme. In the case of those loans, no more than 50% of profits should be eligible for exemption.

I am looking at the time. My colleague has a better worded recommendation on this matter and I would be happy to withdraw mine in favour of it because mine is relates largely to last year. Sinn Féin has a more reasonable and moderate recommendation in that it is looking at a-----

Acting Chairperson (Senator Gerry Horkan): Is the Senator asking for leave to withdraw her recommendation?

Senator Alice-Mary Higgins: No, I will wait to hear from my colleague on this side of the House. I may withdraw recommendation No. 11, however, because Senator Gavan’s recom-

mendation is more reasonably worded.

Senator Paul Gavan: I thank Senator Higgins. Recommendation No. 12 calls for a report on restricting banks that were bailed out by the taxpayer from carrying forward losses against taxable profits in a manner that has previously resulted in many of them paying no corporation tax whatsoever. The report would also examine the introduction of a 25% cap on profits that could be written off by carried forward losses in any given year and the introduction of a ten-year limit on the use of losses for this purpose. As we enter a new phase of the pandemic, banks are returning to profitability. Indeed, the two largest banks in the sector, namely, AIB and Bank of Ireland, are increasing in scale due to the exit of KBC and Ulster Bank from the market, and as a result of recent acquisitions they have made.

As the Minister knows, Fine Gael changed the law in 2014 to remove the cap and allow bailed out banks to use 100% of the losses they incurred in previous years to offset future profits. Up until this change, these banks could only offset 50% of their prior losses against profits in any given year. We are unique in having neither a time limit nor a cap on losses that can be carried forward to write off against profits, though I would argue that we are the country where such restrictions are most justified. The proposal is that the banks bailed out by the taxpayer should be required pay corporation tax, and this recommendation calls for a report in order to scrutinise this proposal.

9 o'clock

Deputy Paschal Donohoe: Senators may recall that in 2018 my Department produced a detailed technical note for the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach on the subject of both bank losses and corporation tax losses more generally. This technical note was published online and is still available. The technical note considered in some detail the potential implications of restricting the use of losses carried forward, or the introduction of a specific time limit or sunset clause on loss relief, for Irish banks, for the wider banking sector, or for the corporate sector as a whole. Among other considerations, it examined the possible effect of such a restriction on consumers, with the probability that an increased cost base for the banks would be passed on to the consumer in the form of higher fees, higher interest rates on loans or lower deposit rates. The report noted potential negative consequences for the valuation of the State's banking investments and for capital levels in the banks with possible resulting regulatory impacts. It also considered potential effects on competition within the banking sector in Ireland, a factor of increasing relevance as banks have since left the Irish market.

Taking all these factors into account, it is my view that it would be detrimental to Irish consumers and taxpayers if a restriction were to be placed on the use of losses carried forward by the banks. Notwithstanding the trading losses forward, the Irish banks have been paying corporation tax in recent years, as the tax losses forward are restricted in their use and do not shelter profits made in all their corporate entities. However, I would also note that as the three pillar banks each posted losses in their 2020 financial statements as a result of the Covid-19 pandemic, it is likely that limited corporate tax liabilities would have arisen for 2020 regardless of any offset of the banks' historical losses.

Senator Higgins, in her recommendation, refers to the Credit Guarantee Act 2012. The 2012 Act was most recently amended in 2020 to provide for the Covid-19 credit guarantee scheme, a measure within the remit of the Department of Enterprise, Trade and Employment. This scheme facilitates up to €2 billion in lending to eligible businesses that have been negatively

impacted as a result of Covid-19 in Ireland. The scheme offers a partial Government guarantee of 80% to participating finance providers against losses on qualifying loans to eligible SMEs and primary producers. The key purpose of the Covid-19 credit guarantee scheme is to support SMEs by improving their access to finance during these difficult times, and any further conditionality attached to the scheme could undermine this important objective. Given the level of analysis that has already been published, a further report on the matter is not merited. Therefore, I cannot accept the proposed recommendation.

Senator Alice-Mary Higgins: This would only be for such loans that have been profitable. The concern is that we underwrite the risk and then we do not take the share of the profits. I understand some of the arguments on the underwriting of risk. For example, I did not oppose the Credit Guarantee (Amendment) Act 2020 in that sense but where the risk is being effectively underwritten by the State and there is profit then we cannot have the situation where we do not share any part of that profit. It is unfair and it is a poor agreement and situation. I am concerned that sometimes we pour a lot of public money into banks and into underwriting their risks, while not asking them to contribute where they are making profits. The thing with all these measures, be it the 50% I propose or the 25% proposed by Senator Gavan, is that it only applies where there are profits. If there is a bad year and there are no profits then it does not kick in but it applies where there are profits, which is important because we are still substantially de-risking what the banks are doing. However, we are cutting ourselves off from any benefits from that. It is a poor deal.

For example, the recovery and resilience fund is coming from the European Union for Ireland to be used in our recovery and resilience and in our climate resilience. We received €49 million for retrofitting which could have been used to expedite retrofitting. I know there are other good retrofitting schemes but it could have increased those schemes and helped our schools, for example, including those that have been most impacted by the heightened price of fuel. Instead we put €49 million into the banks to de-risk them giving loans for retrofitting. We might say that the banks will give larger loans, which is great and we have mobilised that finance. Every business in Ireland takes risks and gains profits but we underwrite the risks for banks and they do not share the profits. It is unfair to other businesses that take risks and pay tax on their profits that we have banks that are getting their risks underwritten by the State and that are not delivering in profits. The banks should be lending for retrofitting and we should not have to underwrite them to do that; we should be encouraging them to do it. The State had €49 million of public money that it could have directly used for retrofitting and instead it went to the banks which do not pay tax on their profits. That is frustrating.

I appreciate that we are in a vulnerable situation and it is regrettable that as KBC and Ulster Bank leave the market they are not paying the levy next year. That is a poor decision. This is a wider issue that we cannot address here but the Minister will be aware that we are developing banking reports within the membership of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. It is a poor decision that has resulted in this situation where we are overly dependent on a narrowing banking system and where we do not have enough actors in that sector. We need to have proper and responsible policies in this area. I am concerned that we are continuing to write off profits and to double down on the de-risking of financialised solutions in the area of climate, much as we de-risked certain financialised activities in other areas such as housing in the past. I know the Minister is not in a position to accept these recommendations but this is a topic we will need to come back to.

Senator Paul Gavan: It is so depressing to hear this debate. A 100% write-off of losses

for banks is no problem; that is the Fine Gael way. Tax reliefs for vulture funds are no problem either but there is not 1 cent for renters in this budget. That is class politics.

An Leas-Chathaoirleach: Is the Senator pressing the recommendation?

Senator Alice-Mary Higgins: I will withdraw.

Recommendation, by leave, withdrawn.

SECTION 36

Question proposed: "That section 36 stand part of the Bill."

An Leas-Chathaoirleach: Is the section agreed? Does the Minister wish to come in?

Deputy Paschal Donohoe: I have to respond to some of the arguments that have been made by Senator Higgins. She asked about how the State can benefit from the upside. We are majority shareholders in AIB, we nearly entirely own Permanent TSB, and we are minority shareholders in Bank of Ireland, albeit that is decreasing quickly. That is how we participate in the upside. The Senator wants to know how we can benefit from any enhanced profitability those banks can make in the future. We are majority shareholders in two of the three banks so that is the way we do it. As those banks become more profitable the value of the banks increases and our shareholding increases so if those banks are in a position to pay dividends in the future if they become more profitable then the State is a large recipient of those dividends.

The Senator referred to de-risking and she outlined her concerns on that. De-risking is leading to lending activity happening that in the absence of the State putting in place this guarantee would otherwise not be happening, particularly when it comes to retrofitting and in the role we played in providing credit guarantee schemes during darker moments in the Covid crisis. I thank the Senator for her support of that scheme in 2020. As a critical part of the de-risking we do we crowd in private capital and provide funding for different schemes. Multiples of that funding are then lent out because banks are in a position to use the assurances we give to support more credit or investment than they would be able to do in the absence of those assurances.

I will not let Senator Gavan's assertion about class politics slide. His party voted against an amendment that was about providing more rental accommodation and more units that are currently-----

Senator Paul Gavan: It was more tax relief for landlords. We did vote against it. No apologies.

Acting Chairperson (Senator Gerry Horkan): The Minister, without interruption.

Deputy Paschal Donohoe: I am used to this. It is just a typical Sinn Féin response. When its representatives are confronted with the truth of their own actions, they have no option but to deny it. Let me repeat it again -----

Senator Paul Gavan: Sorry, I did not deny it. We voted against it.

Deputy Paschal Donohoe: I am glad that the Senator did not deny it.

Senator Paul Gavan: Get your facts right, Minister.

Deputy Paschal Donohoe: Let me repeat again, this budget contained a measure that through the use of taxpayers' money, would allow more rental accommodation to be brought online for the benefit of tenants, that is, tenants who the Senator claims to champion.

Senator Paul Gavan: The tax relief was for landlords.

Deputy Paschal Donohoe: Sinn Féin is here as a party saying it wants more rental accommodation to be made available but as the Senator's own half-hearted heckling demonstrates, he uses "landlord" as a term of abuse. There are not many landlords who will be listening to Sinn Féin and its tone about the rental sector who will be eager to provide more rental accommodation for the tenants that Sinn Féin claims to represent.

Senator Aisling Dolan: As the Minister already pointed out, two banks have exited the Irish economy. We have two banks here. How will it be possible to deliver all our goals and objectives on housing without a functioning banking sector?

Some €50 million of the EU recovery fund has been delivered for schools in Ireland. Over €3 million alone in Roscommon and Galway to support DEIS schools that are delivering equality of opportunity. That is what has been done with that fund. Retrofitting is happening in each local authority. Housing for All is delivering staff to each local authority to deliver retrofitting in our local areas. That is happening right now.

An Leas-Chathaoirleach: Will colleagues bear in mind that any further discussion with thwart the number of recommendations that we can get through in the limited time? It is in their interest to give -----

Senator Alice-Mary Higgins: To be honest, I doubt that we will reach the recommendation which was most important to me, which related to gender equality issues in private pension tax relief. I can see a lot of important recommendations on the very far side of this and I doubt that we will reach them.

I want to reply on two things. First, yes, of course the recovery and resilience fund is really important. I am not opposing that. I note that Ireland is one of only seven countries that did not have parliamentary engagement on the allocation of that fund. Most did and that was an omission.

Second, the State is a shareholder. Surely that is the leverage. If we are concerned that there will not be lending or engagement by these banks, which there should be, in retrofitting and the new green economy then that is where our role as shareholder should come in to encourage that because it is good investment and good fiscal or financial practice.

I worry if banks' profits become our core goal. Is there a divide? What if we are concerned about our dividends versus the taxation that might come from the banks? I am a little concerned. That seems like a really important point of leverage. It is not a point that is at odds with fiduciary duty. If we are such large shareholders I do not understand why such amazing acts of persuasion are needed.

Deputy Paschal Donohoe: That word, "leverage", says it all. That is the concept that says a lot about the Senator's view of private banking. Particularly as a majority shareholder and as a Government, you have to understand the commercial independence of banks. There is a role for privately owned banks. I want our banking sector to be owned more by the private sector in

the future. The Senator is familiar with company law and the independence of boards. Is she implying that a shareholder, particularly a Government, would use the shareholding that it has in the banks as a source of leverage against an independently elected board of directors? If it is, she is entitled to her view. However, I would argue that is a pathway to bringing back together the risk between sovereign and banking systems that we said we never wanted to repeat again. It is not a path that I believe we should go down.

Question put and agreed to.

NEW SECTION

Senator Paul Gavan: I move recommendation No. 12:

In page 94, between lines 33 and 34, to insert the following:

“Report on restricting banks from carrying forward losses

37. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on restricting the banks from carrying forward losses against taxable profits in a manner which could result in many institutions paying no corporation tax for the foreseeable future by introducing a 25 per cent cap on profit that can be written off by carried forward losses in any given year and an absolute ten year limit on the use of loss for this purpose.”.

Recommendation put and declared lost.

Sections 37 to 39, inclusive, agreed to.

NEW SECTIONS

Senator Paul Gavan: I move recommendation No. 13:

In page 96, between lines 3 and 4, to insert the following:

“Report on the application of capital gains tax to all sales of property by REITs and IREFs

40. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the application of the full rate of capital gains tax of 33 per cent to all disposals of property of the rental business of a REIT, IREF, or group of REIT or IREF.”.

Recommendation put and declared lost.

Senator Paul Gavan: I move recommendation No. 14:

In page 96, between lines 3 and 4, to insert the following:

“Report on the introduction of a higher rate of capital gains tax on high-income individuals

40. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the introduction of a 40 percent rate of capital gains tax on the disposal of assets made by high-income individuals, including in-

come generated by gains.”.

I am conscious that we are running out of time so I will simply press the recommendation. We have had a good airing of views and I fear we will not reach agreement with the Minister on this.

Recommendation put and declared lost.

Senator Paul Gavan: I move recommendation No. 15:

In page 96, between lines 3 and 4, to insert the following:

“Report on the treatment of capital gains tax with respect to worker-owned cooperatives

40. The Minister shall, within six months of the passing of this Act, prepare and lay before Dáil Éireann a report on the treatment of capital gains tax in instances where a company or shares of a company are purchased by a worker-owned cooperative, and options to amend the capital gains tax regime to promote worker-owned cooperatives and employee ownership.”.

This amendment calls on the Minister to prepare a report on the treatment of capital gains tax in instances where a company or shares in a company are purchased by a worker co-operative and to consider options to amend the capital gains tax regime, including exempting such purchase from capital gains tax in order to promote employee ownership. Sinn Féin is committed to developing an economy in which workers have a greater share of ownership through worker co-operatives. These are businesses in which the workers of the enterprise own at least 51% of the shares.

In a worker co-operative, ownership and labour work together. By giving workers control, you give control to their communities and their local economies to stimulate community and regional wealth building. They put worker outcomes, worker well-being and community sustainability at the forefront of their objectives. Worker co-operatives retain wealth both at a local and a regional scale. They allow community wealth building that is sustainable. They perform well at meeting local employment needs and tend to look for local suppliers, thereby rooting business locally and strengthening community economies. Worker co-operative businesses are more likely to pay the living wage and have lower pay differentials between the top and lowest earner. They show exemplary degrees of corporate social responsibility and a strong commitment to sustainability. For companies who have converted to the worker co-operative model, a majority of them find that employee well-being has increased. In 2005, the Scottish Government established a State agency known as Co-operative Development Scotland, a subsidiary of Scottish Enterprise, tasked with the responsibility of developing Scotland’s co-operative sector. Between 2005 and 2012, the sector experienced modest growth. This was followed by a substantial 300% increase in the number of worker co-operatives in Scotland, from 30 to 100. Among the measures introduced was an exemption from CGT, up to a certain threshold, on the sale of a controlling interest in a company to an employee ownership trust or worker co-operative. A report would allow us to explore this area further, introducing incentives to support this ownership structure. I encourage the Minister to give this serious consideration.

One of the big issues we have is business succession. It makes perfect economic sense to incentivise the workers in a business to convert that business to a co-operative when, for example,

a business owner wishes to retire. This is a sensible proposal. It has been proven to work in Scotland. I urge the Minister, at the very least, to adopt the report.

Deputy Paschal Donohoe: I am aware of the Senator's Private Members' Bill, the Worker Co-operatives and Right to Buy Bill 2021, and his interest in this matter. I note that it included a proposed new section 597AB for insertion in the Taxes Consolidation Act 1997 to allow for relief from capital gains tax on the sale of a business to a workers' co-operative. I understand the Bill proceeded to Second Stage in the Seanad on 28 June.

The Senator is aware that the Department of Enterprise, Trade and Employment is close to finalising a general scheme of a co-operative societies Bill, which sets out proposals for the most far-reaching reform of the legislation relating to co-operatives in almost 130 years and will enshrine the co-operative model in legislation for the first time. This work began in 2019. In the context of enactment of the aforementioned co-operative societies Bill, the Department of Enterprise, Trade and Employment intends to examine the range of supports that could accompany the modernised legislation, thus ensuring co-operatives are an attractive corporative option for doing business.

I do not consider it appropriate to initiate a separate report on such a specific aspect of the treatment of co-operatives ahead of the reform of the legislative framework already under way. Consequently, I do not propose to accept the recommendation. I remind the Senator that there are existing capital gains tax reliefs in the legislation which may apply on the disposal of a business or business assets, including retirement relief and revised entrepreneur relief and, depending on the circumstances, these may already be available in respect of a disposal to a workers' co-operative.

Senator Paul Gavan: I thank the Minister for the response. I propose to press the recommendation. I am anxious to see what comes out of the Department in regard to the Bill mentioned by the Minister, which we have been awaiting a long time. Let us hope we do not have to wait too much longer.

Recommendation put and declared lost.

Sections 40 to 51, inclusive, agreed to.

An Leas-Chathaoirleach: Recommendations Nos. 16 and 17 have been ruled out of order as they are not relevant to the subject matter.

Recommendations Nos. 16 and 17 not moved.

Sections 52 to 56, inclusive, agreed to.

NEW SECTIONS

Senator Paul Gavan: I move recommendation No. 18:

In page 123, between lines 32 and 33, to insert the following:

“Report on the VAT treatment of domestic energy bills

57. The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on the VAT treatment of domestic energy bills and options regarding the effective removal of VAT on domestic energy bills either through reduc-

tion or rebate, in the context of rising energy prices and their impact on low and middle-income households.

Winter is here and low and middle income households face an energy crisis in the coming months. There have been over 35 price hikes announced by energy suppliers since the start of the year. In the 12 months to October, energy prices increased by 25%. The price of electricity and gas increased by 16% and 23%, respectively. The cost of home heating oil, the main fuel source for home heating in 37% of homes, increased by a staggering 71%. These prices are expected to rise further. These households need a helping hand and they need it now.

Across Europe, governments have responded with a range of measures to help households. This Government has done nothing beyond a modest increase in the fuel allowance, which is out of reach for the majority of workers and families. In Spain, VAT on electricity bills was slashed by 11% until the end of the year. In the Czech Republic, VAT on gas and electricity has been reduced to zero until the end of the year. In Italy, Prime Minister Mario Draghi launched a package of €3.4 billion to protect households from the energy crisis in October, November and December. That included slashing VAT on gas by 17%, reducing gas charges at a cost of €480 million, cancelling electricity charges at a cost of €800 million and providing a discount on the price of electricity and gas for low-income households at a cost of €450 million. In contrast, this Government has done very little. Sinn Féin has repeatedly called on the Government to stretch every sinew to provide real and immediate relief to low and middle income householders who will struggle to light and heat their homes this winter.

Senator Pat Casey: It is amazing that of the 41 recommendations from the Opposition in relation to this Bill, 36 are about reports and not one of them has sought any amendment to the actual Bill.

Senator Alice-Mary Higgins: We cannot do that.

Senator Paul Gavan: It is not allowed.

Senator Pat Casey: It is allowed. The only recommendation that sought to amend the Bill has been ruled out of order as it would have a direct impact on businesses, in particular seasonal businesses. It is disappointing that we have spent the past four hours talking about reports. Some 36 reports have been sought. Much of the information sought in regard to these reports is already out there if people are willing to look for it. All of the housing reports that have been sought are available to Senators on the Department's website. Senators can recommend changes to the Finance Bill, as long as such recommendation has no financial impact on the Government.

Senator Alice-Mary Higgins: Unfortunately, we are very constrained in relation to this Bill. There are reports. Reports are a way of highlighting and trying to set the agenda on issues. Senator Casey will be well aware that I have no problem proposing amendments to legislation, but I am conscious that on this Bill they will be ruled out of order.

I will highlight a recommendation that I will probably not get to speak to but which relates to this issue. As I have said, I understand that the cost of fuel is increasing, but we need to look to ameliorate the impact of the increase in that cost. It is important that that be addressed. An area where it has a particular impact is in regard to persons with a disability. We will not get to discuss the recommendation in regard to the recently published Indecon report on the cost of disability, which has a number of significant implications in regard to financial policies on

issues such as VAT, targeted grants, income supports, fuel and many other areas. As we know, fuel poverty has a disproportionate effect on those with a disability who spend more time, on average, at home. I am just signalling that I will be following up with a report on that in respect of the cost of disability.

Senator Maria Byrne: I want to follow up on what Senator Casey said. I realise that we will not get to section 70 now. Our recommendation on that section has been ruled out of order. Many businesses do not qualify to enter the scheme in December. I ask the Minister to consider ways in which they could enter the scheme from January up until April. I ask the Minister to include them in his scheme.

An Leas-Chathaoirleach: As it is now 9.30 p.m., I am obliged to put the following question in accordance with the Order of the Seanad of this day: “That recommendation 18 is hereby negatived in Committee; section 57 is hereby agreed to in Committee; Government recommendations undisposed of are hereby made to the Bill; in respect of each of the sections undisposed of, the section or, as appropriate, the section with recommendations, is hereby agreed to in Committee; the Schedule is hereby agreed to in Committee; the Title is hereby agreed to in Committee; the Bill, with recommendations, is accordingly reported to the House; Fourth Stage is hereby completed; the Bill is hereby received for final consideration; and the Bill is hereby returned to the Dáil.”

Question put.

Senator Paul Gavan: Vótáil.

An Leas-Chathaoirleach: Will the Senators claiming a division please rise.

Senators Boylan, Gavan, Ó Donnghaile and Warfield rose.

An Leas-Chathaoirleach: As fewer than five Senators have risen, I declare the question carried. In accordance with Standing Order 61, the names of the Senators dissenting will be recorded in the Journal of the Proceedings of the Seanad.

Question declared carried.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Seán Kyne: Tomorrow at 10.30 a.m.

The Seanad adjourned at 9.44 p.m. until 10.30 a.m. on Wednesday, 15 December 2021.

