



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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# SEANAD ÉIREANN

*Déardaoin, 30 Meitheamh 2022*

*Thursday, 30 June 2022*

Chuaigh an Cathaoirleach i gceannas ar 9.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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## **Teachtaireachtaí ón Dáil - Messages from Dáil**

**An Cathaoirleach:** Dáil Éireann passed the Judicial Appointments Commission Bill 2022 on 29 June 2022, to which the agreement of Seanad Éireann is desired. Dáil Éireann passed the Assisted Decision-Making (Capacity) (Amendment) Bill 2022 on 29 June 2022, to which the agreement of Seanad Éireann is desired. Dáil Éireann passed the Consumer Rights Bill 2022 on 29 June 2022, to which the agreement of Seanad Éireann is desired. Dáil Éireann passed the EirGrid, Electricity and Turf (Amendment) Bill 2022 on 29 June 2022, to which the agreement of Seanad Éireann is desired. Dáil Éireann has agreed to amendments Nos. 1 to 47, inclusive, and 49 made by Seanad Éireann to the Regulation of Providers of Building Works and Building Control (Amendment) Bill 2022. Dáil Éireann has agreed to amendment No. 48, with the amendment in the inserted section 97, “to delete “Act of 2003” and substitute “Act of 2004””, to which the agreement of Seanad Éireann is desired.

### **Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill 2022: Committee Stage**

**An Cathaoirleach:** The Minister of State is most welcome to the House. I thank him for being here.

#### SECTION 1

**An Cathaoirleach:** Amendments Nos. 1, 2, 75, 101, 118, 121 and 125 to 127, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 1:

In page 6, lines 4 and 5, to delete “Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Act 2022” and substitute “Circular Economy and Miscellaneous Provisions Act 2022”.

**Minister of State at the Department of the Environment, Climate and Communica-**

**tions (Deputy Ossian Smyth):** During the Second Stage debate, I mentioned that I intended to amend the Environmental Protection Agency Act 1992 to allow the Environmental Protection Agency, EPA, to consider applications for integrated pollution control and industrial emissions licences that are subject to the provisions of section 181 of the Planning and Development Act 2000 and that I intended to address that issue by way of amendment on Seanad Committee Stage. Amendment No. 125 makes provision for the EPA to accept and to process licence applications in line with existing provisions under subsections 181(2)(a) and 181(2A) of the Planning and Development Act, which currently it is unable to do. Section 87 of the Environmental Protection Agency Act 1992 sets out the requirements to which the EPA must adhere when assessing an application for a licence or a review of a licence. In order to accept a licence application for an activity that involves development which requires a grant of permission under the Planning and Development Act 2000, an application for planning permission or a specified approval must have been made or a grant of permission or specified approval under the Planning and Development Act 2000 must be in place. Section 87 of the Environmental Protection Agency Act 1992 does not refer to the new provisions of section 181 of the Planning and Development Act 2000 that were inserted in 2021. Amendments are required to ensure that the EPA can examine a licence application and, if that application is successful, grant a licence or a revised licence in accordance with the new provisions of the Planning and Development Act 2000. These changes are simply to update and to align the Environmental Protection Agency Act 1992 with the amendments made to the Planning and Development Act 2000. The intention is to amend the Environmental Protection Agency Act 1992 in order that an application for approval under section 87 of the Environmental Protection Agency Act 1992 will also include an application for approval under section 181(2A) of the Planning and Development Act 2000. Similarly, it is intended to amend the definition of “grant of permission” in section 87 of the Environmental Protection Agency Act 1992 to include an order signed under section 181(2)(a) of the Planning and Development Act 2000. Without these amendments, those making temporary electricity generation proposals now being prepared to progress through section 181 of the Planning and Development Act 2000 would not legally be able to apply for or to obtain the necessary environmental licence in order to operate. The amendment I seek to make is an enabling one and will allow for the seamless linking of licence application and process, as envisaged in the 2021 changes made to the Planning and Development Act 2000. The full independence of the EPA in determining whether to grant or to refuse licence applications is not affected by this amendment. The EPA remains fully independent in that function and there is no statutory role for a Government Minister in that regard.

Amendment No. 126 creates a new Part in the Electricity Regulation Act to transpose the requirement in Article 59.1(b) of the internal market in electricity directive to give the Commission for Regulation of Utilities the power to ensure compliance by market participants that are not electricity undertakings with their obligations under the directive. These market participants include smaller actors in the electricity market, including citizen energy communities that are not engaged in the activity as their main business or economic activity. Therefore, it is not appropriate to subject these actors to the more onerous licensing regime already in existence for electricity undertakings. This a significant new development in the Irish electricity regulatory framework, creating a regulatory framework for the participation of new actors in the electricity market and is an essential step in providing new ways for customers and a greater diversity of actors, including citizen energy communities, to participate in the market via electricity activities, including generating and trading electricity, aggregation, demand response and energy storage. Therefore, this is an important component in building resilience in the electricity market in Ireland and will help to accelerate the decarbonisation and democratisation of the

market. By doing so, this new framework acts upon the European Commission's call to speed up the transposition of the internal market for electricity directive which is the subject of a letter of formal notice and which is designed to effectively allow consumers to participate in energy markets as set out in the European Commission's recent communication RePowerEU, which sets out the Commission's response to the war in Ukraine.

There is a double urgency to transform Europe's energy system, namely, to end the EU's dependence on Russian fossil fuels and to tackle the climate crisis. The shift away from fossil fuels towards renewables is part of the circular transition as provided for in the circular economy strategy. The strategy is a key addition to Government's drive to achieve a 51% reduction in overall greenhouse gas emissions by 2030 and to get on a path to reach net-zero emissions no later than 2050. The less we use non-renewable material resources like fossil fuels, the more circular and less resource-intensive the economy becomes.

Amendment No. 2 provides for the immediate commencement of these provisions on the enactment of the Bill. Amendments Nos. 1, 2, 75, 101, 118, 121 and 127 provide for a change in the Long and Short Titles to the Bill to the Circular Economy and Miscellaneous Provisions Bill to take account of these changes.

In regard to Senator O'Reilly's disallowed amendment regarding flimsy plastic cups, the Senator has addressed an important issue which has been part of public debate in recent weeks. My Department is aware of the concerns from both retailers and cup manufacturers that the flimsy plastic cups to which the Senator refers could become a feature of the market and be provided to customers at no charge which could be a way to avoid the levy. Such a scenario could result in increased plastic waste. This would be a bad environmental outcome and not one that the public and any environmentally responsible business would want to see. This amendment would close that potential loophole. I will look at introducing a reworded amendment on Report Stage to deal with that concern.

**Senator Lynn Ruane:** I welcome the Minister of State to the Chamber. In speaking to this grouping, which deals with his amendments, I wish to outline my opposition to the way in which the amendments have been brought forward. The guillotining of this debate is in my view disrespectful to our roles as Senators and legislators. The changes being made are significant and were not subjected to scrutiny by the members of the Joint Oireachtas Committee on Environment and Climate Action who conducted pre-legislative scrutiny of this Bill. The amendments were not scrutinised by a select committee and they landed on Tuesday night, not giving Senators enough time to look at them. The changes to the Bill being proposed are substantial. This is a bad way to do parliamentary work.

Today is International Day of Parliamentarism and I regret that today proper respect is not being shown to the Seanad and to our role as legislators. As we have not been given proper time to scrutinise the Minister of State's amendments or this Bill, I will be opposing their inclusion at this Stage as I do not believe this is how this House should do business.

**Senator Lynn Boylan:** I echo what Senator Ruane said, and I raised this yesterday on Order of Business. It is a shoddy way to do business. With all due respect, if the Minister of State had raised it on Second Stage, why did we not receive a briefing note? The amendments came through on Tuesday night. There is still no justification. The first time we heard what the rationale was behind these amendments was in the Minister of State's statement this morning. I asked numerous people who are far better than I am at reading legislation what they thought

of it and they all expressed concerns that the amendments are quite technical and that without an explanatory note with them, it would be very hard to justify why we are passing them at this particular Stage. They could have been brought to the Joint Committee on Environment and Climate Action even in an private session. A briefing with the Department would have been the respectful way to try and introduce them. They are not even on the Oireachtas website for the public to scrutinise. Will the Minister of State withdraw the amendments and bring them back on Report Stage and facilitate a briefing on both of them? Nobody wants the lights to go out in the winter but the Minister of State cannot bring in non-consequential amendments in this manner and expect Members to stand over allowing them pass through the Seanad.

**Deputy Ossian Smyth:** There are two substantial amendments here. The first is to change the EPA Act. This is to allow for the licensing of emergency generators and to allow this to work in terms of planning permission. Currently, under the EPA legislation, a licence can only be granted where planning permission exists. In this case, the EPA Act will be changed to allow for a licence to be granted where planning permission has been disallowed under the emergency provisions introduced to amend the Planning and Development Act 2000.

We are facing an energy crisis. This emergency generation capacity is needed to avoid interruptions to our supply of electricity. To do that, we need to properly license and have planning permission or some form of legal disallowance of planning permission in place for these emergency generators. We need to change the EPA Act to make sure we have a legal basis for doing this. It would be nicer to have more time. I accept the concerns and criticisms from the two Senators that they did not get enough time for briefing. These amendments will be subject to ratification by the Dáil at a later Stage. I am not proposing to withdraw them.

The first is the EPA amendment to allow for emergency generation. The second is the transposition of the final part of the internal market for electricity directive. That is to allow such groups as community energy collectives to manage demand management and to buy and sell power from the grid. This is in response to the European Commission asking us to speed up the final transposition of this directive, which I believe is from 2019. Again, it is an emergency. It is part of the RePowerEU package in response to the Ukraine war that we make sure this energy directive is fully transposed. It is the final part, it is a good thing to do and I am not proposing to withdraw the amendments.

**Senator Lynn Boylan:** Nobody doubts the emergency measures that are needed to keep the lights on during the winter. The issue is the nature in which this is being done. We have two hours. Committee Stage will be guillotined. Many of us who are invested in what the Bill is supposed to be about, which is the circular economy, have submitted numerous amendments, have given it time, have attended PLS and are really invested in what the circular economy is about, but now we are being asked to pass two amendments which have nothing whatsoever to do with the Bill and which we have not had any time to scrutinise. We are not going to get to the amendments that are relevant to the Bill. This is a really shoddy way to do business and it is disrespectful to the House. I ask the Minister of State to withdraw these amendments and give Members time to scrutinise what they are trying to do. If they are about what the Minister of State says they are about and there are no unintended consequences, then of course we will support them. However, we are here to talk about the circular economy and we are not even going to get to half of the amendments we have worked on, submitted and spent time on.

**Deputy Ossian Smyth:** The use of renewable energy, demand management and community energy supplies are all part of the circular economy and are directly relevant. As Senator

Boylan said, we are in an emergency. It is important to keep the lights on and to have security of supply to deal with an energy crisis. I did not mean any disrespect by the way it was introduced. We brought it in as soon as we could. I am happy to continue discussing it on Report Stage. Again, it will go back to the Dáil for further discussion.

**Senator Lynn Boylan:** If they were relevant to the circular economy Bill, the Minister of State would not have had to use the facility of the Seanad to bring them in in the manner in which he did, which was to change the Order Paper yesterday. The reason he has had to do that is that the amendments are non-consequential to the circular economy Bill.

**Deputy Ossian Smyth:** I note the Senator's comments.

Amendment agreed to.

Government amendment No. 2:

In page 6, line 6, after "Act" to insert " , other than Part 7,".

Amendment put and declared carried.

Section 1, as amended, agreed to.

## SECTION 2

**Acting Chairperson (Senator Eugene Murphy):** Amendments Nos. 3, 4, 7, 34 to 40, inclusive, 42 and 43 are related and may be discussed together by agreement.

**Senator John McGahon:** I move amendment No. 3:

In page 6, between lines 21 and 22, to insert the following:

“ “ISO standard life-cycle impact assessment” means the quantitative tool “Life Cycle Assessment” (LCA), as defined by the ISO14040 and ISO140444 published by the International Organisation for Standardisation;”.

It is great to have the Minister of State here in the Seanad. We have a number of amendments and I have a few with Senator Dooley. Some of the later ones I would like to get into are a bit more meaty, so I will not propose to spend too long on amendments Nos. 3 and 4.

The reason we are bringing forward these amendments is because definitions are important. The more scope that we can have around definitions, the better it is for legislation as a whole. These definitions are required to provide that clear understanding and define the terms which are stated below within the proposed amendments, particularly in section 11 around the environmental levy.

We have more detailed amendments later on which I am keen to get to, so I will leave amendments Nos. 3 and 4 at that. I would be keen to hear the Minister of State's thoughts.

**Senator Timmy Dooley:** I welcome the opportunity to discuss this legislation in the House. This whole Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill should be about ensuring a reduction of the usage of plastic in our economy. If the Minister of State looks to the wider European approach, they have taken a more macro approach. I am thinking of Italy and other countries, for example, that have looked at attempt-

ing to reduce the amount of plastic in the economy.

I accept the issue that was raised in this country previously by the plastic bag tax. At the time, it was principally a litter measure more so than a reduction of plastic measure. It worked very well. People were much more cautious about the purchase and usage of plastic bags. It changed people's mindset. For sure, there are many people who have issues around the paper cup and the way in which it contributes to litter throughout the country. I am not so sure that the approach in this Bill is necessarily the right way to go about it for a whole variety of reasons. Principally, the amount of plastic in a paper cup is so small. I think the Government is using a sledgehammer to crack a nut when the consequence of moving people away from a paper cup with a relatively small amount of plastic contained internally for food safety purposes is for it to potentially be replaced by a strong, heavy plastic cup.

I would put on the record that there is a facility in my constituency, namely, a company called Cup Print, that employs many people. However, that is not why I am making the case. I tend not to parish-pump on important stuff such as this. The reality is, we still have little plastic cups such as the one in front of the Minister of State. We are not proposing any major elimination of those. However, at the same time, we are proposing to try to eliminate the coffee cup.

The reality is the vast majority of paper coffee cups with a very minute amount of plastic are compostable. Plastic cups like the one in front of the Minister of State are not. I have spoken to other elements of the industry and the expectation is that if the Government bans or puts a significant levy on what we know to be the paper coffee cup, the huge coffee industry will pivot towards the use of a reusable plastic cup. We all have keep cups. I have a couple in the car. Some are metal and some are heavy plastic. I have been shown plastic cups that can be produced for 10 cent to 15 cent. The reality is, if we make the paper cup expensive by virtue of either a significant levy or attempt to ban it, it will be replaced. People will continue to drink coffee.

Notwithstanding all our best efforts to have a reusable cup with us, the vast majority of coffee is purchased as an impulse buy. There are statistics to that effect. On my way to Leinster House, on occasion I will drop into Carol's coffee shop across road, namely, the Petite Café. Carol does a great service. I will take a paper cup. I will dispose of it appropriately and that is the right thing to do. However, if I do not have my keep cup with me and she provides me with a plastic cup, I will take that too. I think I am just typical of a lot of people.

I am very worried that what we are trying to do here, which is the right thing to do to eliminate the litter, may be creating a situation whereby we will end up producing much more plastic reusable cups. However, because they will be produced relatively cheaply and will be of relatively poor quality, they will be disposable. I am not suggesting they will all be littering the sides of the road; they may not. They just go back into the trash can. That is creating more of a demand for plastic.

The amendments that I will be more interested in are about addressing that issue. Perhaps it will be for rules and regulations the Government will bring forward at a later stage. We need to be very cautious in moving from the litter issue. Perhaps we need to have a broader view.

No different to most people in this House, to get head space, I walk or run. When I go outside any village, within two miles of the village, when the foliage drops in the autumn and remains gone for the winter, I see an amazing amount of litter, from vodka bottles to Coke cans

to cigarette wrappers, which all have plastic attached. There are paper cups, but they rot away, while much of the other stuff does not. I am just concerned that perhaps from a departmental point of view, this might seem like a nice headline: “We banned the coffee cup because it is a blight on the landscape”. We need to look again entirely at the way we manage waste. The model we have at the minute encourages people to be careless about waste because there is a charge on it. Should we be looking at the collection of waste for free? I would have discussed with the Minister for Transport on occasion about the idea of free public transport as a method of getting people away from using their car or taking unnecessary journeys in the car. Sometimes one has to make a very big policy change in order to change behaviour. Regarding litter and from a litter perspective, we should be moving towards some kind of municipal facilities, such as we do with bottle banks and used clothing. We have to get there.

I talk regularly to my local authority about the lack of bins in some beauty spots. The standard response from the top down is, “But sure you cannot be putting bins there. There will be domestic waste put in or around them.” We are looking at it backwards if we are trying to eliminate waste. I see it throughout County Clare. Too much waste is dumped at night on quiet roads, often in very beautiful areas where people like to walk, run and go for a scenic amenity. However, the waste is there.

I would encourage perhaps the Minister of State or people within the overall architecture of government to come forward with a strategy to address litter - a very comprehensive one that involves education and encourages people to dispose of goods in a way that is much more sympathetic to the natural beauty of the environment. That requires a free service in a certain number of areas. The vast majority of people will adhere to and pay for the collection of their waste. However, there needs to be some kind of a municipal facility where the State carries the burden for those who do not or do not want to do so. It is a huge blight and it is not just coffee cups. It is a problem.

If the Minister of State takes a walk in the autumn along the road from any village, he will see the extent and amount of litter. I think he will be surprised - perhaps he has seen it already – by the stuff that gets dumped with a much higher plastic content than what we are talking about. I know the volumes are large here, but it is the quantum of plastic. That is what the whole idea of this initiative was originally based around, that is, reducing the production of plastic, rather than the way it is discarded on the other end.

*10 o'clock*

We will debate the amendments, but I just wanted to set out my thoughts behind the matter. That is important.

As I said, a company in the Clare constituency employs many people. It is innovative and a good company. It has developed technologies relating to the production of paper cups, and it is changing materials all the time. It wants to be sympathetic to the environment and is trying to reduce its carbon footprint. It is doing that really well. If that were not the case, I would call the company out. It is working towards the future. Nevertheless, there is a potential hazard in what we are trying to do in that we might disrupt what the company is doing. The net effect would be that what we allow to develop behind it would have a far more negative impact on the environment than what is currently there.

**Senator Lynn Ruane:** I will be brief because we have many amendments to get through.



If we do not get some of them on the record, we may not have the opportunity on Report Stage to table similar amendments.

Our amendment in this group, amendment No. 36, would allow the Minister to make regulations to exclude an environmental levy charge on customers for certain single-use items where those items are required by that person due to disability. In 2018, Greenpeace, the environmental NGO, stated:

As we move to rid our oceans, beaches, and parks of unnecessary single-use plastics, disabled people should not be used as a scapegoat by large corporations or governments who are unwilling to push suppliers and manufacturers to produce a better solution.

We should be phasing out single-use plastics completely, but it is important that companies are pushed to produce a flexible non-plastic alternative. I will not press the amendment because I would like the Minister of State to return with something on Report Stage that would push companies to produce environmentally sound alternatives to single-use plastics. I hope he is open to that.

**Senator Pauline O'Reilly:** I will speak briefly because, as Senator Ruane outlined, this is more about getting things on record. I certainly agree with that. It is unfortunate that my amendment was ruled out of order. I know we are not dealing with that section now, but Senator Dooley's comments make my contribution relevant at this point.

In the hierarchy of waste management, recycling and composting are down the list. We must get things out of our system and we do not need to be creating more waste while saying some of it is better than others. Fundamentally, this is about removing waste from the system from the start. It is quite difficult to compost items that are not composed of organic material in the same sense that food is. It is quite expensive, and there are also environmental costs involved.

It is important to note that we are talking about a levy for these paper cups but not a ban. That distinction is really important. My amendment would have addressed part of Senator Dooley's point. I know Senator McGahon will raise the same point. It concerns poor-quality alternatives. There is space in the Bill for this. I am thankful that the Minister of State indicated that he will come back on this matter on Report Stage. We do not want to find cheap alternative plastics being labelled as reusable and people using them instead.

Many businesses, including cafés, are very successfully operating zero waste policies. There are businesses like this cropping up around the country, and there are new opportunities for business. Those manufacturers of cups have alternatives. They are also manufacturing other items. It is not just about cups. There is no question of job losses, from what I have seen, and it seems that there are opportunities. We must get on the road with this and say that no waste is good. We must put in place something that creates alternatives for people.

**Senator Barry Ward:** I do not want to take much time either. Amendment No. 41 in my name has been ruled out of order. As a result, I plan to speak to amendment No. 42 in Senator Dooley's name because it refers to the same section and provision. I was not trying to impose a charge on the Exchequer, as has been deemed to be the case for the purpose of ruling my amendment out of order. That is an entirely spurious argument, and the amendment would not and could not impose such a charge. I proposed several amendments for parts of the legislation and each has been ruled out of order. In these cases, there are fixed monetary amounts in the

Bill that would be fixed in the Act. These refer to what the Minister may or may not prescribe in terms of charges or other matters. Why on Earth would we do that when inflation will change those amounts? God knows we all know inflation is increasing; we hear about it from people who contact us every day.

There are provisions in section 11 that are the subject of amendment No. 42. These provide for charges. The amounts of up to €1 may be absolutely worthless in just a few years, or certainly in a decade or two. The proposal I make is that instead of prescribing these restrictions within the legislation, the Minister should be given the power to vary them by means of regulations. That would be a much more straightforward way for the Government to keep pace with changes in the value of the currency, if that is required, in instead of enshrining the amounts in an inflexible way in the legislation. That is the simple point I wanted to make.

**Senator Lynn Boylan:** With regard to the spirit of the amendment, I sympathise with the fact that we do not want the unintended consequences of flimsy plastic. That is why Senator O'Reilly's proposal to address such items, rather than not introducing a levy, is a better way to go. I agree that we must move to a system where we do not have single-use items. The end of the journey in this regard is to reduce waste.

I am concerned about potential greenwashing by companies. Even if a product is biodegradable or compostable by European Union standards, the reality is that if such items are put in the bin or are subject to the compost options available to us in this House, they will go into a regular bin. They would not be composted because they must go into an industrial composter in order to be broken down. Senator Dooley spoke about the paper cup going into a hedge. It should eventually break down but would not do so because it contains an amount of plastic.

I hope we will get to amendment No. 72 in my name, which outlines the idea of refillable containers not just in cafés but also in supermarkets. This is in order to completely shift the way we organise our society to going back to reducing the amount of waste in the first place. My amendment looks at what was done in France, where there are refill stations in supermarkets over a particular size. As I say, I sympathise with the fact that there may be unintended consequences from the provisions. There are ways of addressing that, however.

**Senator John McGahon:** Am I correct in saying amendment No. 7 is in the group as well?

**Acting Chairperson (Senator Eugene Murphy):** Yes.

**Senator John McGahon:** I will speak to amendment No. 7. I had not realised it was included in the group. The amendment gives a European context. There is a very good article in *The Irish Times* today in which that context is outlined. Amendment No. 7 would ensure that, within the interpretation of what constitutes a single-use cup, items that contain 10% plastic content or less would be excluded from being subjected to a levy or a ban. This outlines a better possibility by looking to the international implementations of the single-use plastics directive mentioned in the newspaper article in question. Italy is a good example in this regard because it applies an environmental levy to products with a plastic content above the 10% level. That is the key aspect.

Single-use items may be made of recyclable and renewable material. As Senator Dooley said, some contain a wafer-thin level of plastic. If the Bill focused on such items with the plastic content above this threshold, it would ensure that those products with the highest percentage of plastic would be the subject of a levy, thus facilitating an immediate 90% reduction in single-

use plastic consumption. The knock-on effect would be to encourage consumer behaviour to move away from the purchasing of single-use cups that are 100% plastic or at least have a greater plastic content than alternatives which contain 10% plastic or less. We were doing some research on this but the article in *The Irish Times* really stands out in the context of international comparisons. I am interested in the Minister of State's view of that matter.

**Deputy Ossian Smyth:** I will start with Senator Ruane. I absolutely appreciate the intention behind her amendment No. 36 to exempt people with disabilities from the provisions of the Bill. In fact, the Bill provides that regulations will be put in place to work out the details of Bill. I am happy to consider those aspects at that stage. Before we make regulations to put a levy on any particular item, it must go out to public consultation and that is provided for in the Bill. That is the appropriate time to figure out what the exemptions will be and how it will be applied.

I agree with Senators McGahon and Dooley in that the definitions are important. It is important that loopholes are not created and that we do not have unintended negative consequences. A consideration of the plastic bag levy debate was what if it turned out that the bag for life was not really a bag for life. A definition has to be put on what constitutes a reusable item and a single-use item. It is important that we get that right.

As Senator Boylan said, we are not just trying to reduce plastic use. We are trying to reduce single-use items regardless of what they are made of. The whole idea of manufacturing a product and distributing it around the world, using resources when it is made of wood or plastic, for something that only gets used for a couple of minutes or seconds is part of the problem. There are two problems: reducing plastic and reducing single-use items. Part of the answer to reducing plastic is the single-use plastics directive. We banned certain items last July in line with the EU directive, but there are other things happening within the Bill. It requires that commercial waste be segregated. Later this year, I will introduce the roll-out of a deposit return scheme through which plastic bottles will be recycled. Different objectives are trying to be achieved.

Senator Pauline O'Reilly's disallowed amendment covers the same ground that Senators McGahon and Dooley are trying to address to make sure we do not have unintended consequences and a proliferation of cheap and flimsy plastic cups replacing paper cups. We must ensure items are reusable to a large extent.

Senator Ward asked why on earth we would put a limit on the amount of money a levy could be set at. Is that correct? Is the Senator wincing at my paraphrasing of what he said?

**Senator Barry Ward:** No, I am not. That is it.

**Deputy Ossian Smyth:** The Senator was asking why we should put a limit on the amount, or maybe lower and upper bounds. The reason I am doing that is so that the Minister is not given too much power. I do not want a situation in which the Minister could put a levy of €100 on a cup of coffee, which would make no sense. What we are creating is an executive power for the Minister to, following public consultation, issue a levy on an item that is bad for the environment, but there should be some limit. Senator Ward is a barrister and will understand this better than me. The executive powers that we create for Ministers in the future should not be huge and unlimited. They need to have some kind of checks and balances on them. They could be reversed by the courts where they are found to be too powerful. What we have done is introduce a maximum charge of €1. This will allow for many years of inflation, I hope, before we reach that type of level. If we did reach a point at which we needed a new levy, when

a levy of €1 is not enough on a single-use item, the Oireachtas could amend the legislation and change the amount. That is a frequent pattern in legislation in that fixed amounts are put in for maximum rates.

Regarding the proposal to introduce a 1 cent levy, such a levy would obviously have zero effect on behaviour. If we put a 1 cent levy on everything, it would collect a lot of money but it would have no effect on behaviour. As a result, I do not accept amendment No. 36 because I am willing to work through the regulations and examine the exemptions at that time.

Amendments Nos. 3, 4, 7, 34, 35, 37 to 40, inclusive, and 43 cumulatively appear to refocus the Bill on plastic single-use items rather than single-use items as a whole. Achieving a circular transition is a much broader issue than just plastic. The purpose of the levy is to influence people's behaviour away from single-use items, and not just plastic items, in all areas of our daily life. Therefore, I do not accept the amendments.

More than 22,000 disposable cups end up in landfill or incineration every hour in Ireland. That amounts to more than 200 million cups per year. This figure includes cups that are recyclable. The objective of the policy is to reduce the annual consumption of all types of disposable cups and, subsequently, other forms of single-use disposable packing by inducing people to change their behaviour and switch to using reusable cups. The objective of the levy is to change behaviour and prevent the use of single-use items in the first place and the continuous unnecessary use of resources that are required to go into the production and disposal of single-use items.

I am willing to meet with Cup Print or any other company that might be negatively affected by the regulations. When we are developing the regulations, I am willing to meet with any cafe operators or market participants who want to discuss how these measures will affect them. The Finnish paper mill, Huhtamaki, which owns Cup Print, has made a lot of money out of paper straws. It did not make any complaints about that when we switched to paper straws. It has been a profitable transition for the company. There are gains and losses, but what will not continue in the future is business as usual. There will be many opportunities for change in the green economy, as well as many opportunities to make money through different kinds of products.

Amendment No. 42 provides for the lowering of the minimum rate of the levy. We saw with the plastic bag levy that eventually the levy amount was too low to affect behaviour. Plastic bag usage started to go up again and the levy needed to be raised slightly. We saw a direct correlation between the size of the levy and the amount of usage of that product. A 1 cent levy is too low. I refer to the experience of other European countries. The plastic bag levy in Lithuania and Latvia was set at 1 cent and 2 cent respectively. Data shows that these small levies had a small effect, if any, on consumer behaviour. They may have succeeded in collecting money but they did not succeed in changing behaviour. That is the reason I will stick with a 20 cent levy.

Regarding the experiences in Italy, the UK and other countries that have brought in plastic taxes, we have looked at those jurisdictions. Rather than trying to tackle single-use items, they are particularly focused on plastic. I have asked the Department to look at whether a plastic tax is appropriate in Ireland having regard to the plastic taxes in operation in other countries. When such a tax is brought in, it increases the value of recycled plastic. We are seeing a lot of plastic material being exported from Ireland to those countries where it has become a valuable commodity. We will look at those jurisdictions, but we are trying to achieve two targets: the removal of single-use items and a reduction in plastic use.

**Senator Barry Ward:** I accept the Minister of State's bona fides in relation to charging. I do not consider this to be a huge transfer of power to any given Minister. The reality is that we do not know how the landscape will change in the coming years. The Minister of State is quite right in saying that the Government can come back and amend the legislation. We already have in this Bill, which is an amendment Bill, a huge volume of amendments that make it even more impenetrable to ordinary people and more difficult. Another amendment Bill will compound that further.

The Minister of State knows that I support what is trying to be done in the Bill. When we were councillors together in Dún Laoghaire-Rathdown County Council, I brought forward a bylaw to ban the use single-use plastics in Dún Laoghaire-Rathdown that was passed by the council in March 2020. I support 100% what the Bill is trying to do. I agree with the Minister of State that small levies yield small results. Big levies, therefore, within reason, also yield big results. The danger is what happens when €1 is no longer enough. What happens when the power provided through this Bill is no longer expansive enough to make a difference to consumer behaviour? The Minister of State's answer seems to be that the Government will come back and amend the legislation when that happens. I suggest we should let the Minister change that in a public policy format, in an accessible and transparent way, so that the Government and the State can respond to consumer trends in a more flexible way than requiring the lengthy process of bringing the legislation back the Houses for amendment.

**Deputy Ossian Smyth:** The Senator can propose an increase in the levy on Report Stage, which I will consider then, but it cannot be an infinite levy with no upper bounds.

**Senator Barry Ward:** It has been ruled out of order. That is the difficulty.

**Deputy Ossian Smyth:** I want to come back to Senator Dooley's point about littering because I did not respond to it earlier.

**Senator Lynn Ruane:** Sorry, we are now speaking to amendments that are out of order.

**Acting Chairperson (Senator Eugene Murphy):** I will let Senator Ruane in in a moment. The Minister of State was speaking.

**Deputy Ossian Smyth:** Senator Ruane can come in if she wants.

**Senator Lynn Ruane:** On a point of order, we are speaking to amendments that are out of order. This is taking up time that should be spent speaking to amendments that are in order.

**Acting Chairperson (Senator Eugene Murphy):** I would agree with Senator Ruane.

**Senator Barry Ward:** I spoke to amendment No. 42.

**Acting Chairperson (Senator Eugene Murphy):** The Minister of State might reply and we will move on.

**Deputy Ossian Smyth:** I am not accepting Senator Ward's amendment. He is welcome to introduce a modified amendment on Report Stage and I will consider it then.

On Senator Dooley's question about introducing a strategy on litter, I will consider that. All of this is relevant to the visible existence of litter. People are concerned about it. They relate to it. The Senator is correct that in the autumn all this litter appears. Anybody involved in Tidy

Towns groups is well aware of that.

**Senator Timmy Dooley:** We will not push it to a vote.

**Senator John McGahon:** We are happy to withdraw the amendment.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 4:

In page 6, between lines 24 and 25, to insert the following:

“ “the Waste Management Directive” means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, as amended by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste.”.

**Senator Timmy Dooley:** We may introduce it again on Report Stage.

Amendment, by leave, withdrawn.

Section 2 agreed to.

Sections 3 to 5, inclusive, agreed to.

## SECTION 6

**Acting Chairperson (Senator Eugene Murphy):** Amendments Nos. 5, 6 and 15 to 23, inclusive, are related and may be discussed together by agreement.

**Senator Lynn Ruane:** I move amendment No. 5:

In page 8, between lines 3 and 4, to insert the following:

“ “climate justice” reflects the United Nations Framework Convention on Climate Change commitments on equity and “common but differentiated responsibilities and respective capabilities” and requires that the decisions and actions taken to reduce greenhouse gas emissions and to adapt to the effects of climate change should—

(a) support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects, and

(b) safeguard the human rights of the most vulnerable persons;”.

Amendment No. 5 seeks to insert a definition of “climate justice” into the Bill. This definition is the one Senators from all Opposition groups sought to insert into the Climate Action and Low Carbon Development Act 2021 last summer. The reason we are seeking to insert this definition into the Bill comes from a core issue with it, which is that it is too narrowly focused on Ireland and the Irish economy as existing in isolation from the rest of the world, as if not impacting on the rest of the world. Economic activity in wealthy countries such as Ireland is worsening the climate crisis for those in the global south. We see famine in the Horn of Africa at present, we see agricultural land across the African continent becoming unusable and we see the worsening climate emergency causing death and destruction for those who have done the least to cause it.

This amendment defines climate justice as reflecting the United Nations Framework Convention on Climate Change commitments on equity and “common but differentiated responsibilities and respective capabilities” and requiring that the decisions and actions taken to reduce greenhouse gas emissions and to adapt to the effects of climate change should support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects, and safeguard the human rights of the most vulnerable persons. The reason we have proposed this definition is because we have subsequent amendments which seek to incorporate these principles into the circular economy strategy, the programme and the wider provisions of this Bill. This is necessary because we see examples of how economic activity in this country is negatively affecting people and the environment in the global south, such as with fast fashion for which I will be tabling amendments on Report Stage.

Amendment No. 6 seeks to insert a definition of “just transition” into the legislation. It proposed to define just transition as a transition that ensures the economic, environmental and social consequences of the ecological transformation of economies and societies are managed in ways that maximise opportunities of decent work for all, reduce inequalities, promote social justice, and support industries, workers and communities negatively affected in accordance with nationally defined priorities and based on effective social dialogue. This relates to later amendments on planned obsolescence and on precious metals. We need to look at obsolescence in electronics and I will be tabling amendments in respect of this on Report Stage. It also relates to the environmental levy. I have concerns that we are only looking at consumption and not production. I will be returning to these matters on Report Stage.

This amendment is necessary to ensure that this legislation operates in a way which is equitable, which seeks to reduce poverty and which is based on social justice. When we are talking about transforming our economy and creating a circular economy, the measures that we take cannot be based solely on action at the point of consumption. There are deep inequalities in our society and we need to make sure that our ideas about creating a circular economy are not based solely on the idea of changing consumer choices.

Amendment No. 15 seeks to insert a provision that the proposed circular economy fund shall consist of such accounts in such financial institutions as the Minister may determine, and that those financial institutions must be operating within the State.

Amendment No. 16 and most of the next set of amendments seek to add to the things which the circular economy fund might be used for. Amendment No. 16 seeks to add that it may be used to assist the establishment, the equipping and, where appropriate, the operation of facilities which provide repair services. The right to repair is a significant issue and something which is sorely lacking from this legislation. In their pre-legislative scrutiny report on this legislation, the Joint Committee on Environment and Climate Action recommended that an examination should be conducted into the potential measures for addressing the challenge of planned obsolescence, particularly in relation to electronics. This should include a broad examination of international examples and potential measures could include a right to repair. In its submission to the committee, Voice Ireland recommended explicitly that a right to repair should be regulated for. This issue relates to just transition. There are examples from across the country of community repair facilities, such as repair cafés and men’s sheds. This should be seen as a key part of where we can create decent work in a circular economy and reduce waste and the need for extraction for goods, particularly electronic goods. It also is a way to counter planned obsolescence which I have amendments on later.

Amendment No. 17 is a minor amendment to subsection (9) which seeks to insert the word “public” before “research” in the provision that the Minister may pay moneys out of the fund to assist, support or promote research and development with respect to any aspect of waste management or the circular economy. For the purpose of clarity, I will discuss amendments Nos. 17 and 19 together as they are deeply related. Amendment No. 19 seeks to add a provision that money can be paid out of the fund to assist the establishment of public-public partnerships for research and development in the area of the circular economy and waste management. Both of these amendments relate to a much wider issue affecting research in Ireland. That is the fact that we are seeing a significant emphasis on research to develop a product to be marketed but nowhere near the same emphasis on frontier of blue-skies research and research for the public good.

Amendment No. 18 adds the provision that in dispensing money from the circular economy fund, the Minister can dispense funds to assist, support or promote initiatives to restore, conserve and renovate buildings in order to reduce embodied emissions resulting from demolition. This is a significant issue. While I note construction is included in the sectors to which the circular economy strategy will apply, there should be a mechanism for the fund to support initiatives to restore, conserve and renovate buildings. My colleague, Senator Higgins, is a member of the Joint Committee on Environment and Climate Action which over recent months has had a series of hearings on the renovation wave across Europe and different sustainable approaches to building. What comes across is that the most sustainable building is the one that already exists, that is renovated and that maybe sometimes is extended or changed.

Amendment No. 20 seeks to add a new provision that the Minister can dispense funds from the circular economy fund to assist, support or promote actions or initiatives undertaken by international organisations or non-governmental organisations to further climate justice. I have already discussed the broader need for climate justice to be reflected in this Bill but this amendment is something tangible we could do to further climate justice. There are international organisations and NGOs which are advocating strongly for climate justice and we need to support them in their advocacy in relation to the circular economy and promoting more equitable and sustainable economic policies.

Amendment No. 21 seeks to add a new provision that the Minister can dispense funds from the circular economy fund to assist, support or promote actions undertaken by indigenous community groups internationally to protect the environment or to curb or oppose the extraction or exploitation of natural resources. We have seen across the world resistance to that dispossession and to the extraction and exploitation of land and natural resources, for example, the resistance of indigenous communities in North America at Standing Rock, which the Dakota Access Pipeline passes through. Another is the resistance of the indigenous communities to a pipeline being built through territory of the Wet’suwet’en First Nation in Canada. There are numerous other examples of land-grabbing and resistance across America and Africa but the core point is we should be supporting those who seek to stop extraction at its source. They often face great violence while trying to do so. This comes back to the core point of broadening the concept of the circular economy to the global dimension, which the committee recommended in its pre-legislative scrutiny report. We cannot simply look at consumption. We need to support those who resist exploitation of the natural resources used in products we are seeking to regulate.

Amendment No. 22 is again about transparency. I am concerned at the use of the phrase “other persons outside the State”. It is very broad and should be defined more specifically. I am not going to press the amendment but perhaps the Minister of State might bring his own



amendment or by regulation prescribe descriptions of persons who can avail of funding, just as a safeguard.

Amendment No. 23 is another amendment seeking to improve transparency and accountability in the legislation. It seeks to add that when a committee is established under section 8(14) to advise the Minister with respect to the performance by him or her of his or her functions under section 8(9) or section 8(12) that where a member of a committee established under section 8(14) has a material interest in a matter under consideration by the committee, he or she must declare that interest and subsequently recuse himself or herself from deliberations.

Amendments that effectively have the same effect as this group have been accepted with respect to both the Land Development Agency Act and the Climate Action and Low Carbon Development (Amendment) Act. This will improve transparency and accountability and ensure people who have financial or other interests in something under the consideration of a committee are not involved in the decision on what advice to give the Minister or in directly advising the Minister. I urge the Minister of State to accept this amendment.

As a final point on the topic of just transition, we know particular communities feel the impact of climate change more severely than others. They pay a higher price in responding to the climate crisis. We cannot further compound inequality and disadvantage. Any transition must be just and fair. If we consider the strategies to respond to the climate crisis contained within this Bill and related to these amendments, some very evidently compound existing inequality and are in conflict with the principles of a just transition. Take, for example, the provisions regarding the installation of CCTV schemes in local authority areas or the use of personal recording devices by authorised officers to deter, prevent, detect and prosecute offences under the Bill. Particular areas and communities are surveilled more frequently and more intensely than others and that is likely to be compounded by the provisions within this Bill on CCTV and surveillance without adequate safeguarding. A just transition is based on a social dialogue. Instead of looking at a model of policing and surveillance, the burden of which will be felt more severely by particular communities, we must ensure we respond to the climate crisis through social dialogue and just and equitable transition. We will get to some of those later on.

**Acting Chairperson (Senator Eugene Murphy):** I thank the Senator. Before I move to Senator Boylan, any Senators who have amendments down and had them discussed should indicate to the Chair if they are not moving them. In fairness to Senator Ruane, she said there she was not going to press an amendment. It is just to avoid confusion.

**Senator Pauline O'Reilly:** Agreed.

**Acting Chairperson (Senator Eugene Murphy):** It is important. Also, if Senators want to get more of the amendments discussed, we need to keep moving on.

**Senator Lynn Boylan:** I speak in support of amendments relating to climate justice and just transition because it is important those two principles go through the heart of any of our legislation, now that we are taking an economy-wide approach to climate action. Later on, we hope we will be able to bring amendments on Report Stage around that idea of the right to repair because it is an important element of just transition. It mitigates against planned obsolescence because those who have less means are not always able to constantly buy stuff and it is up to us as legislators to ensure manufacturers are not building obsolescence into their products to force people to buy new products. It is likewise with the right to repair. You should be able to repair

products as a fundamental right and we need to remove the barriers on that.

We also have amendments around civic amenity because not only is it relevant to the earlier discussion on littering, it also relates to the just transition as there are people across this State who do not have the same access to civic amenity sites. The hours are different and in some cases the tariffs are substantially different. For example, in one part of the country, you must pay to recycle a Christmas tree and in others it is completely free. We need to have that just transition principle of equality for everybody to be able to access the services when they want to do the right thing on waste management.

It is similar around the issue of food loss and waste. We have concerns with the Bill. We have amendments, which we will withdraw today and reintroduce on Report Stage, around the definitions of food loss and food waste. The Food Loss & Waste Protocol is a multi-stakeholder partnership, which has developed the global food loss and waste accounting and reporting standard. Its steering committee is made up of the Food and Agriculture Organization, FAO, the United Nations Environment Programme, UNEP, and the World Resources Institute, among others. One of the things we seek to do is ensure there is a proper hierarchy around food waste in order that human food donation is prioritised over using human food for animal feed, for example, or reprocessing into non-food products. If there is food that is suitable for human consumption then its use for that should be prioritised. Again, looking at our European counterparts, there are bans in other European countries on the disposal of food fit for human consumption and supermarkets are not allowed to do that. As I said, if we do not get to those amendments we will reintroduce them on Report Stage because they are key issues. It is also about the definition of food loss rather than food waste. I would like the Minister of State to address whether or not he will consider that element.

**Acting Chairperson (Senator Eugene Murphy):** I thank Senator Boylan for indicating she will not be pushing an amendment later on.

The Minister of State may respond.

**Deputy Ossian Smyth:** I thank the Action Chairperson and thank Senator Ruane for these amendments. I do not intend to accept Amendments Nos. 5 and 6 or Nos. 15 to 23, inclusive.

Section 8(9) of the Bill is a broadly-drafted provision that provides for how money from the circular economy fund may be used. The section is similar to the corresponding section in respect of the environment fund and it provides for a range of purposes relating to the protection of the environment and the transition to a circular economy.

Amendments Nos. 16 to 21, inclusive, provide for additional purposes for which these funds may be used. I have read through them and the section as drafted is appropriate for the purposes for which it is intended. The section provides the funds may be used for all purposes in respect of the protection of the environment. This includes the majority of what is being provided for under these amendments and as a result I will not be accepting them.

As amendments Nos. 5 and 6 provide for definitions used in amendments Nos. 16 to 21, inclusive, I am not going to accept those amendments.

Amendment No. 22 narrows the scope of section 8(9)(n) by deleting the words “or other persons”. Under the Interpretation Act, “person” is defined as meaning a body corporate and an unincorporated body of persons, as well as an individual. It is important that where appropriate

initiatives are undertaken in respect of the protection of the environment or sustainable development, funding is available to all organisations or persons that are in a position to undertake appropriate initiatives and therefore I will not be accepting this amendment.

I also do not accept amendment No. 15. There is no intention that accounts will be held in financial institutions outside the State and I do not believe this amendment is necessary. The amendment as drafted is also ambiguous as to financial institutions operating within the State and in other jurisdictions.

On amendment No. 17, it is not appropriate to limit funding to public research and development only, which would be the effect of this amendment. All payments from the circular economy fund will be carefully monitored to ensure the value of all research and development funded from the fund. Some very valuable research and development projects are carried out by the private sector with public funding and to narrow the scope of this provision would be inappropriate. I do not accept this amendment.

I am also not accepting amendment No. 23, as it is likely that such a committee will be comprised of members of either my Department or other public service bodies such as the EPA and as a result, the relevant public service codes of conduct will apply. That should have the same effect as this amendment.

In general, the circular economy fund replaces the environment fund. It can be used very broadly for anything that advances the case of our transition towards a circular economy and that can be done through grants, research or funding for businesses to switch towards the circular economy. Although a small business is a private institution that does not mean it should not receive some kind of funding to help it make a change where that is appropriate. That is the basic model of what is happening there. We have the existing example of the environment fund, which the circular economy fund will replace, which has been in operation for 20 years and with which we have much experience. This is a change from a general environment fund to a circular economy fund.

**Senator Lynn Ruane:** I will withdraw the amendment, reserving the right to resubmission.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 6:

In page 8, between lines 4 and 5, to insert the following:

“ “just transition” means a transition that ensures the economic, environmental and social consequences of the ecological transformation of economies and societies are managed in ways that maximise opportunities of decent work for all, reduce inequalities, promote social justice, and support industries, workers and communities negatively affected, in accordance with nationally defined priorities, and based on effective social dialogue;”.

Amendment, by leave, withdrawn.

Amendment No. 7 not moved.

Section 6 agreed to.

SECTION 7

**Acting Chairperson (Senator Eugene Murphy):** Amendments Nos. 8 to 13, inclusive, and 69 are related and may be discussed together by agreement.

Government amendment No. 8:

In page 10, to delete lines 33 and 34 and substitute the following:

“(b) ensure that a poverty impact assessment in respect of the strategy has been carried out.”.

**Deputy Ossian Smyth:** Amendment No. 8 is a small drafting amendment relating to the drafting of a poverty impact assessment under section 7. The amendment ensures that the Minister can procure the services of an expert group or body to carry out the assessment, if required, and that it does not have to be carried out by his or her Department.

There are other amendments grouped with this one. May I address those?

**Acting Chairperson (Senator Eugene Murphy):** Yes.

**Deputy Ossian Smyth:** Should they first be addressed by the Senators who tabled them? What is the normal order here? I do not know the-----

**Acting Chairperson (Senator Eugene Murphy):** The Minister of State may make his contribution before the Senators.

**Deputy Ossian Smyth:** Okay. Whatever is normal.

**Acting Chairperson (Senator Eugene Murphy):** This is a Government amendment. The Minister of State is allowed to make his contribution first.

**Senator Lynn Boylan:** There are other amendments in the grouping.

**Acting Chairperson (Senator Eugene Murphy):** That is fine.

**Deputy Ossian Smyth:** I have finished speaking to the Government amendment. Should the Senators now be allowed to-----

**Acting Chairperson (Senator Eugene Murphy):** That is okay with me.

**Senator Lynn Boylan:** I will speak to my amendment No. 13, which I have mentioned previously and which is about the civic amenity sites across the country. I know that a review of the civic amenity sites was carried out and that there were a number of findings from that review, particularly on the tariffs, the opening hours, the different materials that are accepted and the postcode lottery with regard to being within a reasonable distance of a civic amenity site. Amendment No. 13 seeks to achieve greater harmonisation in respect of those issues while looking at the co-location of facilities with co-operative and social enterprises, including men’s sheds. Again, it is a lottery as to how these facilities are run. Some civic amenity sites in the country do fantastic work. I know of one example, a social enterprise operated by someone who takes the dials and buttons off electrical equipment and puts them online in order that if you happen to have an oven, a fridge or whatever else that is no longer manufactured, you can get the replacement handles or dials. That is a one-off, however. What we want to see is this

harmonisation such that, no matter where you live in the country, your civic amenity site will have similar tariffs and similar opening hours and will accept the same materials as the civic amenity site in the county next door. We also want to see that sharing, that public co-operation, whereby these wonderful social enterprises operate in conjunction with the civic amenities such that we can learn from those and replicate them around the country.

**Senator Lynn Ruane:** Amendment No. 9 seeks to include transport, including aviation and shipping, in the sectors listed as sectors which shall be included in the circular economy strategy. According to the SEAI, transport is by far the largest source of energy-related CO<sub>2</sub> emissions in Ireland. Before the Covid-19 pandemic, in 2019, it was responsible for over 40% of energy-related CO<sub>2</sub> emissions. The Minister of State will be aware that transport is a sector which has emissions reduction targets. Unfortunately, the carbon budget excluded emissions resulting from aviation and shipping. We also know that the State has been a bad actor in respect of transport emissions, namely from the subsidisation of fossil fuels used in the sector. The Government provided €2.4 billion in fossil fuel subsidies in 2019. The largest subsidy is the excise duty exemption for jet kerosene used for domestic and international commercial aviation. The revenue forgone from this measure in 2019 was €634 million. Again, this legislation needs to be broader and needs to take full account of economic activity as it happens within our planetary boundaries.

Amendment No. 10 seeks the deletion of section 7(6) and its replacement with a stronger provision for green public procurement. As the Minister of State will no doubt be aware, my colleague, Senator Higgins, has a passion for public procurement and has introduced her own legislation on the issue. In its pre-legislative scrutiny report on this Bill, the climate committee recommended, in recommendation No. 13, that explicit authority be taken in the Bill for evolving and promoting the uptake of sound principles in respect of design, procurement, packaging, logistics, retail, repairability, etc. Its recommendation No. 58 was that green public procurement be placed on a statutory footing and that specific provisions reflecting the importance of green public procurement and circular public procurement be included in this Bill and other related legislation. This is an area of great importance, given that we spent €12 billion on public contracts for goods, services and works in 2019. I believe that the OGP and the EPA have published guidelines on green public procurement, but those need to put on a statutory basis. We need to place quality and, in the context of the circular economy, environmental quality criteria at the heart of the public procurement process.

Amendment No. 11 relates to the right to repair. This amendment would insert the words “and availability” into the provision that targets within the circular economy strategy should result in increased levels of repair and reuse of products and materials. This is a relatively simple amendment and relates to the issue of just transition.

Amendment No. 12 proposes to insert a requirement that the circular economy strategy set out actions necessary to further just transition and climate justice in the context of the development of a circular economy. We have discussed the broader issues already but, specifically, this would require the strategy to take account of two of the most important principles when it comes to climate action. I have discussed the need for an equitable transition which addresses poverty instead of compounding it. It is based on a social dialogue and the need to ensure all our policies reflect our common but differentiating responsibilities in line with the UN Framework Convention on Climate Change.

Amendment No. 69 touches on a different but related issue, fast fashion. We know that, for

so many people, clothing which is not produced sustainably is their only option because it is inexpensive. We also know, however, that the industry itself is a big polluter and, in the context of climate justice, has a hugely negative impact on indigenous fashion industries in countries in the global south. Recently, award-winning journalist Sally Hayden reported in *The Irish Times*:

In Ghana, second-hand garments that arrive from Europe and North America are known as “obroni wawu” – or “dead white man’s clothes”. Each week around 15 million of them find their way to Accra, the West African country’s capital. About 40 per cent of what arrives is clearly waste, according to local activists, who say the African continent is being left to deal with the devastating effects of the West’s overconsumption and the rise in fast fashion.

I urge the Minister of State to accept this amendment as it tries to refocus our work on the circular economy to the global dimension and would look to an industry that is a big polluter and whose practices go against the very idea of a circular economy.

**Deputy Ossian Smyth:** I am not accepting amendments Nos. 9 to 13, inclusive. The civic amenity sites are the major interface for dealing with recycling and for the general public getting rid of waste and they are often not consistent from one place to another. Different waste streams are accepted and it is not always entirely clear why. It is confusing. I agree with Senator Boylan that men’s sheds are part of the circular economy and are often overlooked. I notice that a lot of voluntary organisations make deals with civic amenity sites to collect various waste streams, whether bits of furniture, bicycles or whatever else. I would like to see more consistency in the civic amenity sites. There is a national waste management plan currently being developed across all the local authorities. That is the policy vehicle that will address the civic amenity sites.

The waste action plan contains a commitment to formalise the role of civic amenity sites and to agree a standard list of waste streams to be accepted. There will be consistency on this in future. The regional waste management planning offices recently published a national review of civic amenity sites. Discussions have commenced with the local authority sector on the implementation of the report recommendations that will allow civic amenity sites to play a greater role in our transition to a circular economy. It will also assist in continuing to reduce the amount of waste that goes into landfills. On that basis, I do not propose to accept amendment No. 13.

Amendment No. 9 relates to activities that are inherently international. This is the amendment on shipping and aviation. It is very important that shipping and aviation are treated in the same way as other sectors and do not get a free ride. Otherwise people who are paying charges on their fossil fuels will have to watch airplanes and ships go past that are getting a free ride. That would not be fair. On the basis of equity this has to change. It has to change at international level rather than national level. The Bill is not the right vehicle for it. I assure the Senators that when Irish Ministers are in EU Council meetings discussing this with their corresponding Ministers they are making progress on it. In Luxembourg earlier this week, the Minister, Deputy Eamon Ryan, made progress on including aviation in the emissions trading scheme and making sure it has to pay for the CO<sub>2</sub> emitted, and on moving towards alternative fuels for aircraft. Shipping and aviation have to be taxed in the same way as any other sectors that use fossil fuels. They cannot get a free ride. I agree with the sentiment in this regard.

On amendment No. 10, there is already text in the Bill that relates to public procurement.

It is sufficient and I say this from the point of view of somebody who considers green public procurement very carefully. I do not agree with the text of the amendment, which I am not going to accept.

Amendment No. 11 proposes to change the definition of “levels” to include availability in the context of the number of repairs taking place. It already includes the concept of availability and reuse. As such, I will not accept amendment No. 11.

I will not be accepting amendment No. 12. The consultation requirements for the circular economy strategy were significantly amended in the Dáil and now include a specific requirement on the Minister to take the national disability inclusion strategy and the roadmap for social inclusion into account when making the circular economy strategy. I thank the Deputies who made the suggestions on Committee Stage to include the national disability inclusion strategy and the roadmap for social inclusion. As such, I do not believe amendment No. 12 is necessary.

Amendment No. 69 relates to textiles and clothing. Policy is being developed on textiles, with a multi-stakeholder working group having been formed by the Department to inform the process. As a result of this, legislative amendments may be appropriate in the future but I do not believe they are necessary at this time.

Amendment agreed to.

**Senator Lynn Ruane:** I move amendment No. 9:

In page 11, between lines 20 and 21, to insert the following:

“(V) transport, including shipping and aviation;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 10:

In page 11, to delete lines 26 and 27 and substitute the following:

“(iii) shall ensure that criteria relating to the circular economy including, but not limited to, life-cycle costing and waste prevention criteria are utilised in public procurement.”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 11:

In page 11, line 34, after “levels” to insert “and availability”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 12:

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

“(b) actions necessary to further just transition and climate justice in the context of the development of a circular economy, and”.

Amendment, by leave, withdrawn.

**Senator Lynn Boylan:** I move amendment No. 13:

In page 12, between lines 13 and 14, to insert the following:

“(c) how to achieve greater harmonisation of civic amenity site services in terms of opening hours, materials accepted, accessibility, tariffs charged and an examination of the co-location of these facilities with cooperative and social enterprises such as Men’s Sheds.”.

Amendment, by leave, withdrawn.

Section 7, as amended, agreed to.

#### NEW SECTION

**Acting Chairperson (Senator Pauline O’Reilly):** Amendments Nos. 14 and 74 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Lynn Boylan:** I move amendment No. 14:

In page 12, between lines 23 and 24, to insert the following:

#### **“Right to Repair**

**8.** (1) The Minister shall, within 12 months of the passing of this Act, prepare and publish a report examining how a right to repair can be introduced in Ireland.

(2) This report shall examine how the introduction of minimum design requirements, allowing for the easy disassembly and replacement of key components, can assist in giving people a right to repair products.

(3) The report shall also examine whether a Scoring System on Repairability as part of the existing energy label for all energy-consuming products, can be introduced, to inform consumers of the repairability of a product at the point of purchase.”.

Amendment No. 14 deals with the right to repair. It proposes that 12 months after the passing of the legislation, the Minister would prepare and publish a report examining how the right to repair can be introduced in Ireland. I know the EU is looking at this but that should not be a barrier to Ireland doing this itself. The report would also look at the introduction of minimum design standards allowing for the easy disassembly and replacement of key components, and a scoring system on repairability as part of the existing energy label for all energy-consuming products. This would mean that when people buy a product they at least have this information and can make an informed decision on whether they want to purchase the item based on the ability to repair it.

Amendment No. 74 calls for a ban on the dumping of new non-food products, whereby the producers, importers and distributors of new non-food products intended for sale are required to reuse them by donating them to charities, NGOs, second-hand shops, social enterprises or as may be defined in the regulations by the Minister. This goes to the awful stories we have seen of large companies such as Amazon dumping brand-new televisions purely because they had not been sold. The amendment would ban this and the companies would have to find a source for the goods. They would not be able to dump them.



**Deputy Ossian Smyth:** I absolutely agree with what the Senator is trying to achieve. However, I will not be accepting amendments Nos. 14 and 74, which deal with different aspects of how we use and dispose of consumer goods. Significantly enhanced reparability and ease of maintenance of consumer goods is an essential component of the circular economy. The whole-of-government circular economy strategy recognises this and commits to the development of a circular economy for consumer goods with an enhanced focus on the repair sector in Ireland. Meaningful changes to requirements on, for example, product design, guarantees, consumer information and labelling can be most effectively implemented by way of comprehensive EU legislation rather than through national measures, which can be piecemeal. This is particularly true for those member states which represent relatively small markets, such as Ireland.

The European Commission recently announced comprehensive measures in the form of a proposal for a regulation on ecodesign for sustainable products and a proposal for a directive to empower consumers for the green transition through better protection against unfair practices and better information. The proposed ecodesign regulation will address product design and set new requirements to make products more durable, reliable, reusable, upgradable, repairable, easier to maintain, refurbish and recycle and more energy and resource efficient. The proposed directive on consumer information will support improved participation of consumers in the circular economy through the provision of information on the durability and reparability of products and by enhancing consumer protection against unfair commercial practices that prevent sustainable purchases. These include greenwashing, built-in obsolescence and the use of unreliable and non-transparent sustainability labels and information tools.

The EU is working on this. What the public will see are labels on consumer goods that are similar to the type of labelling that indicates energy efficiency. Products will have a clear colour-coded A, B, C, D, E or F rating to indicate the durability of the product, how long it will last if bought and how easy it will be to repair it. People will be able to tell they are buying a product that will give them five, ten or 15 years service and they can make an informed consumer decision. To do this we need a testing mechanism from an independent body that provides reliable results on the lifespan of a product and how repairable it is. This will be backed up by European rules to force manufacturers to provide spare parts and manuals so that we get away from built-in obsolescence. Built-in obsolescence is not a myth. It is a real design philosophy for some companies.

*11 o'clock*

I am sure of that from speaking to the people who work in the repair sector. They have told me that even some high-end products are designed in such a way that after a certain period people need to buy another product. Moving towards more durable products is a return to the way that products were designed in the past. That is a welcome addition and is happening at an EU level. One of the people who is working on that is Ciarán Cuffe, MEP, whom I will meet soon and he is deeply involved in the right to repair. I believe we can really achieve something at an EU level that we cannot do at a local level. However, at a local level we can help anyone who is involved in the repair sector through grants or funding from the circular economy fund, when it is set up. That could be entities like men's sheds, repair cafés or repair shops. The right to repair is extremely important and I think that it will have a lot of public support. I do not propose to accept these amendments, however.

**Senator Lynn Boylan:** I appreciate the Minister of State's response and understand that it is easier to verify information on the lifespan of products at an EU level. I ask him to address

amendment No. 74, which pertains to a ban on the dumping of new non-food products. This is an example where we know that an EU member state has already gone ahead and done this. In France, there is legislation where retailers are obliged to look for other options for unsold products, including donation or recycling. It is senseless for perfectly good products to end up being wasted in landfill or being incinerated. Also, if products are going straight from the shelf to landfill without even being used once then there is extra embodied carbon, and there is all of the waste of energy and raw materials that went into making these products. This is a critical part of the circular economy. I would like to hear the rationale as to why we cannot follow the very good example set by France in this regard.

**Deputy Ossian Smyth:** It is a shocking practice where a commercial company, retailer or Internet retailer takes perfectly good consumer goods from a shelf and puts them straight into landfill or destroy them because they have calculated that they will get a better return on investment or a higher profit by actually destroying working consumer goods. The EU has agreed a general approach to that and an anti-dumping provision will be included in EU rules. I am not familiar with the French legislation but I will take the time to see what they were able to do in line with the EU rules. Again, I do not propose to accept the amendment.

**Senator Lynn Boylan:** I withdraw my amendment and reserve the right to resubmit on Report Stage.

Amendment, by leave, withdrawn.

#### SECTION 8

**Senator Lynn Ruane:** I move amendment No. 15:

In page 13, line 7, after “institutions” to insert “operating in the State”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 16:

In page 13, between lines 33 and 34, to insert the following:

“(d) to assist the establishment, equipping and, where appropriate, the operation of facilities which provide repair services;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 17:

In page 13, line 34, after “promote” to insert “public”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 18:

In page 13, between lines 35 and 36, to insert the following:

“(e) to assist, support or promote initiatives to restore, conserve and renovate buildings in order to reduce embodied emissions resulting from demolition;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 19:

In page 13, between lines 35 and 36, to insert the following:

“(e) to assist the establishment of public-public partnerships for research and development in the area of the circular economy and waste management;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 20:

In page 14, between lines 21 and 22, to insert the following:

“(n) to assist, support or promote actions or initiatives undertaken by international organisations or non-governmental organisations to further climate justice;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 21:

In page 14, between lines 21 and 22, to insert the following:

“(n) to assist, support or promote actions undertaken by indigenous community groups internationally to protect the environment or to curb or oppose the extraction or exploitation of natural resources;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 22:

In page 14, line 23, to delete “or other persons”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 23:

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

“(15) Where a member of a committee established under *subsection (14)* has a material interest in a matter under consideration by the committee, they must declare that interest and subsequently recuse themselves from such deliberations.”.

Amendment, by leave, withdrawn.

Section 8 agreed to.

Section 9 agreed to.

## SECTION 10

**Acting Chairperson (Senator Pauline O’Reilly):** Amendments Nos. 24, 25 and 27 to 29, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Lynn Boylan:** I move amendment No. 24:

In page 16, line 4, to delete “Agency” and substitute “Minister”.

The amendment seeks to assign responsibility for the circular economy programme to the Minister as opposed to the EPA. This is an issue that arose during the pre-legislative scrutiny stage and may have been one of the recommendations. We feel that it is appropriate while understanding the responsibilities and competencies of the agency that the Minister is defined in legislation, and is ultimately the accountable person.

**Senator Lynn Ruane:** Amendment No. 25 seeks to insert the provision that a circular economy programme shall “reflect the principles of just transition and climate justice”. We have already extensively discussed the issue of the reflection of these two principles in the legislation more broadly. This amendment seeks to say in law that the circular economy programme must reflect the principles of just transition and climate justice. It is not an overly-prescriptive requirement. It is one which would strengthen the legislation both in terms of facilitating an equitable transition and creating a requirement that our circular economy policies align with our international obligations in respect of climate justice both within the United Nations Framework Convention on Climate Change, UNFCCC, and the Paris Agreement.

Amendment No. 28 is a relatively simple amendment. It seeks to change the timeframe in which the agency must review the circular economy strategy from at least once every six years after the publication of the first strategy to once every three years. Once every six years is too long a timeframe. We should seek to identify problems or issues with the operation of the programme as quickly as possible. We need to be able to do so quickly because we are in a climate emergency and are running out of time.

In April, the Intergovernmental Panel on Climate Change published its Sixth Assessment Report, from working group III. The press release for the interim report stated, “In the scenarios we assessed, limiting warming to around 1.5°C (2.7°F) requires global greenhouse gas emissions to peak before 2025 at the latest, and be reduced by 43% by 2030”. As 2025 is just two and half years away, we cannot wait for six years to meaningfully review these provisions. On that basis, I do not believe that even our own amendment goes far enough and I may seek to reduce the period even further to two years on Report Stage. I urge the Minister of State to reflect on this matter and table amendments to reduce the timescale.

Amendment No. 29 is a simple amendment that seeks to include the Oireachtas Joint Committee on Environment and Climate Action as one of the organisations to which the agency will give a copy of the circular economy programme, once it is published. As this is the relative sectoral committee for this legislation, it is important that the committee be kept informed. On Report Stage, my colleagues and I may table amendments to mandate that the views of the committee be sought when conducting a review.

**Deputy Ossian Smyth:** The amendments in this group relate to the circular economy programme. The programme gives effect to the objectives set out in the circular economy strategy. The strategy is prepared by the Minister and approved by the Government. As such, the programme gives operational effect to the objectives in the strategy, which are drafted by the Minister and subject to Government approval. It is appropriate, therefore, that the new programme, which includes statements of the EPA’s existing waste prevention programmes, is established by the EPA. The agency is an independent statutory body. It would not be appropriate for the Minister to contravene that independence by intervening on EPA operational decision-making. It is for that reason I do not propose to accept amendments Nos. 24 and 27.

The circular economy programme is a long-term programme. I believe that six years is an

appropriate length of time for the programme to be effective and achieve real results. I think that a three-year programme is not long enough. It would also run the risk that excessive resources get caught up in an ongoing cycle of drafting new programmes at the expense of making progress with the objectives of the programme itself and for that reason, I do not propose to accept amendments No. 28.

The circular economy programme gives effect to the objectives of the circular economy strategy. As I said earlier, the strategy includes a specific requirement on the Minister to take the national disability inclusion strategy and the roadmap for social inclusion into account. I think that this will give effect to what amendment No. 25 seeks to achieve. As a result I do not think that amendment No. 25 is necessary and I will not be accepting it.

Lastly, I do not propose to accept amendment No. 29. The agency may furnish a copy of the programme to any person, body, organisation or group that the Minister may prescribe for the purpose of the section. I am happy to request that the EPA furnishes a copy of the programme to the committee. Given that the functions of committees tend to change over time, and I think that the committee name will change as well, so I do not think it is appropriate to include the name of the committee in the legislation. I confirm that I will not accept amendment No. 29.

**Senator Lynn Boylan:** I will withdraw the amendment.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 25:

In page 16, between lines 13 and 14, to insert the following: “(ii) reflect the principles of just transition and climate justice,”.

Amendment, by leave, withdrawn.

Amendment No. 26 not moved.

**Senator Lynn Boylan:** I move amendment No. 27:

In page 16, line 21, after “The” to insert “Minister and the”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 28:

In page 16, line 22, to delete “6 years” and substitute “3 years”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 29:

In page 16, between lines 33 and 34, to insert the following:

“(ii) the Joint Oireachtas Committee on Environment and Climate Action,”.

Amendment, by leave, withdrawn.

Section 10 agreed to.

SECTION 11

Amendments Nos. 30 to 33, inclusive, not moved.

**Senator Timmy Dooley:** I move amendment No. 34:

In page 17, to delete lines 34 to 36 and substitute the following:

“(2) In making regulations under *subsection (1)* in relation to a single-use item, the Minister shall have regard to:

(a) the material wastage associated with the single-use item or, as the case may be, the class or classes of single-use item, concerned; and

(b) the total percentage of plastic content within the material of the single-use item or, as the case may be, the class or classes of single-use item, concerned.”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 35:

In page 17, to delete lines 37 and 38, and in page 18, to delete lines 1 to 4 and substitute the following:

“(3) Regulations may be made by the Minister under *subsection (1)* where he or she is satisfied that, having regard to the purpose for which, and circumstances in which, the single-use item or class of single-use item concerned is supplied, in respect of the single-use item or, as the case may be, the class or classes of single-use item, concerned:

(a) a suitable re-usable alternative;

(b) a suitable alternative with a lower level of material wastage; and

(c) a suitable alternative that provides a better environmental outcome justified through ISO standard life-cycle impact assessment is, or could be made, readily available.”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 36:

In page 18, between lines 4 and 5, to insert the following:

“(4) The Minister may make regulations to exclude an environmental levy charge on customers for certain single-use items where those items are required by that person due to disability.”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 37:

In page 18, line 8, to delete “aim” and substitute “aims”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 38:

In page 18, between lines 11 and 12, to insert the following:

“(c) reducing material wastage,”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 39:

In page 18, between lines 11 and 12, to insert the following:

“(c) encouraging the use of single-use items made with materials which containing relatively lower levels of plastic, and”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 40:

In page 18, between lines 11 and 12, to insert the following:

“(c) improving environmental outcomes through compliance with, and implementation of, the waste hierarchy referred to at Article 4 of the Waste Management Directive,”.

Amendment, by leave, withdrawn.

Amendment No. 41 not moved.

**Senator John McGahon:** I move amendment No. 42:

In page 18, line 13, to delete “less than €0.20 or more than €1.00” and substitute “less than €0.01 or more than €1.00”.

Amendment, by leave, withdrawn.

**Senator John McGahon:** I move amendment No. 43:

In page 18, between lines 13 and 14, to insert the following:

“(5) In making regulations under *subsection (1)* in relation to a single-use item, and in prescribing the amount of any levy under *subsection (4)*, the Minister shall ensure that any such regulations and any such levy are—

(a) proportionate, having regard to:

(i) the aims referred to in *subsection (4)*,

(ii) the level of plastic used in the material contained in the single-use item or class of single-use item concerned, and

(iii) encouraging the best overall environmental outcome through compliance with, and implementation of, the waste hierarchy referred to at Article 4 of the Waste Management Directive,

and

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(b) non-discriminatory as between producers and retailers of the single-use items referred to at *paragraph (a) of subsection (1)*.”.

Amendment, by leave, withdrawn.

Section 11 agreed to.

Amendments Nos. 44 and 45 not moved.

Section 12 agreed to.

Section 13 agreed to.

## SECTION 14

**Acting Chairperson (Senator Pauline O’Reilly):** Amendments Nos. 46 to 53, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 46:

In page 22, between lines 14 and 15, to insert the following:

“(e) electronic devices constructed with absolute obsolescence built in;”.

Amendment No. 46 seeks to add a new type of items which the Minister may by regulation prohibit a supply of in the State. This amendment seeks to give the Minister the power to ban the supply of electronic items with absolute obsolescence built in. I will speak to amendment No. 48 as well, as that amendment seeks to give the Minister the power to ban the supply of electronic items with relative obsolescence built in. For context, “obsolescence” is the question of how and when a product reaches the end of its useful lifetime and is replaced with a new one.

Amendment No. 53 seeks to add a definition to clarify my amendments. According to the European Environmental Agency, EEA, “absolute obsolescence” happens when a product no longer functions for objective reasons because of mechanical failure or incompatibility of software. “Relative obsolescence” means that the product is still functional but is considered obsolete because of a desire for a new item - if this desire is for psychological, style, cosmetic reasons, it is aesthetic obsolescence; if a new product has better quality, functionality or effectiveness, it is technological obsolescence; and if the price of the repair or upgrade is too high compared with a new product, it is economic obsolescence.

According to a paper by the European Parliamentary Research Service, for some products, such as washing machines, the main the driver for purchases of new items is absolute obsolescence. For mobile phones or televisions, relative obsolescence is more important. According to the EEA, a product becomes prematurely obsolescent when it breaks down early compared to what is a possible, which is the designed lifetime, or compared with what is desirable, which is the desired lifetime. This is often built in to electronic devices and these two forms are known together as “planned obsolescence”. In its pre-legislative scrutiny of this legislation, the climate committee recommended that an examination be conducted into potential measures to address the challenge of planned obsolescence, particularly in relation to electronics. This should include a broad examination of international examples and potential measures could include a right to repair. The committee pointed out that both France and Italy have legislated to ban planned obsolescence, and although they have challenges, it is an issue that needs strong



regulatory action.

I will come now to amendment No. 47, which is closely related to the issue of obsolescence in electronics. Amendment No. 47 seeks to add products that require precious or rare earth minerals to complete the list of items which the Minister may by regulation prohibit the supply of in the State. In its pre-legislative scrutiny report, the committee recommended that there should be specific measures for tracking, reuse and repair of products that are built with critical materials such as precious minerals. It also recommended that given the importance of the management of minerals, including precious minerals, in the context of national and global circular economy strategies, regulation and, where necessary, limitations in respect of the extraction of such minerals should be considered.

I have spoken previously about extraction in the context of climate justice, but in the context of this amendment, it is worth noting that at least \$10 billion worth of gold, platinum and other precious metals are dumped every year into the growing mountain of electronic waste polluting our environment, according to the United Nations Global e-Waste Monitor 2020 report. A record 54 million tonnes of e-waste was generated worldwide in 2019. For context, this is equivalent to 7.3 kg for every person on this planet, but obviously much of this waste is generated in the global north. The report cites the lack of regulation and the short lifespan of products that are hard or impossible to repair as reasons for this much waste.

This set of amendments would allow us to seriously begin to reduce the damage being done by the extraction of precious metals and minerals which are deeply linked to climate justice and to try to curb the neocolonial aspects of production of electronic goods and the extraction and exploitation required to produce those products. I urge the Minister to accept these amendments.

**Senator Lynn Boylan:** I will speak to amendments Nos. 49 and 50. The Minister of State will be familiar with amendment No. 49 because it was raised in the Dáil on Committee Stage as well. It refers to the perfluoroalkyl and polyfluoroalkyl substances, otherwise known as PFAS. These are the coatings that are used in single-use items. It was raised with us under pre-legislative scrutiny. In fact, a report that was lodged with the committee found that items which are used for takeaway materials in the Oireachtas have much higher levels of PFAS lining in them than what is considered safe. However, this is not just about the health implications for people who are eating items out of products that have PFAS linings; it is also about the manufacture of them. During my time in the European Parliament, there was an Italian community that was completely destroyed. Its water source was absolutely undrinkable and there were huge health implications for an entire village because they were manufacturing these chemicals there. I would like to hear the Minister of State's response as to whether he can accept this amendment.

**Senator John McGahon:** I would like to speak to amendment No. 52, which I have tabled with Senator Dooley. We want to insert the word "recyclable" after the word "suitable". I will give some background to the rationale for this proposal and explain why Senator Dooley and I want to pursue it. If a ban is applied to a single-use item by the Minister on the basis that a suitable reusable alternative is readily available, this amendment will ensure the reusable alternative is both recyclable and readily available. It will alleviate the risk that plastic reusable alternatives which are not recyclable are considered by the Minister as the readily available alternative. That is thought process behind this amendment. It would also avoid the unintended consequences of cheap 100% plastic cups claiming to meet the definition of "reusable" being

selected as the suitable alternative. That is the thought process behind this amendment. Once again, we would be keen to hear the Minister of State's views on it.

**Senator Timmy Dooley:** I am reiterating the point that I addressed earlier in relation to the first group of amendments. It goes back to this concern that others and I have about the unintended consequences of what we are trying to do here. I have been shown cheap alternatives to the paper cup that are marginally more expensive. I have spoken to people in the hospitality trade who sell coffee and are of the view that there will be plenty of people who still will not have a long-term keep cup. There is no doubt that the industry will fill that void with a cheap alternative that has the capacity to be discarded after a single use. The impact of the life cycle of a product will mean that a piece of chunky plastic, even if it is recyclable, is draining resources to provide for a demand in the marketplace. People will not stop drinking coffee in an unplanned and an incidental way. The industry will find an alternative, as it always does, whether that be glass or plastic, which is the more likely option. When it comes to the regulations, we have to be careful that our eyes are wide open in terms of how we push demand elsewhere. I accept what Senator Boylan stated in respect of there being a film of plastic, albeit a very small one. Let us work to find a system or product that breaks down. While that is not ideal, the reality is that replacing it with a chunk of plastic would be a cheap alternative. My experience is that people attending an event get a bag from various companies with a plastic keep cup or whatever. Some of them are very poor quality. If a person uses it while driving - dashboard dining, as many of us have to - the cup drips, the person decides not to use it again and it is thrown away. We have to be careful-----

**Acting Chairperson (Senator Pauline O'Reilly):** The debate will be finishing in ten minutes.

**Senator Timmy Dooley:** I apologise. I know we are short on time. It is important to reiterate that we are mindful of avoiding unintended consequences arising from the Bill. The amendment attempts to speak to that. I hope the Minister of State can accept it. If not, I will listen to his views on it and hope he can find a way to embrace what we are trying to achieve here. In effect, we are all on the one side; it is just about how we do it. That is what is important.

**Deputy Ossian Smyth:** With regard to amendment No. 49, the PFAS family of chemicals is a significant concern in the EU and globally as these chemicals can cause long-lasting environmental damage and adverse health impacts. In this regard, it is important that they are comprehensively regulated at EU level rather than through the national legislation of individual member states.

In recent years, the EU has set in place several new strategies aimed at strengthening chemical legislation to ensure that chemicals are safe and sustainable by design and that the most hazardous chemicals are banned. My Department, along with other Departments and agencies that have responsibility for chemicals policy, is actively engaging with the EU on this matter and strongly supports the initiatives being undertaken at EU level. These include the farm to fork strategy, the chemicals strategy for sustainability and the European Commission review of the packaging and packaging waste directive. The effective regulation of PFAS is appropriately being addressed at EU level and Ireland is actively engaging with our EU colleagues on a number of initiatives in this regard. That is why I am not accepting this amendment.

As amendment No. 50 is consequential on amendment 49, I will not be accepting it.

As regards amendments Nos. 46, 48 and 53, similarly, meaningful changes to requirements in respect of these issues can be most effectively implemented by way of comprehensive EU legislation, rather than through national measures, and I will not be accepting these amendments.

Amendment No. 51 relates to transnational shipments of waste, including to non-EU countries, which is already highly regulated under EU legislation. The Bill provides that material wastage associated with a product or class of products must be considered when making regulations. I am satisfied that the combination of these measures adequately addresses the issues referred to in the amendment and I will not be accepting it.

Regarding amendment No. 52, it is possible that an alternative to a single-use item may not be recyclable but it may be the best alternative because it is, for example, highly durable and can be used indefinitely. The Bill should ensure that it accommodates that situation where the alternative is something that is extremely durable but not recyclable. For that reason, I am not accepting the amendment.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 47:

In page 22, between lines 14 and 15, to insert the following:

“(e) products which require precious metals or rare earth minerals to complete;”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 48:

In page 22, between lines 14 and 15, to insert the following:

“(e) electronic devices constructed with relative obsolescence built in;”.

Amendment, by leave, withdrawn.

**Senator Lynn Boylan:** I move amendment No. 49:

In page 22, between lines 14 and 15, to insert the following:

“(e) food contact materials in which perfluoroalkyl and polyfluoroalkyl substances (PFAS) have been used;”.

Amendment, by leave, withdrawn.

**Senator Lynn Boylan:** I move amendment No. 50:

In page 22, line 15, to delete “*paragraphs (a) to (d)*” and substitute “*paragraphs (a) to (e)*”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 51:

In page 22, between lines 19 and 20, to insert the following:

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“(3) In making regulations under this section, the Minister shall have regard to the methods of disposal of single-use items outside the State and the effects upon local communities where waste arising from the disposal of such items is processed or delivered to.”.

Amendment, by leave, withdrawn.

**Senator Timmy Dooley:** I move amendment No. 52:

In page 22, line 22, after “suitable” where it secondly occurs to insert “recyclable”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 53:

In page 22, after line 37, to insert the following:

“(8) In this section—

“absolute obsolescence” refers to a product or item which is constructed with a planned finite lifespan so it will not function mechanically after a certain period of time;

“relative obsolescence” refers to a product or item which is constructed to remain functional after a certain period of time but is obsolete due to—

- (a) a desire for a new item due to psychological, aesthetical, or cosmetic reasons,
- (b) a new product having better quality, functionality or effectiveness, or
- (c) the price of repair or upgrade is too high compared with a new product making it economically obsolete.”.

Amendment, by leave, withdrawn.

Section 14 agreed to.

## SECTION 15

**Acting Chairperson (Senator Pauline O’Reilly):** Amendments Nos. 54 to 68, inclusive, 71 and 72 are related and may be discussed together by agreement. Is that agreed?

**Senator Lynn Boylan:** I move amendment No. 54:

In page 23, line 4, after “food” where it firstly occurs to insert “loss and”.

These amendments are all connected. I touched on this earlier. Some of them relate to the definition of food waste as compared with food loss. Many people are familiar with food waste and that one third of food purchased goes into the bin without being consumed. That is just the food that makes it to the shop or retail outlet. Food loss relates to food that might not even make it as far as the shop. It may relate to a farmer deciding it is more economical to leave a crop in the field than harvesting it, or to a product that is damaged in transport. It is important that we capture the full definition of food waste which incorporates that idea of food loss.

As I stated earlier, amendment No. 63 relates to the hierarchy of food waste and encouraging food donation and redistribution for human consumption being prioritised over using human food for animal feed or for reprocessing into biofuels or non-food products.

Amendment No. 65 calls for an annual review to evaluate the outcomes against the stated deliverables of the national food loss and waste prevention strategy, based on data collected from all food sectors and the waste industry, and to provide recommendations on the adjustment of the national food loss and waste prevention strategy or other measures, including financial measures, to address any barriers or shortfalls as may be identified by the review.

Amendment No. 68 relates to the definition of food waste. We need to distinguish between food loss and food waste. That would be in line with the international protocol and have the added benefit of allowing us to have greater comparison between countries across the world.

As regards amendment No. 72, I touched on this earlier. It relates to a supermarket refill station report. It asks for the Minister to prepare and publish a report examining how retailers can reduce the amount of plastic packaging in Ireland “by encouraging customers to use reusable containers through s through greater requiring a minimum amount of floor space be dedicated to refill stations”. As I stated, this measure is in place in other EU member states. Large supermarkets over 400 sq. m are obliged to have a percentage of that floor space dedicated to refillable or reusable items. We know that dried food goods and detergents are wide open to being used in this way. They can be sold in refillable containers. The requirement in France is that all supermarkets larger than 400 sq. m allocate 20% of floor space to reusable or refillable products.

**Senator Lynn Ruane:** Amendment No. 46 seeks to add types of items that the Minister may, by regulation, prohibit the supply of in the State. I refer to a matter that was not mentioned in the previous section, that is, a ban on virgin plastics. I want to get that on the record for the next session.

Amendment No. 46 seeks to give the Minister the power to ban the supply of electronic items with absolute obsolescence built in, while amendment No. 48 seeks to give him the power to ban the supply of electronic items with relative obsolescence built in.

**Acting Chairperson (Senator Pauline O’Reilly):** I am going to put the question shortly. I will give the Senator another few seconds.

**Senator Lynn Ruane:** I thought the Acting Chairperson was asking me to report progress. Amendment No. 53 seeks to add a definition to clarify my amendments.

**Senator Timmy Dooley:** We can report that the progress is good.

**Senator Lynn Boylan:** It is great progress

**Senator Lynn Ruane:** According to the European Environmental Agency, absolute obsolescence happens when a product no longer functions for objective reasons because of a mechanical failure or incompatibility of software.

**Acting Chairperson (Senator Pauline O’Reilly):** As it is now 11.30 a.m., I am required to put the following question in accordance with the order of the Seanad of Thursday, 23 June 2022: “That amendment No. 54 is hereby negatived in committee; the Government amendments undisposed of are hereby made to the Bill; in respect of each of the sections undisposed

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of, the section or, as appropriate, the section as amended, is hereby agreed to in committee; and the Title, as amended, is hereby agreed to in committee”.

Question put and agreed to.

Bill reported with amendments.

**Acting Chairperson (Senator Pauline O’Reilly):** When is it proposed to take Report Stage?

**Senator John McGahon:** Next Tuesday.

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

Report Stage ordered for Tuesday, 5 July 2022.

*Cuireadh an Seanad ar fionraí ar 11.32 a.m. agus cuireadh tús leis arís ar méan lae.*

*Sitting suspended at 11.32 a.m. and resumed at 12 noon.*

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

**Senator Regina Doherty:** The Order of Business is No. 2, motion regarding the arrangements for the sitting of House on Tuesday, 5 July, Wednesday, 6 July and Thursday, 7 July, to be taken on conclusion of the Order of Business, without debate; No. 3, Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022 - message from Dáil Éireann, to be taken at 1.15 p.m. and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 30 minutes; No. 4, motion regarding the earlier signature of Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022, to be taken on conclusion of No. 3, without debate; and No. 5, Electoral Reform Bill 2022 – Committee Stage, to be taken at 1.45 p.m. or on the conclusion of No. 4, whichever is the earlier and to adjourn at 6.45 p.m., if not previously concluded.

**Senator Fiona O’Loughlin:** I second the Order of Business as outlined by the Leader. It came to my attention before I came into the Chamber that today is International Day of Parliamentarism. I wish Members a happy international day. It is important to recognise that we live in a country where democracy prevails. It is important also to appreciate and respect that.

One of the issues I wish to raise today is in regard to the disability capacity review. This was published a year ago and detailed the current outstanding, and indeed unmet, needs of HSE funded disability services up to 2032. It is basically a ten-year programme which highlights significant levels of unmet need. This is particularly significant for individuals with complex needs and for their family carers. The action plan to address those unmet needs was due to be published by last December. However, there is still no sign of it. We have to be particularly conscious of this as negotiations are well under way for budget 2023. I call for immediate publication of the action plan to ensure it is contained within the budgetary plan for 2023. That is essential so that another year does not pass with individuals and families left in limbo.

I also wish to refer to the fact the Defence Forces will be called up to work in Dublin Air-

port. There are not too many professions in which people are not sure where they will be called to day to day. The Army is one of those groups of people who are called in as a matter of last resort. They do that in the service of their country. It is important the training they are currently undergoing is certified appropriately because when anybody undertakes training for something, it is important to get that recognition. More important, I understand Dublin Airport Authority, DAA, will pay the Department of Defence for using the Army but there would be a discrepancy between that and what it would pay its staff. It is important those who serve in that capacity would get that differential and receive the same rate of pay per hour as those who work for the DAA.

It was announced this week that bus route 129 in County Kildare, between Kilcullen and Naas, passing through parts of the Curragh and Athgarvan, will cease operating tomorrow. A private bus operator operates this route with the public service obligation, PSO, levy. I appreciate fuel prices have gone up and that there can be difficulties with drivers but to suddenly pull out of an important service is unacceptable. Connectivity is hugely important. The route is used by school students, elderly people and care providers because it enables them to go between day services in Kilcullen and Newbridge. I have no doubt this route is not alone in the country in being pulled in this way. The National Transport Authority, NTA, must meet with the operators and try to negotiate even a more limited service. It is frustrating that we cannot table Commencement matters about the NTA. We should be able to raise that with the Minister for Transport. I call on the Leader to write to the NTA to see what can be done.

**Senator Martin Conway:** Today is International Day of Parliamentarism. Our House is more reflective of society than Dáil Éireann. Many initiatives have happened along the way in regard to the gender quota. However, we need a far more diverse Chamber. We need more people with disabilities and more people from ethnic backgrounds in Dáil Éireann.

**Senator Victor Boyhan:** Hear, hear.

**Senator Martin Conway:** That is necessary. This House can shine a light in that regard because of its composition. We have much to be proud of but there is also much that we can achieve. We should also strive to do far better.

Earlier this month, the Cathaoirleach kindly accepted a Commencement matter that I put down on the pandemic bonus payment to healthcare workers. I am still getting calls from people working in hospitals who are and were on the front line right through the pandemic but who still have not got their payments. The good is nearly gone out of it at this stage in view of the fact that they have been waiting so long. Why in the name of God is it taking so long to pay people the €1,000 they were promised last January? If the Minister for Health, Deputy Stephen Donnelly, is coming in here before the end of term, which I doubt because we have not seen much of him lately, he should be asked to explain why it is taking so long to pay the pandemic bonus payment. Truly, everyone should have a date that they know they will have it by. No matter what happens, such a date should be identified.

I agree with Senator O'Loughlin regarding the NTA. We need a debate on transport. Transport is critical for hundreds of thousands of citizens in terms of commuting, especially with the cost of fuel. People now want to look at alternative ways of getting from A to B. We have a situation in my constituency where it is 30% dearer to make a journey from Ennis to Limerick or from Ennis to Galway on the train compared with what it costs to travel a similar distance from Maynooth to Dublin. It is 30% to 40% cheaper to go from Maynooth to Dublin by train

than it is to go from Ennis to Limerick or Ennis to Galway. People in Clare who are studying in Limerick or Galway should have the same equality of treatment as people in Kildare who study in Dublin.

**Senator Paul Gavan:** Well said.

**Senator Martin Conway:** We need a standardised fare structure across the board. I would go so far as to say that students should get free public transport. It would encourage them. It would create a culture of using public transport that would benefit the environment and be better for our communities. We need to have a structured debate on equality of transport, both urban and rural.

**An Cathaoirleach:** I now call the leader of the Opposition, Senator Boyhan.

**Senator Victor Boyhan:** There are three issues I wish to raise today: the Irish Thalidomide Association; scoliosis patients and the waiting lists relating thereto; and the EirGrid, Electricity and Turf (Amendment) Bill 2022, which relates to the Order of Business.

First, I want to read a letter which many of the Senators will also have received today. It states:

Today is Thalidomide Memorial Day and if you can at 2pm today pause and think of all those people and their families who have been, and continue to be affected by the Thalidomide tragedy:

The memory of the children who did not survive to enjoy a full and rewarding life;

The memory of parents and loved ones who gave so much in the care of their children;

All who worked so tirelessly in helping and supporting those who sought justice from this episode in history;

We also remember those members of our Thalidomide family who still await recognition of their circumstances.

The letter is signed by Ms Finola Cassidy, spokesperson for the Irish Thalidomide Association, ITA. It would be important, if we had time today, amongst ourselves at any time or at 2 p.m., to pause for a moment. Their cause is not complete. Their campaign is not over and they need support. More than ever, they need our support. I hope that we will use our influence and our political parties and groupings to highlight their continuing campaign.

On scoliosis, the Minister for Health, Deputy Stephen Donnelly, approved a plan in February. He told us of great ambitions and stated that he would reduce the number of scoliosis patients waiting more than four months from 94 at the end of January to zero by the end of the year - we are nearly halfway through the year - increase scoliosis spinal surgeries by 92 in 2022, reduce the overall scoliosis waiting list from 224 at end January to 128 by the end of year and have additional 107 spina bifida cases treated. Given the time, perhaps the Leader would use her good offices to write to the Minister rather than have the Minister back in here, if he has difficulty coming to the House. These are busy times for all Ministers. I respectfully ask that the Leader write to the Minister on our behalf in order to get an update on these key figures and where matters stand halfway through the year. It is better that we know now how we are doing on these targets in order that they can be met in the second part of the year.



In the context of the EirGrid, Electricity and Turf (Amendment) Bill 2022, the Leader has been clear about her position in relation to taking all Stages of a Bill at once. We are coming to the end of the term. It might be helpful for the Leader to explain in response to the Order of Business the rationale for this proposal. There is a rationale in this case but it is something that we should not make a habit of. In fairness, during Senator Doherty's watch as Leader, it is not something we have had to deal with. We need to give scrutiny to all legislation, including the EirGrid, Electricity and Turf (Amendment) Bill 2022. In this case, there is a proposal on the Order of Business today. The Leader might explain to the House the rationale for that proposal.

**Senator Paul Gavan:** I will begin by highlighting that as we end the month of June, a month of summertime, we have a new record number of patients on trolleys in University Hospital Limerick. The new record is 1,829. If we are creating new records of patients on trolleys in June, God help us when it comes to September, October and the onset of winter. I do not doubt that the Leader has requested a debate on the university hospital for me on a number of occasions. I would ask the Leader to do so again. It is not acceptable for the Minister not to come in here and talk to us about the crisis that, in fairness, Senators of all stripes have highlighted, certainly, for as long as I have been here. As for the suffering, I could spend the rest of my three minutes talking about it but I would rather be constructive and ask can we get the Minister in to see what actions he will take right now to try and help alleviate this crisis. There are solutions but the Minister needs to come and be accountable in relation to this issue.

Yesterday, I had the good fortune to attend the Joint Committee on Tourism, Culture, Arts, Sport and Media briefly. The committee heard a set of presentations from Dr. Deirdre Curran of NUIG, the respected and recognised academic expert in relation to the hospitality sector, and representatives from SIPTU and Unite the Union. Some of the statistics were stark. I recognise that we had a good day in terms of hospitality here in the Seanad yesterday in terms of the Payment of Wages (Amendment) (Tips and Gratuities) Bill 2022 - all parties deserve credit for that - but I am not hearing from the Government side of the House recognition that there is a fundamental problem in the hotel sector. Let me spell it out for the House. The following figures are from Fáilte Ireland's report on last year, Tourism Careers: Labour Research. Some 68% of workers in the hospitality sector are paid less than €12 an hour. I have to ask the question, how can one expect people to join that sector with a prospects of a real career in it when one is looking at seven out of ten workers earning less than €12 an hour? We know what the solution is.

I will give credit to Senator Pat Casey, himself a hotelier, who acknowledged here yesterday that we need a joint labour committee established. We need to put a floor of decency in place. We need to put wage progression in place so that when one starts as a barman or porter, one can get wage increases year after year. We need to have proper training in place. We need a floor of decency and the problem is the hoteliers refuse to engage with the joint labour committee process. In the context of the significant support the Government has given to the hospitality sector, it is entirely unreasonable for the hotels to act, effectively using this veto, to not negotiate with trade unions, to not allow a joint labour committee to take place and to not allow decent standards to be returned to the hotels sector. I am asking for an urgent debate on this topic. The hotel lobby is powerful, particularly with Fianna Fáil and Fine Gael, but there are too many people being let down for too long in the hospitality sector. These figures are the Government's. They are undeniable. We need change in the hospitality sector and we need the Government to lead from the front. I ask for a debate on the matter.

**Senator Annie Hoey:** On International Day of Parliamentarism we might consider paying our staff a fair wage. We would not be here at all without them and I wanted to remind every-

one that issue is ongoing and has not been resolved. It is one that is causing great distress and costing us staff.

I wish to raise two items. One of my favourite topics, outside my beloved students, is the repeal review. I noted that in an exchange this week the Taoiseach said “fatal foetal abnormality works both ways as well”. I am not entirely clear what was meant by that. I know and have spoken to people who have lost a much-loved and much-wanted child to a fatal foetal abnormality. They must travel to access the reproductive healthcare they should have been able to access here. I am of the belief, as I think many people are, that we voted to end all travel for reproductive healthcare - I will just say the word - for abortions. It has been said here before but I say again it is immensely frustrating the so-called repeal review now operating is very different to the one promised by the then Minister for Health in 2018. I am not sure that we have been given a good explanation as to why it has changed and why it is in a different format to the one that was explicitly clear. If it was not explicitly clear then a collective of us misunderstood the situation and that includes the people who were in the room when those negotiations and discussions were happening. It is very frustrating when we still have people travelling and still have leaders of the country talking about both sides to something. That is not going to solve the issue of people travelling. That we are so insistent this is just going to be about the operation of the legislation as opposed to the impact it is having is immensely frustrating. I really wish the Minister for Health could come in here and give an explanation for why this is happening or even an indication of how the review is going in and of itself. It seems to have died down quietly. I hope there are lots of things happening in the background.

The second issue I wish to speak briefly about is another I have spoken about before, that is, the issue of care. It is very close to my own heart, not that that is a reason you must have to bring something up. DEBRA Ireland, which is focused on epidermolysis bullosa, EB, a rare genetic condition, had its briefing this morning. For those who do not know, the condition makes your skin paper-thin. It is very fragile and difficult to manage. DEBRA Ireland has extremely modest requests. Sometimes you see pre-budget submissions coming in and there are millions upon millions but these are extremely modest. They include a ring-fenced fund of €786,000 for home nursing care for children and adults with severe EB, funding of €70,000 for an outreach nurse and mental health supports for children at a cost of €80,000. The group’s main issue is the provision of staffing. We have talked about this here before. Charities are filling the gap where the Government is not doing it. I wanted to put that on record. These are extremely reasonable requests to support people who are very severely affected. I will be writing to the Minister for Health on this.

As I must leave, Senators might forgive me for scooting out before hearing the response.

**Senator Regina Doherty:** That is fine.

**Senator Paul Gavan:** Well said.

**Senator Aisling Dolan:** Families have faced devastation at Lough Funshinagh with their homes, farms and roads. Lough Funshinagh is a turlough, that is, a disappearing lake that has not disappeared in full for over 26 years. I have met families at Lough Funshinagh over the past while. There are generations of farming families living in Ardmullan, Lisfelim, Ballagh and Rahara, and I have extended family living in the area too. They suffer great mental anguish and exhaustion from watching rising waters, especially coming into wintertime, and knowing that the roads cannot be raised any more. These people know they potentially will not be able

to get into their homes or that they could be in their home and be stranded.

Over the past year I have met the committees and local councillors who have showed me the devastation in the area, especially after the last few winters. We had an urgent engineering solution in the form of a 3 km overflow pipe and a €1.7 million investment agreed by the Office of Public Works, OPW, and the Minister of State, Deputy O'Donovan, to support Roscommon County Council. However, this was halted in the courts. I represent this region, which is suffering from the impacts of climate change, rising river levels and flooding events. I have raised this issue with Ministers and I thank the Minister of State, Deputy O'Donovan, who has responsibility for the OPW for his engagement with community representatives and families in the area through all this process.

The turlough is designated a special area of conservation, SAC. However, the floods have destroyed the feeding grounds for birds and wildlife and flora and fauna generally. In Ireland we have SACs in poor condition. How do we balance the restoration of our SACs and the livelihoods of communities? Farmers, through the green low-carbon agri-environment scheme, GLAS, the Common Agricultural Policy, CAP, and the new agri-climate rural environment scheme, ACRES, are leading on agri-environmental schemes. They are working to be custodians of our environment. However, right now homes and livelihoods are under threat in County Roscommon. Next it could be the city centre of Limerick, Cork or Dublin, and what happens when it is 100 homes that are under threat close to an SAC? What do we do then?

A public meeting is being held this Monday, 4 July in St. John's Community Centre, Lecarrow, at 7 p.m. to meet and listen to people in the area. I am calling on all stakeholders, including Roscommon County Council, the OPW, the National Parks and Wildlife Service and all relevant Departments to work together with communities on the ground to find a way forward to protect homes, livelihoods and to protect our environment and protect the wildlife of Lough Funshinagh for future generations.

**Senator Malcolm Byrne:** We all are very much aware of ongoing brutality of Putin's war on Ukraine. The fact the European Union has stood so strongly together in introducing a range of sanctions is something to be welcomed. However, it is a matter of concern there a significant number of companies continue to do business in Russia and indeed with Putin's regime. The Yale School of Management has conducted an extensive examination of the companies that are interacting with Russia. It is fortunate that any of them based in Ireland have all been found to have withdrawn, so there are no Irish-based companies continuing to interact with the regime. However, it has determined there are 244 global companies where it is effectively business as usual with Russia. Some of these are based in our fellow EU member states but others are very well-known brands. These include Asics, Benetton, Clarins, Diesel, Giorgio Armani, Etihad Airways, Hard Rock Cafe, Lacoste, Patreon, Phillips, Qatar Airways, TGI Fridays, and Turkish Airlines. I wish to especially highlight Emirates, as it is a company that operates a lot out of Ireland. It is very clear the United Arab Emirates, UAE, is becoming a safe haven for both Russian money and for wealthy Russian oligarchs who want to escape the sanctions that have been applied against Russia. It is notable, for instance, that the share of Russian buyers of real estate in Dubai in quarter 1 has gone up by 67% based on purchasing rates.

First, I would like us to call on those companies to take action. Second, I ask the Leader to ask the Minister for Foreign Affairs to call in the ambassador of the UAE and that clarity is provided around what action it is taking against Putin's unjust war against Ukraine and also that, as the Emirates airline is owned by the UAE, that action be taken to stop co-operation between the

airline and the Russian regime. There is an obligation on all of us to highlight those companies that are seeking to avoid the sanctions governments are trying to ensure are followed.

**Senator Sharon Keogan:** I raise two very important issues. Tomorrow is 1 July, when Irish hospitals traditionally change their doctors. It happens because hospitals are massive training locations. You do a year as an intern and when that year is done you move to the next level of training, and so on. Tomorrow, for the first time in the history of Irish medicine, the hospital system finds itself short of first-year registrars. These are effectively the hospital consultants of the future. Why has this happened? I am told it is due to Covid. Covid stopped the travel, so they are only moving out now and no doctors want to work in the Irish system. The cost is too high versus the return. Does the Leader think the Minister for Health is aware of this and its far-reaching social and economic consequences?

The second issue is our national planning framework, published in 2018, prior to the most recent census and the Ukrainian war. The figures arising out of both of these warrant a re-examination of the framework as a matter of urgency. To take just one county, the Leader's and my county, as an example, Meath's development plan was based on a predicted population in 2026 of 216,221, rising in 2030 to 223,531. However, preliminary census figures show the population on 3 April was recorded at 220,295, which is an increase of 12% since 2016.

The growth of the population of County Meath is far outstripping what was anticipated under the national planning framework and the county development plan. It is not alone in that regard when it comes to other counties, least of all Dublin, our neighbouring county, which is at the epicentre of a housing crisis. Taking all of this into account, and in light of his recent clarification that the Government will not acknowledge any logistical-limiting factors regarding the taking in of refugees, the Minister must come before the House and explain to the people of Ireland how it will work. He should immediately suspend the national planning framework and call upon the Joint Committee on Housing, Local Government and Heritage to review it in light of last week's CSO figures. The current development plans for Meath and many other counties are now dead in the water based on the figures. A failure to appreciate and act upon this will lead to more drawn-out difficulties and hardship down the line.

**Senator Mary Fitzpatrick:** I again call on the Minister for Finance to commit to the introduction of a vacant property tax, which would discourage vacancy and encourage the renovation of vacant properties. Recent CSO figures indicate that there are more than 160,000 vacant properties nationally, with more than 30,000 in Dublin. In a housing emergency, it is morally, environmentally, economically and socially wrong to have so many vacant properties lying idle. We cannot let this go unchecked. We have talked about it for far too long.

Since the Minister for Housing, Local Government and Heritage took office, he made significant changes to housing policy. He increased the housing budget from €200 million to €4 billion per year and the funding for affordable housing from zero to more than €600 million per year. We all know that the most efficient and sustainable way to increase our housing stock is to reuse existing housing. Renovating properties will not only increase supply, it will also tackle housing poverty, strengthen communities and reduce carbon emissions. Housing for All rightly provides significant funding under the repair and leasing and buy and renew schemes, as well as the local authority programme for turning voids back into productive use. There is plenty of carrot, but we need some stick. The numbers from the CSO do not lie. We need a vacant property tax. We have debated it in the House and I have called for it many times. I ask the Leader to raise the issue with the Minister for Finance.

**Senator Jerry Buttimer:** On what is International Day of Parliamentarism I join Senator Hoey in calling for us to redouble our efforts to ensure that members of staff in the Oireachtas, in particular secretarial assistants, receive an urgent pay upgrade.

**Senator Paul Gavan:** Hear, hear.

**Senator Jerry Buttimer:** That is something we in this Chamber should all keep to the forefront of our minds.

I would welcome a debate on transport, as requested by other Senators. This morning, the NTA published, for public consultation, details the preferred route options for the 12 sustainable transport corridors under BusConnects in Cork. The consultation period begins today and will run until 9 September. It is about increasing the bus corridor from 14 km to 93 km. I hope the public consultation process will be wide-ranging and engaging for members of the public and business owners, as well as for those who want to see public transport enhanced in Cork. I welcome the initiation of BusConnects' sustainable transport corridors in Cork.

I ask the Leader for a debate to take place before the summer holidays on health, especially the issue of intellectual disability and the Disability Action Plan Framework, which was published by the Department of Health and the purpose of which is to guide the implementation and planning of a disability capacity review. This morning, many of us from Cork received correspondence from the Cope Foundation, an organisation which supports 2,800 people with intellectual disabilities, as well as families, and which employs more than 1,200 people in Cork. The foundation is asking for the pace of planning for the implementation of disability capacity review to 2032 to be increased. It is looking for its inclusion in the budgeting process of 2023 and an accessible budget announcement for disability, which is a very fair request. I ask that the Minister of State, Deputy Rabbitte, is invited to the House to outline her Department's plan for the disability capacity review to 2032 and that there would be widespread engagement by the HSE. There is a fundamental problem with the HSE in terms of its work regarding disability. To be fair, the Minister of State at the Department of Health, Deputy Rabbitte, is a very good Minister, but we need the HSE to engage with organisations and families in order that a continuum of care can be provided.

**Senator Gerard P. Craughwell:** Decisions are made by Departments, particularly in regard to pensions. I know my colleague, Senator O'Loughlin, is deeply concerned about what I am going speak about now. The military service allowance is pensionable today but, at some stage, a decision was made that it would not be pensionable for those who were the early recipients of the allowance. Some sort of a deal was struck. The Defence Forces is not the first State organisation within which something like this has happened. In the case of the Garda, a number of officers who retired many years ago were not allowed to carry their pensions forward.

There is also the issue of pension abatement that was originally designed to stop high-paid civil servants retiring during the financial crisis with massive pensions and lump sums and going straight back to the Departments in which they worked or to other Departments and receiving serious salaries. If a private soldier, a corporal or a sergeant who retires from the Defence Forces after 40 years gets a job in the public service, the chances are that he or she will lose his or her pension.

There were two court cases in the State that went as far as the Supreme Court, wherein a pension was declared to be a property right and could not be touched. One involved a prisoner

in Mountjoy who had a contributory old age pension. The State argued that the person was a prisoner and would have no pension. He said that he had contributed to the pension and that it was his. He took the case to the Supreme Court, which ruled that his pension was his. The second case involved a former Cabinet Minister who went to jail. An attempt was made to take his pension and he successfully fought the matter through the courts, wherein it was deemed that a pension is a property right.

I contend, and I think Senator O'Loughlin will agree, that pension abatement is illegal. It is theft of a property right. Pensioners from the Defence Forces and the Garda are most affected by this because they are forced to retire at 50 years of age, in most cases. If they come back into the public service, the Departments do not want to pay them a benefit for getting a second job. If Departments say that they cannot come back and have a full salary, that is fine, but they should not touch a pension. A pension is a property right. All the Members of the House will depend on their pensions when they reach a particular age. It is simply wrong. Let us be honest about it. For a private soldier, a corporal or a sergeant, and right up to the rank of colonel, the pension is not that fantastic. They talk about the golden pensions public servants have. Those are a long time gone. They were hammered in 1996, 2011 and 2013. The way things are going now, young men join the Defence Forces as commissioned officers, get a trip or two overseas and leave. We have to stop the theft of pensions and we have to return the military service allowance to those who had it. It should be part of their pension. I thank the Cathaoirleach for his forbearance.

**An Cathaoirleach:** I take this opportunity to welcome former Senator Jillian van Turnhout to the Public Gallery. I thank her for being here and for her service to Seanad Éireann. She was a formidable Senator. I was recently talking about legislation that she was involved with on banning smoking in cars while children are present, which sounds like a rather minor matter. However, it took two and a half years to pass that legislation. She brought that forward with the former Senator and doctor, Professor John Crown - he had a long title when he stood up in the morning. At the time, it was only the fifth piece of legislation passed by an Opposition Senator, which was quite an achievement. I thank Jillian van Turnhout for all her service. I call Senator Murphy.

**Senator Eugene Murphy:** I wish to support my colleague, Senator Dolan, in regard to Lough Funshinagh. As the only Government representative living in County Roscommon I am well aware of this issue. The Leader will have heard me raise this before. No matter how many flowery speeches we make they will not solve it. We have a court decision which unfortunately has sided with Friends of the Irish Environment. We have to work on legislation. I acknowledge the Minister of State, Deputy O'Donovan, is working hard on this. Senator Dolan is right in what she says. I am afraid what could happen now is that any time there is an issue with flooding anywhere in the country, some of these people will refer to the Lough Funshinagh judgment and when there is an emergency the Government will not be able to act. It is in the interests of the State to ensure this matter is settled. We are going to have to go through the EU, we will have to make legislation, it will not be simple but we must do it. We have a massive problem. A meeting will take place on 4 July and hopefully we will get to a situation where this can be solved but it is urgent.

**Senator Barry Ward:** Today is Thalidomide Memorial Day. Up to 40 people in this country are victims of thalidomide who have lived lives in various states of disability as a result of the injuries they suffered in the womb. They have to date received no apology from the State. They have received no proper medical compensation. A compensation scheme is in place from

the company in Germany but it is inadequate for what they have suffered. It is unfair that the Government has not moved to compensate and acknowledge those people and the mistake that this State made in not taking the drug off the market in a timely fashion.

As unfair as it is to the people, now in their 60s, who suffered from thalidomide, it is desperately unfair on their mothers, many of whom blame themselves for having taken the drug despite the fact that they did not know they were doing any harm. Many of those women have passed away but their families are there. The brothers and sisters of the people who lived with thalidomide injuries are there. The only fair thing to do would be for the Government to acknowledge that, to apologise and put in place a proper scheme for those people.

I will also raise the issue of China's complicity in the war in Ukraine. Where western countries have pulled out of buying services and goods from Russia, Chinese companies are stepping into the breach. We need to make sure that the sanctions regime that Ireland has supported at the highest level in Europe and has pushed in terms of punishing Russia for its illegal action in Ukraine, must be extended to include companies in such places as China which facilitate the continued economic expansion of Russia despite the fact that its illegal aggression in Ukraine is putting thousands of people's lives at risk today, tomorrow and as long as this conflict goes on. The Government needs to step up to make sure that the sanctions regime expands to cover all of those countries and companies seeking to circumvent the proper action of sanctions, sanctioned by the European Commission.

**Senator Regina Doherty:** I thank Senator Ward for highlighting China's complicity in supporting Russia by stepping in to buy the products from Russia that all the other European and international countries have sought not to continue to support. I will certainly raise his issues with the Minister for Foreign Affairs.

I will also touch on the fact that today is Thalidomide Memorial Day which both Senators Ward and Boyhan brought up at the beginning our session today. I join with both Senators, and I can safely speak for most of us here, that it is beyond time for the Government to apologise sincerely to the people who were born with disabilities arising from the drug that the State did not intervene in time to withdraw, even though we knew about it. It is also beyond time that we compensate those people properly. The apology could be immediately effective and would be very much appreciated by the survivors. I thank both Senators for bringing that up today.

Senators Murphy and Dolan both referred to Lough Funshinagh and the recent judgment around the protection of the SAC. I am sometimes mindful in this country that we protect one element of society without any consciousness of the impacts of the effects on other elements of society. While we all obviously need to make sure that we protect our environment, our natural heritage and all our resources, we cannot do that at the expense of people. They have to be equally important in the responses of the State. The meeting on 4 July will hopefully find a roadmap to a provision of a resolution because it is certainly not money that is wanting, it is legal intricacies that are causing it. I extend every good wish to all the members of the community in Roscommon and indeed Senators Murphy and Dolan in their support for their communities.

Senator Craughwell brought up the military service allowance that was negotiated, which is beyond belief, by the military not to be included in the pension allocations and permutations of people who retire in the future. I do not have a response as to how and why that happened but I will make inquiries and see if I can do anything to offer some assistance and information to

the Senator. He is absolutely right in regard to the second point he made on pension abatement. We cannot have one set of rules for one part of our civil and public service and a different set of rules for another. I can say that standing here having learned my lesson as a former Minister when I was indeed taken to court and was myself rudely awakened, but correctly so.

Senator Buttimer, along with the opening comments of Senator O'Loughlin, talked about the disability capacity review that was conducted by the HSE and the Department of Health a number of years ago. It is a ten-year strategy that outlines on three levels exactly what is required to service the people in this country and the providers with the State supports that are needed. I only read this a couple of weeks ago because I had the privilege of meeting some senior officials in Prosper Fingal.

When we look at what is required, it is done in three columns. It is done so that in one column it shows that we absolutely need a certain amount to stand still, we need another certain amount if we are going to be ambitious, and if we include all the people who probably are not included in our statistics we need yet another amount.

To put that in context and to support both Senators looking for that capacity review and the plan to be published, 180 inpatient full-time respite beds were required in order to stand still for the year 2022. If we were to look after all the people that would actually need them this year we would have needed finance for 360 beds. In this year's budget we got 60, so we got one third of what was needed to actually just stand still, and a fraction of what we need to cater for everybody's real requirements. Therefore, I support the two Members in looking for that framework to be published immediately but also just to highlight the matter - not to be disrespectful to the disability services with the HSE because they can only do what they can with the money they are given.

Senator O'Loughlin is right in that the money that is needed must be put in the budget right now. It is not a case that we can continuously blame our community-based HSE providers or our section 38s or 39s because in fairness they provide a wonderful service to those people for whom they can provide it. However, they can only provide it on the basis of the money they are actually given and not some report that says they should be, when in actual fact they are not. I join with the Senators in looking for that published plan long before we get into the budget negotiations in September. We will all support the Minister of State, Deputy Rabbitte, because she is absolutely committed to providing for this section of the community.

Senator Buttimer also looked for a debate on transport. I am baffled as to why the NTA is not subject to Commencement matters when it reports directly to the Minister.

**Senator Jerry Buttimer:** Hear, hear.

**Senator Regina Doherty:** There is nobody else it reports to. The only mechanism we have in this House is through the Minister because we cannot bring in the NTA itself. I will write to the Minister today to find out what mechanism he proposes through which he can reply to us and respond with regard to the NTA.

**Senator Fiona O'Loughlin:** Fair play, that is great.

**Senator Regina Doherty:** The national framework is not sustainable at the moment and we must have some recourse to be able to question where we are going.



Senator Fitzpatrick asked me to write to the Minister for Finance with regard to introducing a vacant property tax arising from the CSO figures released last week. I certainly will do that.

Senator Keogan highlighted another serious anomaly with regard to the CSO figures. Again I concur with her. This is not unique to Dublin or Meath. I am sure it is infringed in every other county council area in the country with regard to developments and planning for our towns and villages which we want to do in a sustainable and supported way. If we do not even know who we are supposed to be developing our towns and villages for and the correct populations, we are hampering and starting off on the back foot. Senator Keogan is right, the national planning framework needs to be re-evaluated, in particular for all those county councils that are still mid-national development plans and local development area plans. I certainly support that call today. Senator Malcolm Byrne spoke about the 242 international companies that continue to do business as usual in Russia, as if there were no terrorist attacks or atrocities being inflicted on other human beings. I certainly concur with him in that regard. I will write to the Minister for Foreign Affairs, Deputy Coveney, today and make the request sought by the Senator with regard to the ambassador of the United Arab Emirates. I will revert to him on that.

Senators Hoey and Buttimer called for the staff of the Houses of the Oireachtas to be paid a fair wage. I know all Members of this House support that. The matter is currently before the Workplace Relations Commission and the sooner it is adjudicated upon, the better for us all. What we want to see is the quality we have in all our offices recompensed by a decent wage on which those concerned can afford to live. Senator Hoey also called for the repeal review to be updated. I will ask the Minister to update the House on when the final report will be issued to us. We will organise a debate on it. The Senator also touched on the issue of DEBRA Ireland, which made its pre-budget submission this morning, seeking the relatively small sum of €786,000 to try to address the issue of the people it supports.

Senator Gavan sought a debate on University Hospital Limerick. He has done so on several occasions, as have Senators Conway and Maria Byrne. There is a standing offer of any time that I can allocate for the Minister. I will reiterate that today. The only thing I can say, particularly on behalf of the people in the region, is that I hope the independent review group that has been established will come back very soon with recommendations that will be enacted. Senator Gavan is also seeking a debate on the hospitality sector and the joint labour committee, JLC. He is right to point that out, insofar as the State has really supported that industry in recent years, particularly because of Covid, the very least it can do is to come to the table and have a conversation about a career structure development and pay progression plan for the people on whom it relies to work in the industry.

Senator Boyhan spoke about thalidomide. He also sought an update from the Minister on the plans announced earlier this year in respect of scoliosis patients which do not seem to have come to fruition just yet. The Senator also asked me for an explanation as to why I am proposing to take all Stages of the EirGrid, Electricity and Turf (Amendment) Bill 2022 next week. To explain to colleagues, I did a deal, for want of a better word, with them in recent years that we would not take all Stages of a Bill together unless there was an absolute emergency. It appears that such an emergency has happened. There is a problem with the Estimates for the particular organisations dealt with in the Bill. If we do not get the Bill passed and signed by the Minister and the President by the middle of next week, the Estimates will fall and all those organisations will have no money. We need to bring in a new schedule of Estimates and that can only be done after the House passes the Bill and it goes to the President. It is not our fault that it has been left as late as this but I ask for Members' co-operation in dealing with the Bill next week.

Obviously, if they do not wish to co-operate, I will have to come up with a plan B. I am asking them to consider allowing us to do it, given that it is only a money Bill to give extra money to those organisations to ensure they continue to keep the lights on, in effect.

While I am on my feet discussing this, the agenda for the following week is currently being prepared by my office. At this time next week, I will probably be asking Members to take all Stages of two other Bills in the final sitting week. I give them notice of that. The reason all Stages will be taken together is that the Bills have not even been published yet, so I could not attempt to put them on the agenda for next week, even if I wanted to do so. One of them will relate to the €100 charge for children's hospitals. Patients aged under 16 are currently charged €100 when they go to an accident and emergency department or for an overnight stay. That Bill will come before the House in the week commencing 11 July and I will be asking Senators to take all Stages of the Bill that week. The Department of Justice is bringing forward a Ukrainian omnibus Bill that apparently requires to be finished before the recess. It has not yet been published, however, and I cannot schedule it until I get it. Forewarned is forearmed. Members can come back to me next week and let me know their views, but I ask for their co-operation in respect of taking all Stages of the EirGrid, Electricity and Turf (Amendment) Bill next week. I hope that answers Senator Boyhan's question.

Senator Conway spoke about the International Day of Parliamentarism and called for a more reflective representation in both Houses. Obviously, this House is a little better than the Dáil in that regard. He called for more diversity, with people reflecting the entire population of Ireland, including from ethnicity and disability perspectives. There is a need to have all walks of life represented. The debate in the Houses would be far more interesting if we had lots of different representatives of communities. Senator Conway also joined the call for a debate on transport and the NTA.

Senator O'Loughlin opened the Order of Business by referring to the disability capacity review. She also raised the issue of the Defence Forces being called in to do emergency support work at Dublin Airport and the need to ensure they are paid properly and, at least, to have the decency and respect to have conversations with the people upon whom we consistently rely so often.

She also highlighted the cessation of operation of bus route No. 129 in County Kildare. She is right that it is not the only bus route that has been ceased this summer without notice. Handing out leaflets on a bus route to say a bus will not be operating for the next couple of months and the company might get back to its passengers in September, as has happened in Fingal and Kildare, is really not the way to do business. We should be supporting all public transport, particularly the services with the PSO levy. I will send a letter to the NTA and the Minister today on her behalf.

**Senator Sharon Keogan:** The Leader did not deal with an issue I raised. Will she write to the Minister for Health, Deputy Stephen Donnelly? On 1 July, there were no registrars-----

**Senator Regina Doherty:** I beg the Senator's pardon. I will write to the Minister.

**Senator Sharon Keogan:** This is the first year I have heard of there being no first-year registrars in hospitals.

**Senator Regina Doherty:** I do not know how I missed that issue. I will write to the Minister. An interesting point I saw raised in the media during the week is that there was a massive shortage of doctors last week because of the significant increase in Covid cases that is being experienced not only in hospitals but throughout the country. That was before the changeover. Doctors were reflecting their concerns in respect of the situation last week and that was before the changeover next week. I will send a note to the Minister today. I apologise to Senator Keogan.

Order of Business agreed to.

### **Sitting Arrangements: Motion**

**Senator Regina Doherty:** I move:

That, notwithstanding anything in the Standing Orders relative to Public Business, unless otherwise ordered, the following arrangements shall apply in relation to the sittings of the Seanad on 5th, 6th and 7th July, 2022:

(1) The Seanad shall meet at 12 noon on Tuesday, 5th July, 2022, and the following arrangements shall apply:

(a) Commencement matters shall be taken at 12 noon and up to six matters may be selected by the Cathaoirleach for discussion;

(b) Standing Order 30 shall stand suspended;

(c) The Order of Business shall be proposed at 1.30 p.m.

(2) The Seanad on its rising on Tuesday, 5th July, 2022, shall adjourn until 10 a.m. on Wednesday, 6th July, 2022, and the following arrangements shall apply:

(a) Commencement matters shall be taken at 10 a.m. and up to six matters may be selected by the Cathaoirleach for discussion;

(b) Standing Order 30 shall stand suspended;

(c) The Order of Business shall be proposed at 11.30 a.m.

(3) The Seanad on its rising on Wednesday, 6th July, 2022, shall adjourn until 9.30 a.m. on Thursday, 7th July, 2022, and the following arrangements shall apply:

(a) Standing Orders 29 and 30 shall stand suspended;

(b) *Protected Disclosures (Amendment) Bill 2022 [Dáil] – Report and Final Stages.*

The proceedings on the Report and Final Stages of the Protected Disclosures (Amendment) Bill 2022 [Dáil] shall be taken at 9.30 a.m. and shall, if not previously concluded, be brought to a conclusion at 11.30 a.m. by one Question, which shall be put from the Chair and which shall, in relation to amendments,

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include only those set down or accepted by the Government.

(c) The Order of Business shall be proposed at 12 noon.”

Question put and agreed to.

*Cuireadh an Seanad ar fionraí ar 12.57 p.m. agus cuireadh tús leis arís ar 1.21 p.m.*

*Sitting suspended at 12.57 p.m. and resumed at 1.21 p.m.*

### **Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022: Motion**

**Acting Chairperson (Senator Gerry Horkan):** I welcome the Minister of State back to the House. He will be here for a while this afternoon.

A message has been received from Dáil Éireann concerning the amendments made by the Seanad to the Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022. The message has been set down in the Order Paper. The list of the amendments made by the Seanad and considered by the Dáil has been circulated for the information of Members.

The Dáil considered and accepted those amendments. It also made an additional amendment consequential on the acceptance of Seanad amendment No. 48. I call on the Acting Leader to move the motion in respect of a consequential amendment.

**Senator Jerry Buttimer:** I move:

That Seanad Éireann agrees to the amendment made by the Dáil consequential on its agreement to Seanad amendment No. 48.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Malcolm Noonan):** Government amendment No. 1 in Dáil Éireann to amendment No. 48 from Seanad Éireann is moved to correct a typographical error in the new section 97 of the Bill. A technical reference to the Act of 2004, which is the Residential Tenancies Act 2004, is substituted in place of an incorrect reference to the Act of 2003.

Question put and agreed to.

**Acting Chairperson (Senator Gerry Horkan):** Dáil Éireann has agreed to amendments Nos. 1 to 47, inclusive, and 49 made by Seanad Éireann to the Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022. Dáil Éireann has agreed to amendment No. 48 with the following amendment: “In inserted section 97, to delete “Act of 2003” and substitute “Act of 2004”.”, to which the agreement of Seanad Éireann is desired. The Clerk to the Seanad will send a message to the Clerk of the Dáil certifying the determination of the Seanad.

## **Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022: Motion for Earlier Signature**

**Senator Jerry Buttimer:** I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Regulation of Providers of Building Works and Miscellaneous Provisions Bill 2022 changed from Regulation of Providers of Building Works Bill 2022 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

*Cuireadh an Seanad ar fionraí ar 1.23 p.m. agus cuireadh tús leis arís ar 1.45 p.m.*

*Sitting suspended at 1.23 p.m. and resumed at 1.45 p.m.*

## **Electoral Reform Bill 2022: Committee Stage**

**Acting Chairperson (Senator Gerry Horkan):** This debate will adjourn at 6.45 p.m. if not previously concluded. For the information of the House, there is a revised numbered list of Seanad amendments. In the original numbered list of amendments, which was circulated on 29 June, the names of Senators Higgins and Ruane were inadvertently excluded from amendments Nos. 13 to 16, inclusive, 46 and 47, which has now been rectified. The new list of amendments was circulated to Senators at 12.52 p.m. today.

Sections 1 and 2 agreed to.

### **NEW SECTION**

Government amendment No. 1:

In page 13, after line 38, to insert the following:

#### **“Power to prescribe**

**3.** The Commission may, by order, prescribe such period as it considers appropriate to be an election campaign period in relation to any election or referendum and different periods may be prescribed in relation to different elections or different referendums.”.

**Acting Chairperson (Senator Gerry Horkan):** Amendments Nos. 1, 7, 26, 27, 68, 84 to 112, inclusive, and 142 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Malcolm Noonan):** As Senators are aware, informed decision-making is at the heart of the democratic process and it is crucial for meaningful exercise of the right to vote. When voters are misinformed they may choose a candidate or vote in favour of a constitutional change in violation of their true preferences. Behaviours that interfere with informed decision-making

can remove accountability from electoral processes and undermine trust in free and fair elections. Traditionally, we have trusted the professional values of the media and the perception of the public to filter all the noise that surrounds our electoral events, but the online world now provides unprecedented opportunities to spread false or misleading information very quickly and create a false impression that particular position has widespread support, thus giving it unwarranted credibility. The growth of interference with elections and the increased number of people who rely on the Internet and social media as their main source of news make this problem an urgent one. There is a real risk that future electoral processes in Ireland will be interfered with by foreign and domestic entities acting in bad faith and for selfish ends. Not only does this create an immediate potential for undesirable or extreme political outcomes, but it also serves to undermine the trust and confidence of the Irish electorate in the political process. Such disengagement poses a long-term threat to civic society.

Against this background and having regard to similar issues that arose during pre-legislative scrutiny of this Bill, when publishing the Electoral Reform Bill in 2022, my colleague, the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, signalled that he had asked the Attorney General to prepare proposals and options for inclusion in the Bill with a specific focus around the protection of the integrity of our electoral processes that could include a role for the electoral commission in this regard.

To progress this critical issue, a suite of amendments to the Electoral Reform Bill were recommended by the Attorney General and approved by Government, which would protect the integrity of our electoral processes in the online sphere. These new provisions, which were published on 10 June last, will place Ireland in much better position to combat the potential threats to the integrity of our elections and referendums.

With this in mind, I am proposing amendments No. 142 to amend the Long Title of the Bill in order to provide for the insertion of a new Part 5 in the Electoral Reform Bill. In effect, the amendment to the Long Title is proposed so that the Bill can provide for a regulatory framework to protect the integrity of elections and referendums against the dissemination or publication of online disinformation, online misinformation and manipulative or inauthentic behaviour online. This will allow for the insertion of a new Part 5 in the Bill which will provide for the regulation of the electoral process information online, electoral information and manipulative or inauthentic behaviour to further protect the integrity of elections against online misinformation and online disinformation. These provisions were published by my colleague, the Minister, Deputy Darragh O'Brien, on 10 June last and are also subject to a notification of the European Commission in accordance with the requirements of Directive (EU) 2015/153, that is, the technical regulations information systems notification procedure.

The insertion of a new Part 5 into the Bill and the additional functions assigned to the electoral commission to protect the integrity of our elections and referendums gives rise to a small number of consequential amendments to Part 2 of the Bill. Amendments Nos. 1, 7, 26, 27 and 68 all relate to the consequential amendments, having regard to the insertion of the new Part 5 into the Bill.

At the outset, there is a need to insert a new section 3 into the Bill to provide that the electoral commission may by way of an order prescribe the timeframe for an election campaign period in relation to any election or referendum. In effect, this will allow the electoral commission to bring forward the electoral period to a specific time before the making of a polling day order for the purpose of exercising its functions to protect the integrity of elections under Part

5 of the Bill.

A second consequential amendment relates to section 9(4) of the Bill, which sets out recommendations for the appointment of ordinary members to the electoral commission. This amendment provides that while making recommendations on the appointment of an ordinary member, expertise in information and communications technology and its use in context of election or referendum campaigns will be a desirable characteristic for an ordinary member to have, given its functions in respect to both online political advertising and on preventing the spread of certain types of disinformation, misinformation and inauthentic or manipulative behaviour online.

Third consequential amendment provides for the insertion of a new section 29(1)(i) to Part 2 of the Bill. It provides a new function for the electoral commission to protect the integrity of elections and referendums against the dissemination or publication of online disinformation, online misinformation and manipulative or inauthentic behaviour online, in accordance with provisions of Part 5.

A final consequential amendment relates to the definition of “online platform”, which is already defined in section 118(1) of the Bill in the context of online political advertising. It is proposed to amend the opening line of this definition to provide that an “online platform” means any host, operator or provider of a website. This will ensure that the definition of “online platform” in Part 4 will broadly mirror that provided in the new Part 5 of the Bill, that is, the new section 142.

In respect of Part 5 itself, in order to better understand the principal threats to the integrity of elections and perceptions around the integrity of how elections are conducted, a number of key concepts are set out in the new Part 5, which I will now elaborate on.

First, “disinformation” is defined in the new Part 5 to refer to false or misleading content that is spread with intention to deceive and which may cause public harm. Second, “misinformation” is broadly taken to mean false or misleading content shared without harmful intent, though the effects may still be harmful. Finally, a broad principled approach is taken with regard to the meaning of “manipulative or inauthentic behaviour”, given this type of behaviour is ever-evolving. In this regard, “manipulative or inauthentic behaviour” means tactics, techniques and procedures that: constitute a deceptive use of services or features provided by an online platform, including user conduct, having the object of artificially amplifying the reach or perceived public support of particular content; are likely to influence the information visible to other users of the platform; by reason of their nature, character, context or any other relevant circumstance give rise to the interference that they are intended to result in the dissemination, publication or increased circulation of false or misleading online electoral information; and may cause public harm.

Following on from these broad concepts, the provisions of the new Part 5 will provide the electoral commission with monitoring and investigations functions with regard to the dissemination or disinformation relating to online electoral information and misinformation relating to online electoral process information, as well as functions to prevent manipulative or inauthentic behaviours online. These powers of investigation may be used by the electoral commission or under a new power delegation by its chief executive, authorised officers or members of staff under general direction of and subject to such conditions as may set out by the commission. The new Part 5 will: require online platforms to report possible disinformation, misinformation or manipulative, inauthentic behaviour in the online sphere to electoral commission at the be-

ginning of an electoral campaign period; require online platforms to put in place a notification mechanism for users to report possible disinformation relating to online electoral information and misinformation relating online electoral process information; provide for the establishment of an advisory board to provide advice to the electoral commission on the nature and effect of disinformation and misinformation on the use by the commission of its powers under this Part; provide for the establishment of a stakeholder council to provide advice and opinions to the commission generally and in relation to the preparation and use of codes of conduct under this Part; and provide powers to the electoral commission in respect of its monitoring and investigatory functions, including the power to the chief executive to issue, during an electoral campaign period, a take down notice, a correction notice, a labelling order, an access blocking order or a notice containing a statement that the online content has been affected by unlawful bot activity. An appeal against any of these notices or orders may be made to an appeal panel established by the electoral commission and any person so affected by such a notice or order may also seek relief by way of an application for judicial review. In addition, the new Part 5 will require the electoral commission to consider the impacts of its actions on specified rights under a constitution. It provides that the electoral commission may publish codes of conduct that will be developed in consultation with an advisory board and a stakeholder council. Codes of conduct may be optional or mandatory and may apply to online platforms, candidates at an elections, political parties, third parties and other relevant persons. Further, it provides for offences and penalties for a failure to comply with any of the proposed notices or orders for breach of mandatory codes of conduct, for breaches of the obligations of online platforms, for the dissemination of misinformation and disinformation, and for using a bot to cause or manipulate online presences directed towards influencing elections, misleading persons as to the bot's artificial identify or causing public harm. Offences may be prosecuted summarily or on indictment, depending on the severity of the offence.

On citizens' rights, recent experience across the world demonstrates that many of the most pressing threats to the integrity of democracy and electoral processes are based on harmful techniques for distorting or manipulating public expression. In that context, any measures to counter these threats will likely have some impact on our rights under the Constitution and under the European Convention on Human Rights, in particular, the right to freedom of expression.

*2 o'clock*

However, notwithstanding these rights, it is important to note that the State has also obligations, under both the Constitution and the convention, to support and protect each citizen's right to become informed about his or her democracy in a free and unfettered manner and the right of both citizens and representatives to participate in robust political debate under a fair and equal process. In this regard, the new provisions explicitly require the electoral commission, in considering the exercise of its powers under this part, to consider and give due weight to the right to freedom of expression, the right to freedom of association, the right to participate in public affairs and the obligation of the State to defend and secure the fairness and integrity of elections and referendums. It will be essential that any actions proposed by the electoral commission under this part will pass a proportionality test which will require assessment of a number of key factors, including the nature of the conduct being targeted and the extent to which it threatens election integrity to ensure that such actions are necessary and compatible within our rights under the Constitution and the European Convention on Human Rights.

In conclusion, the insertion of the new Part 5 into the Bill and the additional functions it provides to the electoral commission to protect our democracy against the spread of disinform-



mation, misinformation and manipulative or inauthentic behaviour online will, I believe, place Ireland in a much better position to combat the potential threats to the integrity of our elections and referendums into the future.

**Acting Chairperson (Senator Gerry Horkan):** I thank the Minister of State for his comprehensive response to quite a large block of amendments.

**Senator Seán Kyne:** To be honest, the insertions are a Bill in themselves. There is a lot of information that the Minister of State is adding at this Stage.

To start with, the power to prescribe definition amendment No. 1 states, “The Commission may, by order, prescribe such period as it considers appropriate to be an election campaign period ...”, and the definition, in amendment No. 84, of the “election campaign period”, states “the period commencing 3 months prior to the latest date when an election is required by law to be held and ending when the electoral period ends”. On the one hand, the Minister of State is saying the electoral commission will decide when the period is and on the other hand, he is defining it as “the period commencing 3 months prior to the latest date ...”.

I suppose the issue here is if disinformation or bots are impacting the electoral system they should be regulated, but why would they not be regulated continuously? If there are bots or disinformation targeting a political party - there is only a finite number of those - today, it is not an electoral period. One may argue we are always in an electoral period not defined. We are always preparing or thinking about elections and people are always being influenced from an early date in relation to making their mind up about the next election and who they might vote for. Why define it as only the election campaign? Disinformation, as I said, is wrong during an election campaign. It is equally wrong in the year before the election, two years before the election and three years before the election. I wonder is that something that the electoral commission could consider? Is it something that the Department has considered? Is it as easy to define? To put it simply, if it is wrong during an election campaign period, why is it not wrong a year in advance of that?

**Senator Lynn Ruane:** I am in agreement with Senator Kyne that there is a significant amount of amendments that could, in fact, form legislation in and of themselves. Many of the amendments have been submitted without any real consultation or scrutiny. I suppose there is a concern in that regard.

It is not the Minister of State’s fault but we have only received the groupings of these amendments in the last 15 minutes before coming into the Chamber. With such a large volume of amendments to try and sort to make sure the session is as efficient as possible, it is difficult to receive groupings 15 minutes beforehand to make sure that one is ready walking into the Chamber. That has to be noted. Some leeway should be provided for at least the first part of the session until we manage to get all our own notes into the same format in which we are expected to regarding the groupings.

**Acting Chairperson (Senator Gerry Horkan):** I will give as much leeway as I can.

**Senator Lynn Ruane:** I thank the Acting Chairperson.

Amendment No. 1 states, “The Commission may, by order, prescribe such period as it considers appropriate to be an election campaign ...”. The question needs to be asked as to whether there should be a statutory period prescribed in law for the length of time which will constitute

an electoral period. In addition, how will this impact on the ability of third parties to run advertisements during election periods which are political but are not associated with a referendum or an election taking place?

On the next amendment, which inserts “expertise in information and communications technologies and the application of such technologies in the context of elections and referendums”, my concern is the application of expertise after the fact, that is, that the expertise on the commission will not compensate for an inability to enforce unworkable legislation. The Minister of State might comment on that.

Amendment No. 27 proposes to insert “to protect the integrity of elections and referendums against the ... disinformation ...”, is a highly important one. A number of these amendments were called for during the pre-legislative stage but no work has been done to discuss what is meant by “misinformation” and “disinformation”. My office and perhaps some others have been inundated since they saw these amendments regarding the concerns. Not to be too sympathetic with platforms, I must agree with some of their points in relation to these amendments. The definitions present a *fait accompli* in terms of, for example, how the electoral commission will interact with the Online Safety and Media Regulation Bill 2022. I would be grateful if the Minister of State could tell us how the electoral commission will interact with the media commission. Is there a danger that these functions will somewhat overlap?

I will look at some of the concerns in relation to the misinformation amendments. There seems to be concern that there has been a lack of consultation with stakeholders, including civil society, since these amendments were published. Given the rushed timeline, there appears to have been no consultation with civil society organisations on these proposals since they were published. There certainly has been no consultation with industry, despite repeated calls from, for example, Technology Ireland.

Concerns have been expressed about this Bill will overlap with other Irish laws, in particular, the Online Safety and Media Regulation Bill 2022. There is a clear lack of alignment with planned and existing EU initiatives. For example, the European Commission has recently announced the agreement of a revised code of practice on disinformation which has, I believe, 34 signatories. The legislation is completely out of alignment with that code. The European Commission intends to bring forward an EU-wide regulation on political advertising and this legislation clearly clashes with the European Union’s intention to have a harmonised set of rules across the EU for political advertising and disinformation.

There are also some concerns being raised in relation to the clarity of the definitions. I believe the definitions to be ambiguous in places and arbitrary in others, making it difficult to understand how the electoral commission will be able to balance the rights of all individuals involved in any decision it makes.

There is a lack of impact assessment. There appears to be no impact assessment on how the provisions will impact fundamental rights during electoral periods, no assessment on the volume of material and the electoral commission will be required to review the threshold for platforms to report content to the electoral commission. Given criminal sanctions are involved, platforms will understandably err on the side of caution and report every report they receive to the electoral commission. All political parties will seek advantage by reporting every other political party’s content as potential misinformation. The electoral commission will be inundated with reports.

No provision has been made for the enormous team that the electoral commission would require to have on standby for electoral periods to assess each of the reports that it receives. If the electoral commission is not sufficiently resourced, there will be severe issues of bias in how it selects and prioritises the content it chooses to review, and larger parties and political organisations will be able to capitalise on the system to the cost of smaller groups, minorities and Independents. It appears that the new provisions, especially in relation to electoral disinformation, have been drafted without due regard to the recently agreed digital services Act or the renewed EU code of practice on disinformation.

The amendments relating to electoral disinformation are being proposed at a late stage in this legislative process with, as I stated earlier, little consideration or discussion. The proposed new provisions were drafted without consultation. Pursuant to the EU technical regulations information system, TRIS, notification procedure, the European Commission will be required to examine these proposed new provisions to ensure compatibility with EU law. Recital 9 of the Digital Services Act states:

This Regulation fully harmonises the rules applicable to intermediary services in the internal market with the objective to ensure a safe, predictable and trusted online environment, addressing the dissemination of illegal content online and the societal risks that the dissemination of disinformation or other content may generate, where fundamental rights enshrined in the Charter are effectively protected and innovation is facilitated. Accordingly, Member States should not adopt or maintain additional national requirements on the matters falling within the scope of this Regulation, unless explicitly provided for in this Regulation, since this would affect the direct and uniform application of the fully harmonised rules applicable to providers of intermediary services in accordance with the objectives of this Regulation.

There is a lot of information there. I hope the Minister of State is in a position to respond on those questions and concerns. I thank him for his time.

**Senator Rebecca Moynihan:** I have a query that may not relate to this amendment but does relate to the establishment of the commission and the powers thereof. The preliminary results of the census were published last week and, under current legislation, it is now up to the Government to appoint a boundary commission. Under the proposals in the Bill, the electoral commission will have responsibility for the appointment of a boundary commission and review. I ask for clarification on the procedure for the boundary commission in the context of the preliminary census results published last week. My understanding is that the boundary commission does not need to have the full census results appointed; it can make recommendations based on the preliminary results.

**Acting Chairperson (Senator Gerry Horkan):** That is dealt with in section 6 but I will allow the Senator to keep going. The Minister of State may wish to reply when we are dealing with section 6.

**Senator Rebecca Moynihan:** I am seeking clarity on whether the Minister is going to appoint the boundary commission under current legislation or wait for the electoral commission to be established. I hope that it happens under current legislation. The electoral commission will have a significant body of work ahead of it in terms of its establishment and the ordinary members. I am seeking clarity on how that will happen, given the fact that the census results were published last week.

**Acting Chairperson (Senator Gerry Horkan):** As no other Senators are indicating, I invite the Minister of State to respond.

**Deputy Malcolm Noonan:** I thank the Acting Chairperson. With regard to the queries of Senator Kyne, it relates to the period. It is either the period set by the commission or the three months prior to the last date for an election. I think that explains it. It is restricted to an electoral period as the electoral commission is regulating it. It relates specifically to the electoral period of which the commission will have oversight.

Senator Ruane asked a lot of questions. I will give a general overview in terms of the election integrity provisions in the Bill. She referred to the Online Safety and Media Regulation Bill 2022. There is an overlap with that Bill. There is an overlap between the new Part 5 element of this Bill and the Online Safety and Media Regulation Bill in terms of protecting the processes. The Attorney General has given careful consideration to this in the course of the drafting of the Bill and is happy that the proposals align with the initiative set out at EU level.

As regards the general process and the points made by Senator Ruane in respect of a lack of public consultation, the Minister announced the intention to bring forward these amendments to the Bill. It was published on 30 March and the proposals in respect of Part 5 were published on 10 June. Engagement took place in April and May with the online platforms regarding these proposals.

On the issue of freedom of expression, the proposals provide specific protections in respect of the protection of freedom of expression. In considering the exercise of its powers, the commission must give due weight to the right to free speech. That is an important element of the proposals. In addition, an extensive appeals process is being put in place. For the avoidance of doubt, the provisions provide clarity that judicial review proceedings can be taken. The Attorney General has been at the forefront of providing advice in respect of the provisions. Recommendation No. 39 that came forward from pre-legislative scrutiny specifically called for measures to be included in the Bill along the lines of what we are proposing here in Part 5.

In the context of providing further robustness, it is important to acknowledge that an advisory board will be established, along with a stakeholder council. This is an ongoing and iterative process. It is important. It will take time to get it right. It is not perfect by any means but we are putting in place the correct measures to ensure there is considered input from the public and civil society. I hope that answers those questions.

As regards Senator Moynihan's query, as the Acting Chairperson outlined, the electoral commission will be dealt with in the context of section 6 and the amendments thereto. The electoral commission will carry out the constituency review when it is established. We anticipate it will be established quickly once the legislation is passed.

**Senator Lynn Ruane:** I thank the Minister of State. With regard to the consultation, he stated the intention in respect of the amendments and so on was published in March but the information we received is that, by all accounts, there was no consultation. What form did that consultation take? Was the material just published? What actual engagement took place in terms of consultation?

I refer to two points I made early in my contribution. I know a lot of information came after that. I refer to amendment No. 1 in particular and a statutory period prescribed in law for the length of time that will constitute an electoral period in the context of advertising and so on.

My second question related to third parties. What is the position under the Bill as drafted in respect of something to be political but for it not be related to an election or a referendum? That type of advertising seems to be caught up within the legislation if it falls in an electoral period, even if it is not associated with the election or referendum. How can that be addressed? How can we ensure other civil society efforts that may be happening during an electoral period are not impacted?

**Senator Seán Kyne:** I thank the Minister of State but he did not provide clarity in respect of concerns relating to disinformation and bots today being as relevant today as they are during an electoral campaign period. I ask him to comment on that. Amendment No. 27 refers to protecting the integrity of elections and referendums against disinformation. What about protecting political parties, the political process and candidates, be they Members of this House, the Dáil or the European Parliament or councillors on local authorities? That issue is equally important now and in the two years preceding an election as it is during the election campaign.

To clarify in respect of amendment No. 1, the Minister of State is basically saying that, unless otherwise prescribed by the commission, the campaign period is three months.

**Deputy Malcolm Noonan:** Specifically on the point in respect of public consultation, recommendation No. 39 that came from the pre-legislative scrutiny arose out of engagement. There was extensive engagement.

**Senator Lynn Ruane:** There was no engagement in respect of amendment No. 4. Amendment No. 1-----

**Acting Chairperson (Senator Gerry Horkan):** We are not dealing with amendment No. 4.

**Senator Lynn Ruane:** Sorry, amendment No. 7. One of them. My apologies for interrupting. In the context of amendment No. 1, I do not think that came from pre-legislative scrutiny. I may be corrected on that.

**Deputy Malcolm Noonan:** Is the Senator referring to amendment No. 1, relating to the electoral period?

**Senator Lynn Ruane:** Yes.

**Acting Chairperson (Senator Gerry Horkan):** Senator Kyne also made that point.

**Deputy Malcolm Noonan:** The definition of the election campaign period is here.

It is such period, including an electoral period, as may be prescribed by the commission by order from time to time and in relation to any election or referendum commencing on a date before an impending election or referendum, and ending on polling day at the time at which the polls close, which dates shall be set out in the notice published by the commission, in such a manner as it thinks fit, not less than seven days before the earlier date or the period commencing three months prior to the latest date when an election is required by law to be held, and ending within the electoral period and-or where paragraphs (a) and (b) do not apply to the electoral period. I do not know if I have clarified the matter.

On the points raised by Senator Ruane, I think she referred to public consultation with civil society organisations. Am I correct?

**Senator Lynn Ruane:** Yes.

**Deputy Malcolm Noonan:** Extensive public consultation took place at the PLS stage. I think that the Oireachtas joint committee went above and beyond in its efforts to engage with civil society organisations. It was an important part of that process and the recommendation around these measures came specifically from the PLS report.

**Senator Lynn Ruane:** How does the amendment affect people or third parties that run political advertisements that are not related to the electoral period?

**Deputy Malcolm Noonan:** Does the Senator mean political advertisements that are not related to an election?

**Senator Lynn Ruane:** Yes. I have interpreted amendment No. 1 to mean that it bans political advertising during an election period and has an impact on political advertisements.

**Deputy Malcolm Noonan:** Again, it is down to the commission to determine that. If the political advertisement is not related to a specific election or referendum period, then I think that it falls outside the scope of this provision.

**Senator Lynn Ruane:** Yes.

**Deputy Malcolm Noonan:** Senator Kyne expressed his concern about the protection of political parties. The overall thrust of this Bill is to protect the integrity of the electoral system, including political parties. The Bill seeks to support political parties to be in a space where they can be active and campaign in a manner that is appropriate while allowing them the space to campaign on their issues specifically for elections. In that regard, the Bill and the establishment of the commission to oversee electoral processes, and the integrity of the electoral system, will over time improve the strength of the political system.

**Senator Seán Kyne:** This area must be kept under constant review. The provision is welcome during the defined period. Certainly one can have a set period for local and European elections and we have a good idea when they will take place. The date when a presidential election will take place will be known in advance as well. We have an idea when a general election might happen but we cannot say for certain. One cannot define a three-month period in advance of a Government collapse when one does not know when that will happen. In terms of targeting disinformation bots and protecting the political system, it is necessary to keep this area under review in future legislation or within the work of the commission.

**Senator Mary Fitzpatrick:** I support what Senator Kyne said about timing, in particular the monitoring of online activity. We live in a 24-7 world and social media is in everybody's pockets or palms nearly every waking moment of the day. The electoral process is not one that is isolated to the 12 opening hours at a polling station. It is an ongoing iterative process every single day, so we should adopt a stop-start approach to this. We need to adopt a rolling continuous approach for the monitoring and management of online activity as it relates to our democracy and electoral system. There is nothing more precious than democracy and it is under constant attack. Therefore, it would be naive of us to think that we could set up a commission and limit its activities to specified or prescribed periods. I urge the Minister of State and the Department to consider the issue, and let us consider it before we complete this legislation.

**Deputy Malcolm Noonan:** I support what both of the Senators said. I reiterate that this

provision is not about legitimate forms of advertising. It is about disinformation and misinformation specifically during an election period. A complementary piece of work is being done on the online space.

In terms of a broader approach to the establishment of the commission, and the commission's role in strengthening the democratic processes, including public participation, awareness and inclusion in the political system in a broader sense, over time that will address many of the wider issues around the public's awareness of what is disinformation or misinformation. With this Bill, we are trying to achieve an electoral system that has integrity while ensuring the public are well informed, and ensuring people can make informed decisions about their electoral choices and participate fully in the electoral system. If the Senators look at the entire Bill they will discover that we are trying to strengthen the democratic system, which will allow people to make informed choices around voting and participate fully in the democratic system.

**Acting Chairperson (Senator Gerry Horkan):** As there are no further contributors, I will press the amendment.

**Senator Lynn Ruane:** Votáil.

Amendment put:

The Committee divided: Tá, 21; Níl, 4.	
Tá	Níl
Ardagh, Catherine.	Flynn, Eileen.
Blaney, Niall.	Hoey, Annie.
Boyhan, Victor.	Moynihan, Rebecca.
Boylan, Lynn.	Ruane, Lynn.
Buttimer, Jerry.	
Byrne, Malcolm.	
Casey, Pat.	
Conway, Martin.	
Currie, Emer.	
Davitt, Aidan.	
Dolan, Aisling.	
Dooley, Timmy.	
Fitzpatrick, Mary.	
Gallagher, Robbie.	
Horkan, Gerry.	
Keogan, Sharon.	
Kyne, Seán.	
McGahon, John.	
Ó Donnghaile, Niall.	
O'Reilly, Pauline.	
Ward, Barry.	

30 June 2022

Tellers: Tá, Senators Seán Kyne and Robbie Gallagher; Níl, Senators Lynn Ruane and Eileen Flynn..

Amendment declared carried.

Sections 3 to 7, inclusive, agreed to.

## SECTION 8

**Acting Chairperson (Senator Gerry Horkan):** Amendments Nos. 2 to 6, inclusive, 8 and 9 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 2:

In page 17, line 7, to delete “2” and substitute “3”.

Amendment No. 2 is a consequential amendment to amendment No. 5, which seeks to clarify that with the addition of the Clerk of Seanad Éireann to the electoral commission, there would be three *ex officio* members of the commission.

Amendment No. 4 seeks to clarify that the chairperson of the electoral commission may not be the Chief Justice. I can see from the way this section is worded that it is clearly not the intention of the Government that the Chief Justice would serve as chairperson, given that he or she is in the position of nominating the first chairperson. For clarity, it is important that we specify that the Chief Justice cannot occupy that role, as it is not clear that he or she may not nominate himself or herself under this section. Again, I do not believe this is intentional but my amendment seeks to clarify that it is the case that the Chief Justice cannot serve as chairperson. The Minister of State may be able to offer clarity on this.

Amendment No. 5 is the first in a series of amendments that seek to address the Seanad in this legislation. I will be honest in saying it is incredibly disheartening to see nothing about Seanad reform in this Bill. In his response to the Second Stage debate on the Seanad Bill 2020 introduced by my colleagues, Senators McDowell and Higgins, the Minister of State, Deputy Noonan, asked that more time be given to advance work on this legislation and said that proper consideration of that proposal would be forthcoming. That has not happened. I will speak further to this issue with later amendments but I will say that the Clerk of Seanad Éireann performs a separate function to the Clerk of the Dáil and should be an *ex officio* member of the electoral commission. Despite all the attention elections for the Dáil receive, elections for this House take place and should be widened so everyone has a right to vote. It should be the case that the Clerk of this House should be a member alongside the Clerk of the Dáil. I urge the Minister of State to accept the amendment.

Amendment No. 6 seeks to amend the criteria that the Public Appointments Service must consider when recommending someone for appointment to the commission. The amendment would insert expertise in the promotion of participation in either Irish or international electoral systems as a desirable quality in a candidate for appointment to the commission. The total election turnout in the 2020 general election was 62.9%. This is not high enough and not enough people in Ireland are engaged in the political system. I want to be clear that participation does not just mean voting; it means engagement with politicians on issues that people care about and challenging us here in these Houses to represent people. It means encouraging people excluded from the political system to run for election and to be empowered to participate in elections.



We need someone with this sort of expertise on the commission and I encourage the Minister of State to accept this amendment.

Amendment No. 9 would insert a new subsection into section 9 requiring that where recommending to the Government persons for appointment as ordinary members of the commission, the service shall have due regard to obligations under section 42 of the Irish Human Rights and Equality Act 2014 and the United Nations Convention on the Rights of Persons with Disabilities. We have complementary amendments that refer to the Equality Acts when making appointments and the core of what we are trying to get at here is that when the service is making appointments, it must think about equity and reflect public sector duty obligations. The electoral commission must be diverse and properly reflect Irish society. If we do not do this, we will continue to have an inequitable political system.

I urge the Minister of State to accept this amendment. It is relatively straightforward in that it names existing legal obligations but it is important that we name them explicitly and put in the legal obligations so that they are reflected in the process.

**Senator Eileen Flynn:** Two years ago I stood in front of the Minister of State in the Dáil Chamber and spoke about diversity and inclusion in our Parliament. Senator Ruane has spoken about amendment No. 5, which is tabled because the Bill does not address Seanad elections. As part of the Civil Engagement Group and as ordinary citizens, we believe the Seanad should be reformed to meet the needs of the people. It should be the people's House, as I said even going back two years ago.

I am disappointed that the Bill does not speak enough about people from ethnic minority groups and inclusion in the electoral system. It is really important. I am a Member of this House and from an ethnic minority group. The Seanad has been running for 100 years and yesterday I did an interview where one of the questions was about whether it had "equal" debates. It clearly cannot have "equal" debates when the majority of Members are from Government parties.

We cannot pass an electoral reform Bill unless it is inclusive. I understand great work has been done with these amendments but much better work must be done. As my colleague said in referring to amendment No. 1, we should ask the people on the street what they want from their Parliament. Such motivation seems to be missing from many sections of the Bill.

I ask the Minister of State to ensure the Government not only considers amendment No. 9 but also implements its provisions. It should also implement the provisions of amendment No. 5. It will be a long evening and this is not the last time I will speak to amendments relating to equality and diversity. This House is the people's House. It must include people with disabilities, Muslim people and people from all walks of our society. Ireland has changed in the past 100 years and so has its communities.

**Senator Lynn Ruane:** I am coming back in because I have just realised that in my ordering of my amendments, I missed amendments Nos. 3 and 8, which are part of this grouping. Amendment No. 3 reads:

In page 17, between lines 8 and 9, to insert the following:

“(2) Of the ordinary members of the Commission, not less than 2 shall be women, and in circumstances where there are 6 whole ordinary members, not less than 3 of them

shall be women.”.

The purpose of this amendment is to ensure a minimum level of representation of women among the membership of the electoral commission. As drafted, the provisions relating to the membership of the commission do not refer to the need for the achievement of greater gender equality or parity in State bodies and on State boards. This amendment would insert a new subsection in section 8, which sets out minimum levels of representation of women among the ordinary membership of the commission. A legislative precedent exists for this amendment in the legislation that established the Irish Human Rights and Equality Commission in 2014.

We tabled a similar amendment on Committee Stage of the Online Safety and Media Regulation Bill, which sought to set out minimum levels of representation of women in the proposed media commission. That amendment was not accepted on foot of the concerns of the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin, that the provisions might be contrary to employment law, given that the commissioner posts are to be advertised and filled individually in the case of the proposed media commission. The amendment in this instance takes account of the feedback the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media provided during consideration of the Online Safety and Media Regulation Bill. The amendment sets out minimum requirements in respect of the ordinary members of the proposed electoral commission only, which, presumably, will be filled during the same competition.

I am sure we are all in agreement on the need for greater equality in respect of the representation of women and non-binary and intersex persons in all sectors, but especially in political life. We absolutely need this on the public-facing side of politics, but it is critical that representation within the body which will have oversight of the conduct of elections and referendums in the State is good from the outset.

According to the World Economic Forum’s 2020 report on the global gender gap, it will take 99 years for the gender gap to be closed at the current pace of change. We need to be more aggressive in addressing gender imbalance in our workplaces and in public life if we wish to see that gap closed in our lifetimes or the lifetimes of our children. Accordingly, I hope the Minister of State will accept amendment No. 3.

Amendment No. 8 reads:

In page 18, between lines 29 and 30, to insert the following:

“(g) matters connected with human rights and equality, and

(h) without prejudice to the generality of *paragraph (g)*, matters connected with persons, or classes of persons, who are disadvantaged by reference to the following factors, which take their meaning from section 2 of the Employment Equality Act 1998:

- (i) gender;
- (ii) civil status;
- (iii) family status;
- (iv) sexual orientation;

- (v) religious belief;
- (vi) age;
- (vii) disability;
- (viii) race, including colour, nationality, ethnic or national origin;”.

The purpose of this amendment is to ensure greater diversity, as Senator Flynn outlined, in the make-up and perspectives of the proposed electoral commission in addition to an understanding of human rights and equality matters. As drafted, the Bill provides only that the Public Appointments Service should have regard to the desirability of ordinary members having knowledge of or experience in electoral matters, electoral systems, public administration and governance, financial matters and advertising. It is important that the commission is both reflective and understanding of the diversity of Irish life and society and has a good grasp of the implications of its powers for human rights, equality and civil liberties in Ireland. The commission will have a wide range of functions, including explaining referendums and electoral processes to the public. Importantly, the commission will also have responsibility for encouraging public participation in the electoral and democratic processes of the State. Persons who possess a knowledge and understanding of disenfranchisement are best placed to provide advice on addressing it. We need to engage more people, and different types of people, in the electoral process and in political life more generally. Politics is everybody’s business, but the reality is that many people feel like politics is not for them. When I say use the term “not for them”, I am not talking about their own interest; I mean they do not feel seen or heard by elected representatives or in political spaces.

If we are serious about change, having knowledge and understanding of diversity and inclusion at the level of the electoral commission is critical. There is an expression I heard recently, “Nothing about us without us”, and it is worth bearing the sentiment of that expression in mind when we consider the variety of perspectives on the proposed electoral commission. A legislative precedent for this amendment exists already in the Irish Human Rights and Equality Commission Act 2014, which provides that minorities and minority interests are represented in the membership of the Irish Human Rights and Equality Commission. It is really important that a similar provision is made in this legislation, and I hope the Minister of State will agree.

**Senator Seán Kyne:** I support the sentiment behind all that has been expressed. Having been a member of the previous Government, I know that there was a concerted attempt to ensure more equality in the appointment of members of State boards, for example. Ministers and Secretaries General were always very much conscious of the need to ensure that if three or four appointments to a State board were to be made, there would be at the very least a 50-50 gender balance. That is important. There is a recognition within the Government that this is absolutely necessary, including in the appointment of judges, where we also see gender balance reflected. While all of that is absolutely relevant to the commission, it is relevant also to the wider area of State boards. Perhaps the Minister could consider enshrining some of these issues in a piece of legislation on appointments to State boards, including the board of this commission. That would be a good piece of work.

**Deputy Malcolm Noonan:** Before I respond to the proposed amendments, I will make a general point. Throughout the course of this Bill the Government has made great efforts to ensure that, in the establishment of this commission, its core work will be on public participa-

tion and inclusion. Certainly, during the pre-legislative scrutiny phase, the range of organisations that came in, spoke about and contributed to that really important part of the process was reflective of what we are trying to achieve with the commission, which is about participation, diversity, inclusion and ensuring that the Seanad, the Dáil and our council chambers are more reflective of the people who live here. That is something we all want to achieve and I think Senators Flynn and Ruane will appreciate that. I think there is a fantastic opportunity with the establishment of the commission to achieve that. The Minister, Deputy Darragh O'Brien, and I, throughout this process, have been very clear that that is what we want to achieve from this. The core part of the commission's work will be about promotion of and participation in elections, the research element of this and education, which is a huge part of it. I give that commitment to Senators Flynn and Ruane. I know that both of them are deeply committed to the same values we all want to achieve from this. I stress that there is, I think, a great opportunity to transform our democratic system by participation and by people being included at every level. I give an assurance in that regard. I thank the Senators for tabling these amendments.

Amendments 2 and 5 seek to increase the number of *ex officio* members of an coimisiún from two to three, with the additional position occupied by the Clerk of the Seanad. Senators will be aware that the general scheme of the Electoral Reform Bill included the Clerk of the Seanad among the membership of an coimisiún. However, since the Clerk of the Seanad has a role in the administration of electoral events, acting as returning officer for Seanad elections, I am of the view, given an coimisiún toghcháin's regulatory positioning, that it is best that a separation is maintained between the administration and the regulation of electoral events. Therefore, the Clerk of the Seanad is not included in the membership of an coimisiún in the Bill, notwithstanding the experience and expertise which he or she would bring to an coimisiún. In light of this, I am not in a position to accept these amendments.

Amendment No. 3 specifies a requirement for a 50% gender balance among an coimisiún's ordinary members. The relevant section of the Bill sets out that where recommending persons for appointment as ordinary members of an coimisiún, the Public Appointments Service shall, insofar as is practicable, endeavour to ensure that among the ordinary members there is an equitable balance between men and women. Having regard to fact that an coimisiún requires a wide range of skills and experience in order to carry out a broad array of specialised functions, I do not intend to make this provision more restrictive as to do so could militate against an coimisiún's ability to get the requisite skills and experience on board. The provision in this regard is in line with those set out in section 16 of the Department of Public Expenditure and Reform's Guidelines on Appointments to State Boards, which specifies a target of at least 40% representation of each gender on State boards.

*3 o'clock*

Amendment No. 4 relates to section 8(3)(c) of the Bill which requires that, in nominating a chairperson for an coimisiún, the Chief Justice will consult with the President of the Court of Appeal where he or she is proposing to appoint a judge of the Court of Appeal. While I am not entirely clear on the intention of the amendment due to its wording, I am of the view that it may be aiming to remove the need for the Chief Justice to have to consult with the President of the Court of Appeal if the President of the Court of Appeal is the Chief Justice. If this is the case, I do not intend to accept the amendment. Under Article 14.2.2° of the Constitution, the role of Chief Justice is exercised by the President of the Court of Appeal. I am satisfied with the provisions as set out and I do not propose to amend them.

Amendments Nos. 6 and 8 seek to add new criteria of expertise and experience for the Public Appointments Service, PAS, to have regard to when selecting ordinary members of an coimisiún. These include expertise in the promotion of participation in either Irish or international electoral systems and expertise in matters connected with human rights and equality. While I appreciate the importance of these skill sets, I do not propose to accept this amendment for the following reasons.

First, I am of the view that some of the skills and experience set out in amendment No. 6, regarding expertise in the promotion of participation in electoral systems, are appropriately addressed through existing categories which are specified in this section under category (a) “electoral matters, including any experience or expertise gained as a former member of the Houses of the Oireachtas or a local authority” and category (f) “advertising and publicity, in particular in relation to the digital aspects of a political campaign”.

Second, in respect of both amendments, I am satisfied that there are a range of avenues, in addition to an coimisiún’s ordinary members, for an coimisiún to bring on board the skill sets it may require in order to carry out its functions effectively. In this regard, section 14 provides for an coimisiún to establish committees to advise and assist it. Such committees may include external members. Section 15 empowers an coimisiún to appoint consultants and advisors, as may be required. Particular skills and experience can also be brought on board through the staffing of an coimisiún, which is addressed in section 16.

Amendment No. 9 would require the Public Appointments Service to have due regard to its obligations, under section 42 of the Irish Human Rights and Equality Commission Act 2014, to the need to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and protect the human rights of persons in the course of running the requisite selection competitions. PAS is a key participant in the Government’s comprehensive employment strategy for people with disabilities, which is an all-of-government approach to supporting persons with disabilities in addressing barriers and challenges that can impact on such persons entering employment and participating in selection processes.

The Commission for Public Service Appointments’ Code of Practice: Appointment of Persons with Disabilities to Positions in the Civil Service and Certain Public Bodies sets out the principles and standards to be applied in the recruitment of persons with disabilities, which are applied by PAS and are subject to audit by the Commission for Public Service Appointments, CPSA. The Public Appointments Service’s obligations under section 42 of the Irish Human Rights and Equality Commission Act 2014 are well covered in legislation and are integrated into its plans and processes. As such, I do not intend to accept this amendment.

**Senator Lynn Ruane:** I thank the Minister of State for his response. I refer to amendment No. 4 and the interpretation and understanding of the Chief Justice’s role. As far as I understand it, we have written the amendment to ensure that the Chief Justice cannot serve as the chairperson of the commission. I will recap briefly on this.

I can see from the way the section is worded, that it is clearly not the intention of the Government that the Chief Justice would serve as the chairperson given that he or she would be in the position to nominate the first chairperson. For clarity, it is to ensure that if the Chief Justice is in a position to nominate the first chairperson, he or she cannot nominate himself or herself to be the chairperson. Perhaps there is a misunderstanding in how we are reading it. When we come to that amendment, perhaps I will withdraw and revisit it.

I refer more generally to the latter amendments in this section. Even with the best intentions in talking about including advisors to committees, we always try to emphasise the importance of diversity not being an add-on and not being something that is tapped into for consultation. It is not just about people's experiences and life, it is about their solutions and ideas, and they do have the expertise. Many communities rule themselves out of the process before it begins because they do not see themselves in those spaces, such as the commission. I sometimes worry when there is a return to phrases such as "but we cannot limit ourselves in being able to access the expertise that is needed". It almost comes with an unintended assumption that the expertise does not exist if a reference to too much diversity is made. I know that is not necessarily the intention, but it feels like it is being closed down and that the expertise does not exist in those types of communities. It very much does exist but we do not always see it.

Sometimes, communities need to be targeted and invited into the space. They need to be included in the process from the offset because, often, they do not look at the PAS website, *publicjobs.ie*, or envisage themselves in those roles even though they may have the expertise and are carrying it out on a local level, such as social entrepreneurship. They might be involved on different boards and in communities but they do not engage.

The expertise does exist and that is why we must explicitly reference such groups in legislation. The onus is on us not to say that these positions are open to everyone to apply. They are not because they do not go on people's radars. People do not see them because they do not check the websites these positions are published on. They do not know anyone in those roles. They do not have a friend in the Oireachtas or a commission to ask them if they saw the role that came up and tell them that they would be suited to it. They do not have the capital that exists in knowing there is a role that they are fully skilled for and would be amazing at. That message never gets to them.

We should include and outline, explicitly, the types of people and diverse groups that must be targeted, like the Irish Human Rights Commission which strives for equality. We sometimes see equality as advertising a position and saying that it is open to everyone to apply, and somehow meets a bar that is set. However, we should always look through the requirements of equity and consider the efforts we need to make to ensure not just front-facing politics but every strand of political decision making and electoral politics is impacted and enhanced by the representation outlined in the amendments that name the different groups which this legislation, this commission and every other board and State organisation should be targeting. That is on us and we will not do that unless we are explicitly told to.

**Senator Eileen Flynn:** I welcome the Minister of State's commitment to including diversity and equality. How can we have another commission without inclusion? I do not mean this in any disrespectful way, but as the only person from an ethnic minority group in the Seanad and speak about the importance of including people from ethnic minority groups, not just the Traveller community but young people and those with disabilities etc. for the Government not to accept even one of our amendments is disheartening.

I know the Minister of State's heart is in the right place when it comes to equality and diversity, but we have to hold ourselves to account as legislators. We have to write it into our policies and make changes going forward. It must be there in black and white, so that we can implement it as public representatives.

As well as talking the talk, Senators, Deputies and Ministers need to be able to walk the

walk and bring people and communities with us and open up the doors. As Senator Ruane said, sometimes we have to give people a hand up - not a hand out - and an invitation to be part of commissions and boards going forward. I do not know of one judge who is a member of the Traveller community. My experience of judges has been negative, to be frank. I do not know of any Travellers in such a position. We sit on shitty old boards of management and are told we are part of this now but we are not part of it; we are still outside of it. Today was an opportunity to include us all. Unfortunately, the Government was not in a position to accept our amendments. Hopefully, some of our amendments could be included going forward. I will hold the Minister of State to account when he says that even though he cannot accept our amendments, he will work around inclusion and equality.

**Deputy Malcolm Noonan:** I thank Senator Ruane for agreeing to withdraw amendment No. 4. I would add that the role of the Chief Justice in recommending a judge of the superior courts has been well established in relation to codes, including the provisions of the Electoral Act 1997 relating to constituency commissions, for many years. Again, however, I welcome that.

I will make a general point regarding the overall approach and the commission's potential around the participation and inclusion of minorities in our electoral system. We have given a significant political commitment to ensure that the commission will have a strong public role to ensure that the research and advisory work it carries out, as well as the promotion of our political system, will be wholly inclusive and will try to bring in minorities. If the commission were to carry out research on, for example, barriers to migrants participating in our electoral system, it is envisaged that were a committee to be established, the Immigration Council of Ireland and other organisations would be involved in that.

On Senator Flynn's point around the Traveller community, there is an important role for the commission to play here. We are probably homing in on the membership of the commission itself and not focusing on what the commission can actually do. We are seeing in other jurisdictions that a commission can be transformative in carrying out research, in making recommendations to legislators and in ensuring that there is that bottom-up work that Senator Flynn has spoken about. That involves capacity building at a community level. There are other elements of support that need to happen from a community development perspective to ensure that people are included in decision-making tables at every level of society.

It is a general comment but I want to give an assurance that throughout the passage of this Bill, I have been keen to point out that we see a significant role for the commission to play in transforming our political system to include everybody, including young people and people from minority backgrounds, in our political system. This will transform how we as politicians engage in that as well. I hope I gave an assurance in that regard.

**Senator Lynn Ruane:** I am not underestimating the role that the commission can play. I appreciate the Minister of State's assurances and I do not question them at all. The Minister of State mentioned that the commission will carry out research and that will include certain organisations or minority groups. They would advise or they would be present at decision-making tables. My issue is that they should be the decision-making table. It should not be the case that when research is being carried out by the commission, such research is targeted at different groups. Instead, if the commission was diverse enough, they would make up the commission. The commission should not empower them or engage with them. They actually would be the commission. That is the part that we keep missing when we set up any body, function or arm of

the State. We all endeavour to be inclusive. I believe most people want to be inclusive. Most people will naturally have blind spots in that, because of their position in life, where they have come from or how they have lived. A commission may be made up of exceptional members who truly believe in inclusivity and who want to carry out research to enhance the roles of all those groups. Yet, if that committee is made up of the same types of people, it will always fall short. It will accidentally fall short. I am not saying that it is trying to fall short. We should be endeavouring to make sure that the make-up of the commission is diverse. It should not be the case that merely the role that it implements or the efforts that it makes in society are diverse and inclusive. The commission itself should be that.

Amendment put and declared lost.

**Senator Lynn Ruane:** I move amendment No. 3:

“In page 17, between lines 8 and 9, to insert the following:

“(2) Of the ordinary members of the Commission, not less than 2 shall be women, and in circumstances where there are 6 whole ordinary members, not less than 3 of them shall be women.””

Amendment put:

The Committee divided: Tá, 10; Níl, 17.	
Tá	Níl
Boyhan, Victor.	Ardagh, Catherine.
Boylan, Lynn.	Blaney, Niall.
Flynn, Eileen.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Malcolm.
Hoey, Annie.	Casey, Pat.
Keogan, Sharon.	Conway, Martin.
Moynihan, Rebecca.	Currie, Emer.
Mullen, Rónán.	Davitt, Aidan.
Ó Donnghaile, Niall.	Dolan, Aisling.
Ruane, Lynn.	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	Murphy, Eugene.
	Ward, Barry.

Tellers: Tá, Senators Lynn Ruane and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

**Senator Lynn Ruane:** I move amendment No. 4:



*Seanad Éireann*

In page 17, line 18, after “Court” to insert “other than the Chief Justice”.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 5:

In page 17, between lines 26 and 27, to insert the following:

“(c) the Clerk of Seanad Éireann or, where that office is vacant, the Clerk Assistant of Seanad Éireann.”.

Amendment, by leave, withdrawn.

Section 8 agreed to.

SECTION 9

**Senator Lynn Ruane:** I move amendment No. 6:

In page 18, between lines 24 and 25, to insert the following:

“(d) expertise in the promotion of participation in either Irish or international electoral systems;”.

Amendment, by leave, withdrawn.

Government amendment No. 7:

In page 18, between lines 27 and 28, to insert the following:

“(f) expertise in information and communications technologies and the application of such technologies in the context of elections and referendums;”.

Amendment put:

The Committee divided: Tá, 23; Níl, 7.	
Tá	Níl
Ardagh, Catherine.	Boyhan, Victor.
Blaney, Niall.	Flynn, Eileen.
Boylan, Lynn.	Hoey, Annie.
Buttimer, Jerry.	Keogan, Sharon.
Byrne, Malcolm.	Moynihan, Rebecca.
Casey, Pat.	Mullen, Rónán.
Conway, Martin.	Ruane, Lynn.
Currie, Emer.	
Davitt, Aidan.	
Doherty, Regina.	
Dolan, Aisling.	
Fitzpatrick, Mary.	
Gallagher, Robbie.	
Gavan, Paul.	

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Horkan, Gerry.	
Kyne, Seán.	
Martin, Vincent P.	
McGahon, John.	
Murphy, Eugene.	
Ó Donnghaile, Niall.	
O'Reilly, Pauline.	
Seery Kearney, Mary.	
Ward, Barry.	

Tellers: Tá, Senators Seán Kyne and Robbie Gallagher; Níl, Senators Lynn Ruane and Rebecca Moynihan.

Amendment declared carried.

**Senator Lynn Ruane:** I move amendment No 8:

In page 18, between lines 29 and 30, to insert the following:

“(g) matters connected with human rights and equality, and

(h) without prejudice to the generality of *paragraph (g)*, matters connected with persons, or classes of persons, who are disadvantaged by reference to the following factors, which take their meaning from section 2 of the Employment Equality Act 1998:

- (i) gender;
- (ii) civil status;
- (iii) family status;
- (iv) sexual orientation;
- (v) religious belief;
- (vi) age;
- (vii) disability;
- (viii) race, including colour, nationality, ethnic or national origin.”.

Amendment put:

The Committee divided: Tá, 9; Níl, 21.	
Tá	Níl
Boyhan, Victor.	Ardagh, Catherine.
Boylan, Lynn.	Blaney, Niall.
Flynn, Eileen.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Malcolm.
Hoey, Annie.	Casey, Pat.

Keogan, Sharon.	Conway, Martin.
Moynihan, Rebecca.	Currie, Emer.
Ó Donnghaile, Niall.	Davitt, Aidan.
Ruane, Lynn.	Doherty, Regina.
	Dolan, Aisling.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	Murphy, Eugene.
	O'Loughlin, Fiona.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

Tellers: Tá, Senators Malcolm Byrne and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

**Senator Lynn Ruane:** I move amendment No. 9:

In page 18, between lines 33 and 34, to insert the following:

“(6) Where recommending to the Government persons for appointment as ordinary members of the Commission, the Service shall have due regard to obligations under section 42 of the Irish Human Rights and Equality Act 2014 and the United Nations Convention on the Rights of Persons with Disabilities.”.

Amendment, by leave, withdrawn.

Section 9, as amended, agreed to.

## SECTION 10

**Senator Lynn Ruane:** I move amendment No. 10:

In page 19, to delete lines 29 and 30.

Amendment No. 10 is a simple enough amendment proposing to delete lines 29 and 30. The purpose of this amendment is to edit the conditions for reappointment of an ordinary member to the Electoral Commission at the conclusion of his or her term. The Bill currently provides that an ordinary member is eligible for reappointment after the conclusion of either a three or four year term. The conditions for reappointment state that it is not necessary for the person to participate in a selection competition, be recommended for reappointment by the Public Appointments Service, PAS, or be recommended for reappointment following the passing of a resolution by both Houses of the Oireachtas. It seems important that the Oireachtas should continue

to have oversight of these appointments irrespective of whether they are first-time appointments or reappointments. These amendments, therefore, seek to delete the last of these provisions from the Bill and would make it so that a person seeking reappointment to the commission would still need to be recommended for appointment following the passing of a resolution by both Houses of the Oireachtas. In circumstances where someone is seeking reappointment to the commission, it strikes me that it would be especially beneficial for the Oireachtas to have the opportunity to evaluate the performance by members of their functions, as set out in this Bill, before agreeing whether the member would be reappointed for a further term.

**Deputy Malcolm Noonan:** This proposed amendment, which has been put forward by Senators Ruane, Higgins, Black and Flynn, relates to section 10(5) of the Bill, which applies to the reappointment of ordinary members of the commission. The Bill currently states that when a person is being reappointed, it will not be necessary for him or her to participate in a selection competition undertaken by the Public Appointments Service nor to be recommended for reappointment following the passing of supporting resolution by each House of the Oireachtas. This amendment sets out to delete the latter provision so that supporting resolutions would be required of both Houses in order for a reappointment to take place. In my view, the initial appointment of an ordinary member gives the Houses of the Oireachtas an opportunity to consider the suitability of a candidate for appointment to the commission having regard to his or her character, skills and experience. I do not believe that a further endorsement by the Oireachtas is necessary. As such, I will not be supporting this amendment.

**Senator Lynn Ruane:** I understand that on the first appointment and the process a person has already gone through with regard to his or her experience, character and so forth. In terms of creating another term, it is not only then based on the experiences a person entered the commission with but on his or her performance and role within the commission for the years he or she has been there. There should be at least some oversight or some sort of mechanism whereby a reappointment would be passed. It is a long time to be in a role to just be reappointed without any sort of oversight or insight into the role the person has played. It is not to question in any shape or form a person's experience or character when he or she first went through the selection committee but we need to evaluate and review someone's role before an automatic reappointment if he or she has been in it for five years.

**Deputy Malcolm Noonan:** Again, I do not see a necessity for this amendment so I will not be supporting it.

Amendment, by leave, withdrawn.

Section 10 agreed to.

Sections 11 and 12 agreed to.

### SECTION 13

**Senator Lynn Ruane:** I move amendment No. 11:

In page 21, line 10, to delete "may publish," and substitute "shall make publicly available".

Amendment No. 11 is a simple amendment that aims to make sure that the Electoral Commission would make publicly available on its website the records of the agendas of its meetings,

any papers relating to those meetings and the reports of those meetings. It is hugely important that the work of the commission is transparent and accessible to the public. Opening the doors to the work of the commission would provide an opportunity for the public to learn about its work and develop trust between the public and this important public body.

It seems especially pertinent in the age of misinformation that these records would be made available, particularly as they relate to the conduct of elections in the State. We know from looking at other jurisdictions that trust in electoral processes is being eroded. We need to do everything in our power to ensure this does not occur in our own jurisdiction. While the Bill currently provides that the commission may publish these records, it is important to mandate that it does so at regular intervals. I hope the Minister of State will agree.

**Deputy Malcolm Noonan:** I thank Senators Ruane, Higgins, Black and Flynn for this amendment, which seeks to amend the existing provision in order that the commission be required to make publicly available all of its meeting documents.

*4 o'clock*

It is not advisable to place a blanket requirement on the commission to publish all of its meeting documents as certain meeting documents may relate to sensitive matters on such issues as staffing and ongoing investigations under Parts 4 or 5. It is appropriate that some discretion be given to the commission in this regard and, as such, I will not be supporting this amendment.

Amendment, by leave, withdrawn.

**An Cathaoirleach:** Amendments Nos. 12 and 28 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 12:

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

“(d) progress regarding the wholesale review of the Electoral Act 1997, including the review of its provisions relating to political funding, until such a time as that review is complete.”

The wording of the amendment is as outlined. Amendment No. 12 relates in large part to amendments Nos. 28, 67 and 69, in that it is aimed at reviewing the Electoral Act 1997 as it relates to political funding. Amendment No. 28 specifically provides that the electoral commission be expediently charged with the review of the Electoral Acts upon its establishment. As amendments Nos. 12 and 28 are closely related, they should be considered together.

Unfortunately, amendment No. 12, as drafted, contains an error in the relevant page number and should, therefore, be withdrawn at this stage. The amendment should instead be inserted in page 29, in the section which sets out the provisions relating to annual reporting of the electoral commission. I will speak briefly to the spirit of the amendment before I withdraw it, with the agreement of the House. I will then resubmit it on Report Stage without the error.

The Electoral Reform Bill as a whole provides us with a once-in-a-generation opportunity to amend our electoral laws. Additionally, it provides a rare and important opportunity to address and clarify the existing definition of “political purposes”, which is contained in the Electoral Act 1997, as amended. I will defer in-depth discussion regarding the need to amend the defini-

tion of “political purposes” in the Electoral Acts until later in the debate, but the anomaly that exists between the regulation of the campaigns of politicians and the normal everyday advocacy and community-led campaigning that takes place throughout the country must be addressed. Unfortunately, however, the Bill does not address or clarify this matter.

My colleague, Deputy Cian O’Callaghan, tabled a similar amendment to my amendment No. 67 during the Dáil consideration of the Bill. Deputy O’Callaghan’s amendment was inspired in large part by my Electoral (Civil Society Freedom)(Amendment) Bill 2019, which I first introduced to this House in 2019, with the aim of amending the definition of “political purposes” in the Electoral Act 1997. The Minister advised during the course of the Dáil debates that he would not accept Deputy O’Callaghan’s amendment given that it is proposed that the wholesale review of the Electoral Acts would be a matter for the yet to be established electoral commission, including its provisions regarding political funding and donations.

Personally, I have major concerns about deferring such an important issue to the electoral commission, not because I believe the electoral commission will not do a satisfactory job or make the correct recommendations in the course of its review, but rather because it means further delay in addressing this anomaly. When I began drafting my Private Members’ Bill, we had a number of meetings with the then Minister, Eoghan Murphy, and his departmental officials. I am now proposing to address this matter in the current Bill. I accept Mr. Murphy was a Minister in the previous Government, but we were assured at the time that this matter would be dealt with when the electoral commission was being set up under this legislation. Each and every time we get closer to developing the electoral commission, the goalposts are moved. The more that happens, the more civil society organisations continue to live in fear due to the work they do and the advocacy they engage in. That was never the intention of the Bill in setting out political purposes, as is clear when one reads the sentiments expressed about that phrase in the debate at the time. It is clear the intention was always to capture electoral and general election periods only. In the meantime, civil society organisations have been stifled in their everyday work and debate, which is not the climate we want in Ireland for such organisations. I know the Minister of State does not want that either.

We have had conversations on my Bill which are reflected in many of the amendments tabled. We are seriously missing an opportunity to address the issue in this legislation. I do not wish to delay this matter further by referring it to the prospective electoral commission. It is evident from the discussion today that the commission will have a significant task to perform and will have a wide-reaching remit in terms of its role and functions. The Minister of State can understand the reason for our apprehension to have the issue of “political purposes” addressed in the lifetime of the Government given the time it will take the commission to become established and fulfil the many functions with which it will be tasked. This amendment, therefore, seeks that progress regarding the wholesale review of the Electoral Acts, provided for by my amendment No. 28, be outlined in the commission’s annual report on the performance of its functions during the preceding financial year. Any such report should be laid before both Houses of the Oireachtas, where the progress or otherwise could be evaluated and considered by the Houses.

If it is the case that the Minister of State is not open to accepting amendments Nos. 67 and 69 and instead defers the issues relating to the definition of “political purposes” to the electoral commission, I ask that he specify in the legislation that the commission will be charged with the function of undertaking this review, as set out in amendment No. 28, and to build in regular progress reviews and reports, as provided for by this amendment.

**Deputy Malcolm Noonan:** I have given a commitment in the Dáil select committee to Deputy Cian O’Callaghan and others throughout this process that, upon the establishment of the commission, among its first duties will be to carry out a comprehensive review of the 1997 Act. We believe this is the correct way to address the issue of “political purposes” as it relates to political funding. We have had a number of conversations and meetings about this. I met separately with the Irish Council for Civil Liberties and the Coalition for Civil Society Freedom and I have given them that assurance as well. While not explicitly stating that in the legislation, it is critically important that we give the political commitment to do that, as we want to ensure it happens as soon as the commission is established. The commission will be established relatively swiftly once the legislation has been passed.

There are many complex issues in the 1997 Act and we see this as an opportunity to carry out a much broader independent review and to bring about a very clear and efficient outcome. I have given a commitment to the civil society organisations that we want to address this. I give Senator Ruane that commitment again now. It is a very important issue and I agree with Senator Ruane that it has resulted in challenges. There is no doubt about that. We want to address it in the correct manner and we believe the commission is best placed to do that.

**Senator Lynn Ruane:** I reluctantly accept that the intention is to have this matter addressed. It is not that I question the Minister of State. I know how much he cares about addressing this issue. At the very least, we should include in the legislation an intention that the commission address it. If we have a reshuffle, we could have an election and the next Minister or Government may not necessarily have the same intention as the Minister of State. They may not have the bona fides that they will ensure this long-standing issue is addressed. At the very least, the Minister should be able to consider how this massively important task for civil liberties, civil freedom, civil society, activism, grassroots campaigns on climate action and residents’ associations is affected. If the Minister of State cannot address the definition of “political purposes” within this, I plead with him to consider between now and Report Stage whether we can at least state in the legislation that the commission will be tasked with carrying this out, so it is in the legislation and will not be on the table of a future Minister who may not care about it as much as someone else. As I said, I have been trying to fix this since the term of the previous Government, and we could come out of the term of this Government and into that of the next one. To ensure the future Minister and the Department will see it through, I ask the Minister of State to think about an amendment from him between now and Report Stage to enshrine it in this legislation.

**Deputy Malcolm Noonan:** Again, to give that reassurance, making that political commitment is important. It is critically important we do that here, in the Dáil and in the select committee. I am giving that commitment to the Senator and to the organisations that have campaigned on this so well over recent years that it is going to happen within the lifetime of this Government

Separately, if we are prescriptive about this in the legislation, we will limit the commission in some ways on certain pieces of research. There is a broader issue here. As we have seen throughout this process, through a great deal of input from civil society and through Members of the Oireachtas, we are tasking the commission to do quite an amount of work in terms of both research and reviews. As a Government, we are prioritising a certain amount of them to start because they are time bound in terms of the reduction in the voting age and in respect of this item regarding the issue of political purposes, and we want to resolve it. I am giving the assurance it will happen as soon as the commission is established. One of its earliest tasks will be to address this issue in the context of a broader review of the 1997 Act.

Amendment put:

The Committee divided: Tá, 8; Níl, 17.	
Tá	Níl
Boyhan, Victor.	Ardagh, Catherine.
Boylan, Lynn.	Blaney, Niall.
Craughwell, Gerard P.	Buttimer, Jerry.
Flynn, Eileen.	Byrne, Malcolm.
Gavan, Paul.	Casey, Pat.
Moynihan, Rebecca.	Conway, Martin.
Ó Donnghaile, Niall.	Currie, Emer.
Ruane, Lynn.	Dolan, Aisling.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	Murphy, Eugene.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

Tellers: Tá, Senators Lynn Ruane and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

Section 13 agreed to.

#### SECTION 14

**An Cathaoirleach:** Amendments Nos. 13 to 16, inclusive, are related and may be discussed together. Is that agreed? Agreed.

**Senator Niall Ó Donnghaile:** I move amendment No. 13:

In page 21, between lines 32 and 33, to insert the following:

“(c) examine the age at which a person is entitled to be included in the register of electors, in particular in relation to persons aged 16 and 17.”.

I welcome the Minister of State. I welcome the opportunity to speak on this series of amendments. While they are in the names of the Sinn Féin Seanadóirí, it is fair to say they have been driven in the first instance primarily by our colleague, Senator Warfield, who unfortunately is unable to attend the Seanad today and sends the Minister of State his apologies.

I also welcome our visitors to the Chamber. They have campaigned on this issue for quite some time and many of them are engaged in political and community activism and understand and advocate the importance of giving 16- and 17-year-olds a vote in European and local gov-



ernment elections.

These amendments seek to establish a committee in the new electoral commission to examine reducing the voting age to 16 years. We are seeking to amend section 14 of the Electoral Reform Bill to state specifically that the new electoral commission may establish a committee to examine the age at which a person is entitled to be registered as a European Parliament and local government elector, in particular in relation to persons aged 16 and 17.

In the previous Oireachtas, my colleagues and I put forward the Electoral (Amendment) (Voting at 16) Bill 2016. That Bill remains on the Order Paper of the Seanad, and is joined by an identical Fianna Fáil Seanad Bill from 2021. On two occasions, in March 2017 and March 2018, our Bill was delayed by a majority of Senators at an drochuair. In the meantime, neither the Department nor the Minister has given further consideration to lowering the voting age to 16 or 17 years. While I welcome the programme for Government commitment to examine the Scottish experience of reducing the voting age to 17 years to draw conclusions, action has yet to be taken on this commitment. It is almost ten years since the constitutional convention also recommended a referendum to reduce the voting age to 16 years. All these delays prove there is no guarantee this issue will be progressed. We should use the opportunity of Committee Stage of the Bill before us to state specifically that the new electoral commission may establish a committee to examine lowering the voting age.

In May 2021, 16-year-olds and 17-year-olds voted in the Welsh Senedd elections for the first time. The voting age reform process in Wales was based on a wide-ranging consultation with young people, youth organisations, educators, officials and stakeholders in politics, local government and the private sector. The Seanad and the Dáil have discussed at length the merits of lowering the voting age, so it is time that we moved the discussion towards the necessary requirements for successful implementation. This is what all our amendments, as stated, seek to do. I hope that colleagues across the Chamber can support these amendments. We are interested in hearing what they have to say and the Minister of State's response.

Let us be honest and call a spade a spade: we have talked enough about this. We have seen in very close proximity to this jurisdiction the benefits of enfranchising young people with a vote and what it can do. Let us be honest again: when we go out to fight elections or political campaigns, we are all quite content to rely on many of our youth activists, aged 16 and 17, who are go hiomlán díograsach and very enthusiastic, dedicated and committed. We actually know — I remember we discussed this during our own vote-at-16 Bill — that the political issues we deal with and the legislative change we discuss and hope to bring about are very often driven in the first instance by young people, be these issues associated with marriage equality or a woman's right to choose.

In my experience in recent months and years, the absolutely vibrant campaign demanding Acht na Gaeilge, an Irish-language Act, in the Six Counties, has been driven primarily by young people. Therefore, we need to accept, understand and agree that young people aged 16 and 17 exist outside the classroom and the youth club and act accordingly. They work and many of them contribute to political life, have relationships and have an understanding of politics. They have a right to have a voice and stake in society.

When I look around, I am inspired by the leadership of young people, particularly on issues such as climate change and the biodiversity emergency. More power to their elbow. They should be given a vote and a greater stake in political change and driving political change. This

is a modest ask in the greater scheme of things given that it relates to European and local government elections in the first instance. However, I want to get to the point where, right across the board and in the North and South, we have a uniform approach to ensuring that we value our 16- and 17-year-old citizens. We must give to them – I do not mean that to sound patronising — or entrust them with the responsibility they so clearly deserve, are demanding and will cherish, hold dear and treat with the utmost respect in delivering positive political and perhaps electoral change where required. *Sin mo mhéid ag an bpointe seo.* I look forward to the response of the Minister of State and the remarks of other colleagues.

**Senator Malcolm Byrne:** There is a little bit of *déjà vu* on this issue because the Minister of State and I discussed it in the Chamber in detail on several occasions, most famously during the Commencement debate in May 2021. It is the case that what is proposed here is quite reasonable. I am minded, on the basis of the commitment I received from the Minister, Deputy Darragh O’Brien, that this will be a priority of the new electoral commission and put on the record of the House. I am quite happy that the Government is committed to addressing the question of votes for 16- and 17-year-olds and that it will be an immediate priority for the new electoral commission when established.

The first time I wrote a newspaper article on this issue was in 2007. Even at that stage, several countries had reduced the voting age to facilitate those aged 16 and 17. The Isle of Man was the first to universally do it, in 2006. That is significant because the Isle of Man was also the first territory in the world to grant women the right to vote, back in 1881. However, other countries and territories have also taken action. Brazil reduced the voting age in the late 1980s. Austria reduced it in 2000 for local elections and then extended it more widely for general and other elections in 2007. Malta, Estonia and quite a number of the German Länder reduced the voting age to 16. Belgium is to reduce the age to 16 for its local and European elections from 2024. As Senator Ó Donnghaile has said, we know that Scotland and Wales have successfully reduced the voting age to 16. The Convention on the Constitution considered the issues in detail in 2013. We all acknowledge how much of a success the convention has been. It often deals with very tricky issues. It recommended that we consider reducing the voting age to 16.

A fear among some political colleagues is that young people are not mature enough and do not have a sufficient understanding of political issues to be able to take part in the ballot process. It is not just about this issue in isolation; it has to be combined with political and civic education in our school system. The civic, social and political education programme and the politics and society programme should be compulsory right through second level. People should understand our democracy right from an early age. As Senator Ó Donnghaile has rightly said, with regard to quite a number of the issues, including climate change and biodiversity, it has been young people who have been leading the charge. The most informed and engaged contribution on the questions of the leaving certificate during the period of Covid came from the Irish Second-Level Students Union, which had a very clear vision as to what it wanted to change and, dare I say, even took a more mature and rational approach than some of the other partners in education on the issue. Therefore, a combination of factors needs to come into play.

There are colleagues who sometimes say that if 16- and 17-year-olds are given the vote, they will go off and vote for all sorts of fringe parties, crazies and so on. That is not the case. Quite a bit of research has been done in the University of Copenhagen and Austria that indicates that the voting base of younger voters does not differ enormously from that of older age groups but frequently focuses the attention of political parties on the issues directly of concern to young people. If young people examined in detail some of the approaches to climate change,

climate policy and biodiversity of some of the political parties, they would be very surprised. Members of Government parties should be very proud of the action they have taken on climate change and biodiversity. We have not appealed to populists in this regard.

As Senator Ó Donnghaile mentioned, I pay tribute to my colleague, Senator Warfield, whom I know has been working very hard on the issue. We tic-tac regularly on this. He has a Bill and I have a Fianna Fáil Bill to provide for the introduction of the voting age for 16- and 17-year-olds. I chose not to put forward an amendment to this legislation on the basis that I would get a commitment on the floor of the Seanad that one of the first priorities given to the new electoral commission would be to examine this issue and on the basis that we would meet the commitment in the programme for Government to consider learning from the Scottish experience. We should go further than that in that many other EU member states and countries, such as Brazil and Argentina, have reduced the voting age. It needs to be said that participation in the democratic and electoral process is not just about putting marks on a piece of paper. It is a question of how we can involve young people to a far greater extent in our electoral process.

I am happy on the basis of the commitment that I understand the Minister of State will give on this. However, this has been a long time coming. I pay tribute to the young people who have battled for this. Representatives of Comhairle na nÓg from Wexford were in with me yesterday talking about this. Comhairle na nÓg has been raising this issue all over the country. The National Youth Council of Ireland has been raising this, as has the Children's Rights Alliance. The campaigning of all these bodies on this issue needs to be acknowledged. The time is very clearly now, and I am very happy that the Government is going to give the commitment to proceed on this.

**Senator Lynn Ruane:** I thank Senator Warfield and the Sinn Féin Party for tabling these amendments. I first worked with Senator Warfield on this issue when we worked on the Electoral (Amendment) (Voting at 16) Bill. Reflecting on it or even thinking of the arguments put forward against it at the time, Members would find they were quite amusing if they were to read the transcript of that debate. Comments were made to the effect there are reasons we do not allow young people to smoke or buy alcohol until there are 18 years old. I always thought it was strange to compare something that has a potential negative impact on one's health with something that has quite a positive impact on one's health and on society and the community.

**Senator Niall Ó Donnghaile:** Well said.

**Senator Lynn Ruane:** It showed how narrow and insular the thinking was on the voting at 16 legislation and how ridiculous some of the arguments were. However, I see a difference and a change since then, with many people being much more supportive of it. We need to move on it but the narrative is definitely beginning to change and people understand why it is so important.

I viewed the voting at 16 legislation through the prism of my life and how engaged I was at such an early age. I am not talking in the abstract about some potential 16-year-olds or young people of whatever age who might be interested in politics. I am talking very much about my experience as a young person and how engaged and acutely aware I was of social injustice in particular. I view it very much from the perspective of my experience but also through the lens of social class.

Voter turnout is an issue in my community. The voting at 16 Bill and reducing the voting

age to 16 could have a positive impact on voter turnout in some communities whose members do not see themselves as participating in politics and therefore disengage. If young people can engage in politics while still in school - politics is now on the curriculum and we can team those two up - and if a person is lucky enough to be 16 or 17 years old and in school while a general, local or European election is being held, the school community can very much get involved in the curriculum during those two years and build the students up to understand party politics, how to read manifestos and ask questions about what is involved in democracy and in EU politics. That can be widened to some groups in communities that do not have high voter turnout by getting them interested at a European level to think big. Many people in communities, as I know from my experience, struggle to see themselves as citizens. I struggled to see myself as an Irish citizen, never mind a European citizen, because I was living in a bubble in a microcosm in Tallaght which had its own politics but it is very much centred there. I now think how beneficial it would have been for me to have been in a concentrated space in school with other kids if the school had been involved in a voter drive. We are more likely to get kids registered to vote at 16 or 17 years old, supported in the school system to understand elections.

I remember being involved in many protests as a child in school and very much understanding gender differences at that stage. Some issues arose on the gender ground. When I about ten years old, the sixth class students in the Sacred Heart school organised protests at the unfairness of girls having to wear school skirts. We were freezing in the winter and were not allowed to wear leggings underneath them. We might have been told to wear tights but we probably felt we were too cool and old to be wearing tights at that stage, so we were not having a bar of that. We organised protests outside the school. We took risks, negotiated and engaged, and since then girls in the Sacred Heart School in Killinarden have worn trousers. That is a long time ago. I am 37 years old now and I was probably ten when those protests happened. Once a person is engaged in a political action, dialogue or conversation, he or she begins to think in a critical way at a very young age. I took it for granted at that time that girls wore skirts and the boys wore trousers, but then I thought it is bigger than that, something else is going on and how could I apply the same thought mechanism concerning that gender issue to other areas of my life.

That is when we began to challenge issues for altar girls. I was an altar girl, which may possibly come as a surprise to many people.

**Senator Niall Ó Donnghaile:** My God.

**Senator Lynn Ruane:** I was the best acolyte holder in the room. They did not allow me near the vessel in which the frankincense was put.

**An Cathaoirleach:** No. I do not think the Senator was one of the three wise men. It is called “incense” to be clear. I spent eight years on the altar so I know-----

**Senator Niall Ó Donnghaile:** Of course.

**An Cathaoirleach:** I spent eight years on the altar. It is called “incense”.

**Senator Lynn Ruane:** Frankincense.

**An Cathaoirleach:** I do not know about the Senator but I got fired from the altar.

*(Interruptions).*

**Senator Victor Boyhan:** That explains a lot.

**An Cathaoirleach:** I want the record to be clear as I would not want Senator Ruane misleading the House.

**Senator Lynn Ruane:** Yes, father.

**An Cathaoirleach:** It is incense, not frankincense.

**Senator Lynn Ruane:** We are talking about 16-year-olds and it is not the case that they just wake up one morning and say they are ready to vote and engage in politics. Those steps begin at a very early age and they begin even earlier for communities that are disenfranchised because they begin to compare those things to which they do not have access. They probably think this is just the way it is, but that is what we need to change. We can do that through enfranchising people much younger. Too many people from communities like mine believe this is how the world is and there is nothing they can do about it. We cannot stand by and allow many generations of young people not to be enfranchised. We can enfranchise them by making sure young people can vote while they are still in school.

Following on from the example I gave of the protest about the school uniform at the school gates, as a young woman I did not have a class perspective but I began to think about why I was not allowed to do something, why I could not do something or whether something was wrong. Sometimes we think of politics with a big P and of those few lucky people who get to sit in these Chambers, but we all know politics is every decision in every family in every community, in every GAA club and every decision made in local community organisations or addiction treatment services. Politics happens everywhere every day. It is not only the things we say are important in this Chamber. People are engaging in critical thought daily in their own homes, in the way they resource their families or the decisions they make on where they send their children to school, and children make political decisions every day in the way they engage in society. As I grew older, I began to realise at a very young age the class element of issues. I was able at the age of 12, 13 or 14 to engage in those big topics but I did not have anywhere to bring them. I felt quite isolated with them. If I had been enfranchised at the age of 16, I would have run to the voting booth because I did that the age of 18. It was quite arbitrary for me to have that right at the age of 16 or 18. I already had a three-year-old by the time I was 18 years old. I had lived many lives by the time I got there. I was running drug services at the age of 17 but I still could not vote. During the most recent referendum my daughter, who is now 21 years old, was knocking on doors at the age of 16 and 17 engaging in dialogue on referendums, yet she could not vote but, like the young people who are in the Gallery today, she was out campaigning and fighting for those issues.

I think the problem is that we are a little afraid. Senator Malcolm Byrne was correct in pointing out the way young people vote will not necessarily differ but the issues they focus on will refocus political parties. That is what the political parties are somewhat afraid of. As we get older we make different political decisions. We make them based on who we are as 30-year-olds, 40-year-olds or 50-year-olds and we become somewhat disconnected from the issues of concern to 16-year-olds, 18-year-olds or 20-year-olds. We suddenly decide we know better, we are the parents in society and we know what they need. We are afraid of having to realign our values as grown adults because suddenly we start protecting our interests. We think about our pensions or mortgages and that it might be too risky to vote for this or that or others might be landlords and they would not want to do this, that or the other. Although we might not be afraid of young people voting for fringe parties or some extreme politics, we are afraid they will refocus our politics away from the selfish decision-making we engage in based on our experi-

ence of life now instead of own experience and understanding of young people's lives.

I recall being told that as a politician or an adult, you should always endeavour to leave society better for the contribution you have made, but the problem is we have lost sight of what that contribution really needs to be. Young people can begin to change what politics look like on a world stage. In preparation for today, I was looking up famous faces that have become known to the world because they are young and because they not only change their own local community, but the world on a global scale. I am thinking of Malala, Greta Thunberg, and of Jaylen Arnold, who has Tourette's syndrome, OCD and Asperger's syndrome. He founded non-governmental organisations, NGOs, at the age of 16 or 17 to stop bullying against people who have special needs. I think of my own daughter, who is on panels for mental health and Asperger's syndrome at the age of 16. I am thinking of Marley Dias who campaigned for and brought about the #1000BlackGirlBooks movement, which was about the representation of young black women and diverse groups in literature. These people are all under the age of 18. I am thinking of Isra Hirsi, who is an environmental and racial activist, Sophie Cruz, who is an activist for undocumented migrants and Jasilyn Charger, who works with mental health issues for teenagers. I focused on young people, one of whom was Abigail Lupi. The work that she has done, and the campaigning she has done around the world was due to her visiting a grandparent who was in a nursing home. She began to raise awareness of the silent loneliness, as well as the depression and mental health issues experienced by people in older life. There is also a girl called Jazz Jennings, who works on LGBTQ issues and Param Jaggi, who works on environmental issues. Here in Ireland, I remember watching an RTÉ Juniors "My Story" of a person named Flossie Donnelly who is looking at the problem of plastics.

All around the world young kids are making big impacts. Yet we continue to make them feel like they are not ready to participate when they are already participating. It is the case that we are not ready to listen to them. We are not ready to put aside our own idea that we must know better because we have been here longer, because we are older and we are wiser. We must put that aside for the times that kids are living in today, for the world of technology, for AI, and for all of the things we legislate for in these Houses. These will impact them more than they will impact us. This is especially the case for technology. It is hugely important that we engage young people. I do not think that politicians in either House really understand the impact of the digital world on the generations that will come after us.

I will go back to the original Electoral (Amendment) (Voting at 16) Bill. A young lad who was working for me at the time began to support Senator Warfield and me in the research for Vote at 16. He was in transition year when he came to do the work experience. He headed up the whole research. His name was Eoin. He is obviously old enough to vote now, but he was not when he first helped us with the Bill. We invited transition year students from Delivering Equality of Opportunity in Schools, DEIS, into the audiovisual room. We were trying to enfranchise more disadvantaged students to engage in the political conversation around voting at 16 years old. Many of these schools claimed to have student councils, but they do not resource them very well or make sure that they are formed. They do not give them the support they need to be fully functioning councils, which is a shame.

We brought in all of the DEIS schools. We had a round-table conversation with them about whether they felt they would vote at 16 years, about what that meant to them and about what political issues they cared about. It was quite startling at the time that most of them said that they did not think they should vote at 16 years old. I remember saying, "Okay, that is interesting. Can we discuss why? What are your reasons?", to which they said, "We do not really

know anything about politics”. Then, we asked them if there were any issues that they cared about. Then, they started naming issues that they cared about. There was even a disconnect between their understanding of what it means to know politics. There is a stuffy understanding of politics, such as political history, political science or international relations, etc. That is a textbook, academic understanding of politics.

We broke it down and they gave examples in their lives. Some of them had already been out volunteering with their parents and they had been doing soup runs, etc. They cared about addiction, because they had experienced it in their family. They care about access to detox services. They were naming issues that are political and on which they had a voice and an understanding. Yet, they did not connect that to the action of voting and to engaging in the political establishment. That is where we are going wrong. We can engage kids that young to vote at 16 years old. We can engage them in the school system to understand. We may then, through having the vote at 16 years old, address some of the wider issues around kids being disenfranchised in particular communities.

From there, we trained each of those students in basic research skills. Then, Eoin developed a survey and they all went off into their own schools. They surveyed their own schools and they carried out focus groups in their schools on voting at 16 years old. Quite a mixed bag came back, but we left an open box on the end of it for the students to tell us about things they care about in the world. They all had big ideas and big visions. They just were not connecting those to the political system. That is on us to try to change that, so that everybody understands those interconnected pieces between the issues that they care about.

I think it was Senator Higgins who said that ultimately politics is just people coming together to make decisions about how we all live. When we begin to break politics down into that, we invite more people into the conversation, instead of making it too full of flowery language or too big that a person does not understand it, or saying, “Oh that’s a finance Bill and you will never understand that so park that over there”. Everyone is always told they will never understand it, that they will not get it. Really, if we cannot explain politics, we do not understand it. If we cannot break politics down into basic accessible language for everybody to engage in, it means that we do not understand it. A sociologist, although I cannot remember who, commented on how sociological reports or research are done, for example, if they are doing a sociology study on 16-year-olds’ engagement in activism or political issues. If those 16-year-olds do not see themselves in the sociological report that has been produced, the sociologist is not doing their job properly. The same is the case for politicians. If young people do not look at us and see themselves in the work that we do, in how we present ourselves and in what we care about, then we are not doing our job properly.

By us making a real commitment to these amendments, we will be doing our job properly. We will be saying that whether a person is 16, 17 or 18 years of age, they have a view, they have a voice and we want them to participate. It is up to us to make politics more relevant.

**Acting Chairperson (Senator Victor Boyhan):** I would just flag to Members before I call the next Senator, there are now approximately eight Senators who are queuing up to speak. I will call them by their order on the list: Senators Pauline O’Reilly, Gavan, Boylan, Flynn, Kyne, Ó Donnghaile, Moynihan and then myself. We have plenty of time. This is what it is about. It is about scrutinising the legislation.

**Senator Pauline O’Reilly:** I am an advocate for having the vote at 16. I am on the record

as saying that. The Minister of State is on the record as having said that. Having the vote at 16 years old has been a long-term Green Party policy. We have probably been on the record for a couple of decades in relation to this issue. We have members who are 16. They write policies for us, yet they cannot even get to vote for us.

I am passionate about the issue. I feel that many people who are elected do not understand politics, quite frankly. They do not understand the long-term implication of the job we are doing. Young people do understand that, certainly the young people I meet. Senator Ruane mentioned Flossie Donnelly. She was outside Leinster House last Friday, as indeed she is on lots of Fridays. There was another group of activists there for Fridays for Future. I was pleased to accept some of their artwork on behalf of the Government. They are really anxious that change will happen. They are doing their bit. Yet, they are not allowed to vote. That is a real shame.

When it comes to climate and biodiversity, we should always turn to young people. When I go to do the doors, I meet older people who say to me, “My grandchildren are telling me to vote for those who care about climate”. Why is this the case? It is because young people are most impacted by the climate and the biodiversity crisis. It is a matter of their livelihoods, their health and their wellbeing. This is not the case for people who are in their 90s.

*5 o'clock*

I am not advocating for ending the vote for people in their 90s, but I certainly think that if there is an argument to be made for people voting in their 90s when they do not have that much time left to enjoy the fruits of that vote, there is certainly an argument to be made for young people who can see through policies. Senator Malcolm Byrne made the point about people’s manifestos. Much more scrutiny needs to be done of people’s manifestos when it comes to climate, absolutely, but on a whole range of issues as well. Are politicians that one is voting for really thinking in the long term or are they thinking election cycle to election cycle? It is surprisingly probably to many people how few politicians think about that long term.

I note that all of these amendments use the term “examine the age”. I think the Minister of State already said that, but it is important to say it on the record here. A commitment around this issue of lowering the voting age is in the programme for Government. It is also the Minister of State’s commitment, as he said that is what the commission will be tasked with doing soon and in the lifetime of this Government. Having been a lawyer in a previous lifetime as well as being a legislator now, legislation can change just as easily if not easier than the work of commissions and in regulations as well. It is very important to say that actually the best place for this is a commission. I know there are politicians from political parties who do not agree with all of the Senators who are here at the moment. Therefore, let us put it into a commission to do the proper work and then we will drive it over the line. I am determined that we have to see that over the line.

When it comes to politics, relevance is everything. If one is teaching somebody in school about politics and one is saying that person cannot vote for many more years, it does not feel relevant. Absolutely, politics with a small “p” is always relevant because one is making those decisions day to day about what to do in one’s community. Politics with a big “P” - when I say with a big “P” I am not saying one is better than the other, I am just referring to politics in the formal sense of voting – has to be relevant as well and not in some far distant future. I remember canvassing and somebody in their 30s said they were not going to vote and they never vote. I went to another door where there was somebody who was 17 and would have turned 18



shortly after the election and that person was desperate to vote. I thought, “God, if only they could switch and one could give their ballot paper to the other”. However, I am not advocating that. It just shows the hunger in young people. They know the crises we have in terms of social justice and human rights abuses and they think more globally than people give them credit for.

CSPE was mentioned. It needs to be taken much more seriously. It needs to be examinable, but it also needs proper recognition by the National Council for Curriculum and Assessment, NCCA. That is an important point and it has to go hand in hand. Absolutely, those who are older are no more educated when it comes to politics than those who are in school. That is not to say that is a good thing. It is to say it needs to change across the board and there needs to be public awareness across the board in how politics works. The idea that one has an idea and one just makes it a reality in politics is not the case. All of us who are elected know that. It takes much policy work to get it to that point. It takes the manifestos and years of the policy direction. I am supportive, obviously, of the voting age being lowered. Am I supportive of it being examined in order for it then to be lowered? Yes. Whether it is in a Bill or through a commitment, one way or another I want it to happen.

I will leave it there because there are so many other Senators wanting to come in. So many people come to me and whether they are older or younger, their main question is, “How can we do this thing that we want to do?” One way is that one votes for the people who one thinks care about it. However, if one cannot vote for the people who one thinks care about it, that is another thing off the list because they cannot do that bit. Young people cannot run for election or do all of the things at one’s fingertips. Young people are doing it the best and only way that they can and that is by activism. While certainly many politicians come from activism – I would say that everyone in our party has come from an activist or community background – and they know it takes both activism and politics. One should not have to say, “You do the activism bit and we will do the politics bit”. Everybody should be able to do both.

**Senator Paul Gavan:** This is my first contribution. I welcome the Minister the State and I hope he had his Weetabix this morning.

I want to talk about people at work because this summer, in particular, let us be frank, large parts of our tourism industry are being propped up by 16- and 17-year-olds working across hotels, restaurants and fast food establishments. They go to work, work 40 hours - my son is one of them – and pay tax. They have absolutely no say whatsoever in the world they are working in. What was the old phrase about “no taxation without representation”?

These people are working and playing a crucial role in our economy. The factors that affect them at work, for example, the fact that they do not have a legislative right to collective bargaining, the rates of pay that are set and how they get to work, that is, the provision or non-provision of transport, influence and impact on them and yet they are denied a vote. It just makes no sense whatsoever. It is one-way traffic for them at the minute. Most young people want to go out and work and make money. They are entitled to have a say. That is why we have these people in the Visitors Gallery today. They are entitled to a say and they have not been given one.

What has been frustrating for a number of us in the Seanad, particularly those who were in the last Seanad, was to see a very good Bill by Senators Warfield and Ruane frustrated by the Government parties. I am conscious just to advise people in the Visitors Gallery that what they hear is often good, but the reality often does not follow through. If I mention two words, they will understand what I mean: “Seanad reform”.

**Senator Niall Ó Donnghaile:** Say no more.

**Senator Paul Gavan:** At the start of every Seanad, everyone comes in and says they will reform the Seanad. The Government parties then make sure that absolutely nothing happens for the next five years. That is the reality of it. We will make a slight exception in fairness to the Cathaoirleach.

**An Cathaoirleach:** No, you are not getting away with that one, sunshine. I know what we are talking about here, but Seanad reform is not just about elections. It is about all of the elements of reports on Seanad reform that were within the gift of the Seanad having been implemented.

**Senator Rebecca Moynihan:** Senator Daly is the Cathaoirleach. The speaker is speaking. It is not a conversation.

**An Cathaoirleach:** I am clarifying. The point Senator Gavan is making is that there has been no Seanad reform. However, that is not the case.

**Senator Paul Gavan:** I am happy to clarify. In fairness to the Cathaoirleach, he has done his best within the limits that are available.

**An Cathaoirleach:** Many Senators on all sides have helped on that.

**Senator Paul Gavan:** I want to accept that. Let me be very clear without being distracted. Everyone in this Chamber knows that for decades - we have piles of reports on Seanad reform - any Government that comes in makes sure that fundamental Seanad reform does not happen. We know that. My point is that I am a little concerned that we will all say the right things today but there will be a blockage at some point.

The reason we tabled these amendments was because we cannot afford to leave this issue in the lap of the gods. We need to make sure that there is follow-up. The reason we tabled these amendments was to have this conversation with the Minister of State. It is good.

I was told the Minister of State will make a very clear statement that one of the first acts of the electoral commission is to examine this issue and deliver a clear recommendation on it. That is very important and welcome, but we also need a timeline for that. We are wonderful in these institutions at talking about things and just not delivering. The last Seanad is an example of that in terms of a very good Bill that was frustrated by Government parties.

It would be great to have the Minister of State make that clarification and make it clear, but we just need to deliver on this. Sinn Féin's record is extremely strong in this regard. It is good to hear people on the Government benches making very positive and genuine statements about this issue as well. We need to have voting rights for 16- and 17-year-olds. I cannot be more clear about that. There is a fear in my mind because, unfortunately, these Houses have a big habit of ignoring even really good reports and recommendations. A simple example is the recommendation to extend the franchise for this House, which has sat there since 1979. Government after Government ignored it, including this one. My point is a simple one. The Minister of State should give us a clear statement in terms of his own position, what the commission will be instructed to do, how the issue will be prioritised and a timeline so that people in this Chamber will have real hope in terms of seeing a significant change that I hope all of us want to see happen as soon as possible.

**Senator Lynn Boylan:** I will probably repeat some of the points that have already been made. First, I welcome those in the Gallery from the National Youth Council of Ireland, the Dublin Youth Theatre, and some individuals as well. God love them, they have really seen democracy in action today because they have been here for hours waiting for this amendment to come up.

I commend my colleague, Senator Warfield, and also Senator Ruane, for all the work they have done on the previous legislation. Senator Warfield feels passionate about this issue. I know he is watching today. He wants the Minister of State to sit down and meet with him to address his concerns. What he is saying is that it is fine to say the issue is going to go to a commission, but the commission already has a significant body of work and the question is whether it will be able to prioritise it. Will it be a case where we are told it is prioritised but that it will take years to be introduced?

We know we do not need a constitutional amendment to allow a vote in European and local elections, which are in 2024. There are two points in that regard. One is that young people are constantly being told that they will have to wait. We keep telling them that we are all in favour of this, but it never seems to happen. They never seem to get the right to vote. It is also a great way of addressing concerns. We hear talk of the red herrings on giving the franchise to people at the age of 16 but we know that they are only red herrings. We have seen Scotland do it, and all of the other jurisdictions to which reference has been made today. Giving 16-year-olds the vote in European and local elections will establish a precedent and show the sky does not fall in when young people have the franchise. That makes it much easier for us to have that constitutional amendment to allow the vote at 16 for general elections and presidential elections.

In terms of the benefits of giving the vote to people at 16, we know that young people are now keeping the hospitality sector afloat. The head of the Restaurants Association of Ireland tweeted about the pay and conditions of workers in the hospitality sector. It was said that one particular restaurant was boasting about how the transition-year students were filling the gap. We know young people are working. They are paying their taxes, but they are not getting the representation that they deserve.

The Cathaoirleach, with Senator Pauline O'Reilly and others, supported the National Youth Assembly on Climate to sit in this Chamber and to hear from youth voices. Anybody who listened to the quality of the debate and the presentations that day would have been blown away. That is right, because we know that anybody under the age of 50 is facing a very bleak future unless we address climate change.

Another benefit is related to the idea of developing the habit of voting. I am someone who was very interested in politics from a very young age. I would go with my sister when she was 18 and tell her which ones to vote for because she had no interest although she had the right to vote. It was very clear that it establishes the habit and importance of voting and that a person gets familiar with it. Young people study civic, social and political education, CSPE, and while there is criticism of the way it is being rolled out, it is an improvement on the previous curriculum. If young people could vote from the age of 16, we would be able to get them registered to vote then and establish the habit very early on of the importance of engaging in the political system. That is definitely a benefit from such a change.

One of the things we always hear about this country is our ageing population, but my understanding is that Ireland also has the largest youth population. There is something fundamentally

wrong if we have a society that has a large number of young people, but they cannot decide how society is organised and run, and decisions are being taken that have lifelong implications.

We hear that the Minister of State is giving a commitment, but we have concerns that the commission will not be able to give the issue the attention it needs because of all the other stuff it is being asked to do. There is also a timing element in terms of the European and local elections in 2024. I ask the Minister of State to give a commitment to meet with Senator Warfield when he is back next week. I am sure that after such a meeting he would be happy enough that the issue is given the required commitment and priority.

**Senator Eileen Flynn:** I thank Senator Warfield for bringing this very important issue to the Seanad. I also thank my colleague, Senator Ruane, who has done a lot of work on votes for 16-year-olds for many years.

Last Thursday, my colleague, Deputy Pringle, brought a Bill to the Dáil on lowering the voting age to 16. I watched the debate very closely. The response of the Minister of State was that we would come back to it next year. It was a positive move, so I am not dismissing it. Even though it is a year down the line, we got the word last week that the Bill will be moved this time next year.

We are saying that the voting age will be discussed by the commission and that it will form part of its work but will young people be around the table when the commission meets? That is what I am interested in knowing. As I said last week, I understand that the Minister of State's heart is in the right place when it comes to wanting young people's voices to be heard and for young people to have a vote. I spoke to a young person outside the door, Jamie, who asked me to bring up the fact that when they go into hospital they are no longer classed as young people. He said they can no longer go to Temple Street, Children's Health Ireland at Crumlin, or any children's hospital, they have to go to an adult hospital, yet they are not allowed to vote. Young people are allowed to leave school when they are 16 and they are not allowed to vote. In the North, young people can get married at 16. We are looking at what 16-year-olds can and cannot do.

Senator Ruane correctly pointed out that being able to vote would give young people power and place a value on them in society. If we keep telling young people that they are okay, but they will not get the vote for another two years, all we are doing is pushing them aside. With no disrespect to the Minister of State, why do we keep kicking the can down the road? The young people who are looking for a vote for 16-year-olds today will have 16-year-old children by the time the legislation will be passed.

I had a bit of a different experience in my childhood. This might add a bit of madness into the debate, but I hope that is not the case. When I was 18, I went down and voted for who my father told me to go down and vote for, because I was pure innocent. That was the case with younger people years ago. Times have changed. Society has changed. Young people have changed. I am sure that years ago, if a scene came on the television of somebody kissing, many of us in this room would probably have turned our head, as Irish people did, as a 16-year-old, but things have changed within society, and we need to change with it. Young people are much more educated about sex and want to be involved in the political system and want their voices to be heard. As Senator Ruane says, young people are well able to speak on the global stage and to articulate what they want within their own lives. I guess that the Minister of State will not accept the amendments because of what was said in the debate in the Dáil last week. However,

I will say to the Minister of State we had better stop kicking the can down the road and include our young people. A very good starting point would be to get them around the table at the commission because that is where the critical point will be.

**Senator Seán Kyne:** We all have relations, and I have nephews and nieces aged 15, 16 and 17, who work, thankfully, in hospitality during the summer period, Easter breaks and weekends. Of course, it is a sign of a buoyant economy and plenty of jobs because there is full employment. That is a reflection of the Fine Gael Government putting measures in place during the early part of the Covid pandemic to ensure these businesses survived and all of that. Senators will not hear that but-----

**Senator Victor Boyhan:** We have heard it.

**Senator Pauline O'Reilly:** It is a coalition.

**Senator Seán Kyne:** It was in the early part of 2020. That was before the coalition.

**Senator Victor Boyhan:** It was confidence and supply. That was a coalition.

**Senator Seán Kyne:** That is only a side point. There is no doubt about it, there are very mature 16- and 17-year-olds and very immature 18-, 19-, 20-, 30- and 40-year-olds.

**Senator Eileen Flynn:** Hear, hear.

**Senator Seán Kyne:** Age is no definitive sign of one's maturity. That is quite clear. Interestingly, based on surveys, if 16- and 17-year-olds in the UK had the vote during the Brexit referendum in 2016, evidence shows the result would have been different. Clearly, they were more enthusiastic about the European Union, more pro the latter and had more to lose by being outside it. That is one of the sad points of that. I know 16- and 17-year-olds had the vote in the Scottish referendum in 2014 and probably will in next year's plebiscite, if it goes ahead. Young people engage. Some people have said on Twitter they voted "No" as a 16-year-old in 2014, but would vote "Yes" now. People's views and points of view change as they grow older.

Senator Malcolm Byrne made the point that perhaps 16- and 17-year-olds, and students in general, may be more left-leaning. That might be the case but it is not always. Senator Pauline O'Reilly and others made the point that evidence might not entirely show that, although it could be said anecdotally. All political parties have youth wings and people who are actively engaged. It is fair to say that practising politicians would all have been eager to vote at 16 were we in a position to do so. As Senator Pauline O'Reilly said, there are plenty of people in their 20s, 30s and 40s who have no interest in voting, do not vote and that is clearly shown by the turnout and the registers.

There are certainly valid issues at stake here. The Minister said the commission can establish committees to look at this, which is outlined in this section of the Bill. Presumably, the commission, which will be independent, can make up its own mind on what issues it would like to examine. Can the Government advise or suggest what it could look at? The commission needs to produce a strategy statement as soon as is practicable in the first instance, but thereafter every three years. That is another element of where the commission can look at this. The functions of the commission are to encourage participation. If participation is being encouraged, clearly the issue of 16- and 17-year-olds needs to be looked at.

Regardless of whether this amendment can be accepted, or another wording can be looked

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at, I look forward to the Minister of State's response. It is safe to say it will happen at some stage. The question is when.

**Senator Niall Ó Donnghaile:** We have not concluded all the contributions-----

**Senator Rebecca Moynihan:** Senator Ó Donnghaile has already spoken. I have to speak.

**Senator Niall Ó Donnghaile:** It is Committee Stage, but I am happy to allow the Senator in.

**An Cathaoirleach:** On Committee Stage, Senators speak when they indicate.

**Senator Niall Ó Donnghaile:** Go ahead. I do not mind.

**Senator Rebecca Moynihan:** I thought I was next.

**Senator Victor Boyhan:** I am last on the list.

**Senator Rebecca Moynihan:** That was on the list that was read out.

**Senator Niall Ó Donnghaile:** Senator Moynihan can go ahead.

**Senator Rebecca Moynihan:** That was what I understood. Okay.

**Senator Niall Ó Donnghaile:** Chivalry is not dead.

**Senator Rebecca Moynihan:** It is on the list the Acting Chairperson, Senator Boyhan, read out. That is what I thought it was.

A Bill on fur farming was before this House a couple of months ago. The Government tabled a number of amendments relating to forestry at the end of the debate on it. It is possible within this Bill, and I have tabled a number of amendments on this, as have Senators Ruane and Flynn, to expand the categories of people who vote. Politicians generally get a little protective over their space because we are all political practitioners and we recall and remember elections where this and that happened. When the census results came out last week, people could be seen working out what they meant and the implications for their constituencies. We are a little conservative, however, in our thinking regarding who votes. It is within the power and gift of this Government, and I hope the Minister of State mentions this and that it will not be a year down the line, to use its powers, as it has with other Bills, to introduce last-minute amendments, such as those around the lottery, to allow 16-year-olds to vote. There is no constitutional imperative relating to the local and European elections, which are coming up in three years, that would allow the commission to put in place the mechanisms to allow 16- and 17-year-olds to vote, but we could do so with this legislation. There is no constitutional ban on us doing that now.

I am a little wary of putting this matter to a commission to consider. We all know it is perfect political ploy to send something off to a committee to report on it, where we have a look at that report and then do not do anything about it. I would like to see the Government come back with an amendment on Report Stage including immigrants, emigrants - Irish people voting abroad, and I have other amendments relating to that - and 16-year-olds, as electors, and task a commission with putting in place the logistical arrangements allowing them to vote. I will not speak at length, but I would like to see a commitment to a guarantee from the Government that 16-year-olds will be able to vote in the local and European elections in 2024. There is no reason

we cannot do this here, no reason we cannot do it through legislation and no reason we cannot pass a Bill with that provision in effect at this stage.

**Senator Niall Ó Donnghaile:** I apologise to Senator Moynihan. In tabling these amendments, I wanted to hear a broad range of views from parties around the Chamber. I welcome the contributions so far; Senator Boyhan has yet to speak. It was remiss of me in my opening remarks not to acknowledge the work Senator Ruane did around the votes at 16 Bill and this issue more generally.

I will say a couple of things in advance of whatever response the Minister of State will make. The matter has been referred to by some of his Government colleagues. I look forward to hearing what the Minister of State has to say on it. A couple of things jumped to mind during the debate so far. Senator Ruane talked about her experience of wanting to be an altar girl. I was not allowed to serve on the altar because I went to a Gaelscoil rather than the local parish school. Maybe that is where my political awareness all started from, like that of Senator Ruane, way back when.

**Senator Lynn Ruane:** Blame the church.

**Senator Niall Ó Donnghaile:** The church is to blame. It is its fault. It was interesting that, at an even younger age than that, we began very early to question things and feel a sense of right and wrong, injustice and justice and all the rest of it. It also struck me that many of the parties represented in the Chamber, including that of the Minister of State, allow 16- and 17-year-olds to vote at their Ard-Fheiseanna and conferences to decide and craft party policy, but those young people cannot then vote for people more generally in society who will advocate that policy on their behalf and on behalf of the broader society. That is an interesting wee anomaly and dynamic.

Senator Moynihan is right in the points she made. This issue is doable within this legislation. It is doable to give 16- and 17-year-olds the vote in local and European elections within this Bill, given the amendments we are tabling. A political commitment is important. I do not diminish that in any way, but Senator Boylan has asked that the Minister of State meet with Senator Warfield to talk out some of the nuance of this issue to ensure we get it right. The following is not directed at the Minister of State, but in keeping with the religious theme, people sometimes say more than their prayers. We cannot leave this in the lap of the gods, if the Cathaoirleach will forgive the pun. We must ensure we get this right. It is doable. There are other stages left in this process. Let us bank and welcome the Minister of State's genuine and sincere commitment to this issue. However, as we move forward in this process, we must ensure we do what we are elected to this Chamber to do. Let us ensure we legislate for change. In this case, the change is positive, necessary, welcome and important. I respect the Minister of State and look forward to hearing what he is going to say. I would also like us to return to our work, to fulfilling our obligations to young people and broader society to ensure this legislation is bettered and improved upon because it can be. I will listen to what the Minister of State has to say. I hope that in the course of his contribution he can commit to engaging with Senator Warfield on these amendments and we will see what happens on the next Stages, beyond today.

**Senator Victor Boyhan:** I thank the Minister of State. I am fully committed to 16-year-olds having the right to vote. In this State, 17-year-olds can have consensual sex but cannot vote. Is that not extraordinary in a republic? It is profound in many ways and disappointing.

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We are talking about amendments Nos. 13 to 16, inclusive, and I acknowledge the enormous work of Senators Warfield and Ruane. When I listened to Senator Ruane, I identified with everything she said. Most of us in the Chamber were more than likely politically active as young people. I think of activism around the environment. I think of the Minister of State's party in that regard. If we analyse the results of the most recent general election, it was young people who influenced their parents to vote for the Green Party. The green tide was a result of young people mobilising in spite of not having a vote. Many of my friends told me their kids, as young as seven, eight and nine, were in the car and asking their parents if they were going to vote Green. I think of Ms Flossie Donnelly, who I have met and who is very active in Dún Laoghaire in cleaning up the coast and all of that stuff, among many other things. The Green Party's success in the general election made it a part of this tripartite coalition Government and resulted in the Minister of State being appointed to his position. That was predominantly because of the young people. The Green vote came from all sorts of people, a cross-section of society. It was the Green Party's time. However, young people were exceptionally active. They are active in the green schools of An Taisce. They are active in Amnesty International and involved in the Irish Council for Civil Liberties. Young people are involved in everything.

I was a political activist many years ago at the age of 14 or 15. Many of us were very opinionated at that age. We had views and thought we could contribute. We were involved in student politics. Many of us were involved in debating. We were argumentative and incorrigible but we believed and we were passionate about what we believed in. We might have been a bit misguided from time to time but that goes with the terrain. That is an important point to make. The Green Party benefits more than any other from young people's political activism but all were involved.

There is great expectation of the Minister of State, as a successful Green Party Minister of State in government. He is popular across both Houses. That is something I have observed and I say that to him. We do not want a promise today. I hope there will be a vote on these amendments because I think there should be. We should put people on the record. I hope there will be some sort of enlightenment here today. There have been amazing contributions from all sides of the House on these issues.

This is legislation. We are considering the Electoral Reform Bill 2022. What could be a more appropriate place to be amending legislation? Would it not be great if Seanad Éireann took a decision here today? I do not doubt the Minister of State's support. Senator Pauline O'Reilly spoke well in favour of extending the franchise. I also pay tribute to Deputy Richmond, a former Senator. He spoke very much in favour of the extension of voting rights to 16-year-olds. I pay tribute to Young Fine Gael for its commitment. I do not understand why these dots are not joining up. All political groups and members of all political parties and none are talking about the promise of the right to vote to 16-year-olds but somehow the Government does not seem to be able to get it together. However, it is early days. This is important.

I will return to my point about young people's involvement in protecting the environment. Look at all the young people who came out and piled into Dublin Castle to celebrate marriage equality. They were the people aged ten, 11, 12 and 13 who were knocking on the doors. They were the people who were rightly out enjoying Pride last week and who are proud of that fact. They were influencers for change. The politicians appeared in the afternoon on the day of the referendum result to the cameras, music and bands and thought they were great but it was young people who were behind those campaigns. When one thinks of our planet and environment, and the built heritage campaigns with which the Minister of State was involved in Kilkenny, young



people are all over those campaigns. Why is it that somehow we cannot connect?

I also acknowledge Senator Malcolm Byrne's contribution, which was good. His party is in government. He must bring people with him. We bring people with us. I thank the Senator for his excellent contribution.

We see young people involved in student politics. Considerable numbers of young people are involved in universities and pursue educational opportunities, apprenticeships and all sorts of training. We see young people active in our communities and involved in our Tidy Towns. They are involved in strong advocacy work. We want them engaging. We want not only to hear their voices, we want them as active participants in elections. I see the local and European elections as a real opportunity. There are two and a half years left in this programme for Government. Surely this can be made a priority.

We need to send a strong message to young people. We are not just talking here. We believe in young people and believe they should be supported. We are late arriving at this stage. Based on the conversations we have had, the Minister of State's absolute commitment, the contributions of a Fianna Fáil Senator and those of Senator Pauline O'Reilly and her strong support for 16-year-olds, let us try to push on a bit. The commission will go on and do its work. What better way for Seanad Éireann to help than to take a decision to support amendments Nos. 13 to 16? It is right we should support those amendments. All of us across this House have an opportunity to demonstrate our absolute commitment. The commission can go on with its work but let us send that strong message from Seanad Éireann today and stand in solidarity with the young people of Ireland.

**Senator Lynn Ruane:** I want to come back in to pick up on a couple of points. I am glad Senator Kyne came back into the room. Senator Malcolm Byrne said there is a concern that people would vote for fringe candidates or crazies.

**Senator Niall Ó Donnghaile:** He said "crazies".

**Senator Lynn Ruane:** When Senator Kyne rephrased that in his contribution, he referred to candidates on the left. I wanted to pick up on the point. Senator Malcolm Byrne did not mention the left. He referred to fringe candidates and crazies. I would like to acknowledge that candidates of the left are neither fringe nor crazy.

**Senator Pauline O'Reilly:** We are crazy.

**Senator Victor Boyhan:** I am crazy.

**Senator Seán Kyne:** May I respond?

**An Cathaoirleach:** Okay, but we are going down the rabbit hole.

**Senator Seán Kyne:** It was not my intention to say that. It was anecdotal that younger people may vote left. To quote the phrase in American politics, all young people vote Democrat until they start making money.

**Senator Lynn Ruane:** In listening to everyone's contributions, I am mindful we are trying to make the case for how active young people are. That is obviously a good thing. We are trying to note how knowledgeable and opinionated they are. I would like to state we do not require that level of input from anybody else who votes in the political system.

**Senator Niall Ó Donnghaile:** That is absolutely the case.

**Senator Lynn Ruane:** I know we are trying to demonstrate a case but we do not carry out any sort of psychological, emotional, well-being or capacity assessment on anybody from the age of 18 upwards. We would not say that 30-year-olds cannot vote because a portion of them do not go to Pride or engage in climate activism. It feels as if we are putting an awful lot of responsibility on 16-year-olds to the extent they have to be super-activists to be deemed worthy of a vote. Politics is more than activism. It is about arriving in the booth. If that is all one does but one does it well and thinks about it before engaging in it, that is worthy too. Having 16-year-old voters is worthy in and of itself without placing too much responsibility on them to have to save the world while they are doing it.

**Deputy Malcolm Noonan:** I am proud to be fringe and crazy.

**Senator Victor Boyhan:** Welcome to the party.

**Senator Niall Ó Donnghaile:** The Minister of State is in the right place for it.

**Deputy Malcolm Noonan:** It has been an excellent debate and I thank all Senators for their contributions. I will speak specifically to the amendments first and then I will come back in, if that is okay. I thank the Senators for tabling these amendments relating to An Coimisiún Toghcháin, considering and making recommendations in relation to the voting age. Chapter 9 of Part 2 empowers an coimisiún with a new policy research and advisory function. In consideration of an coimisiún's independence, I do not intend to legislate to require it to carry out particular pieces of research. However, an coimisiún will be requested to carry out particular research projects which include consideration of the Scottish experience of lowering the voting age to 16. This will inform the Government's consideration of the matter as it relates to Ireland.

As part of the electoral registration modernisation project set out in Part 3, section 94 provides for the creation of a pending electors list which will allow for the pre-registration of 16- and 17-year-olds, with their registration becoming active on the day they turn 18. I think that is a welcome development. While not accepting the amendments, I have given a commitment to Deputy Pringle on his Bill and to a number of others during Committee Stage that we will task the commission to give consideration to examining the Scottish experience and looking, as Senator Malcolm Byrne has said, at the experience in other jurisdictions regarding reducing the voting age. From my reading, it has been largely positive, but not always. It is not always the case that reducing the voting age will transform participation in our democratic system or electoral processes.

It is important that the commission does this in an impartial and independent way. The next scheduled electoral event will be the local and European elections in 2024. I would like to have direction on it and have a report back from an coimisiún early on because we need to inform and prepare ourselves and set the ground for that election if it is decided by the Oireachtas and Minister that we will reduce the voting age. That is critical.

Voting is not the only way young people can or do animate themselves and get involved in politics. I have established a young people's assembly running parallel to the Citizens' Assembly on biodiversity, specifically because I feel it is important young people are heard on biodiversity.

Regarding the issue around marine protected areas, young people campaigned on that and

we heard their voices in that process and met them separately. The protection of basking sharks may not seem a huge issue but it was hugely important. I received a huge amount of submissions on that from young people and we moved on it to put in protection measures for basking sharks in Irish waters. These are just small areas within my remit.

On the reduction of public transport fares for young people, Comhairle na nÓg led that campaign and it was hugely successful. Look how popular it has been. I pay tribute because I was involved with our Comhairle na nÓg executive for ten years when I was a local authority member. Amazing work is done there around mental health, in particular. I have also met with the Irish Second-Level Students' Union and the National Youth Council of Ireland on this. I am hearing across the floor today that there seems to be broad political support for reducing the voting age. When the commission comes back having carried out its work, it will be important that we act on that.

On Senator Boylan's point about sitting down with Senator Warfield, we will definitely do that when time allows and I will try to do it before the Dáil rises for the summer.

On the broader issue of representation, the points have been well articulated by everyone here. I give a commitment that I will task the commission to give consideration to researching the possibility of reducing the voting age in Ireland based on the Scottish experience and looking at the experience in other jurisdictions. I think we should reduce the voting age. That is my personal view and has been the view of our party for a long time. Whether it benefits one political party or another is immaterial. What will happen is that politics will respond positively. That will be seen in changes in manifestos and in the candidates that are selected to run in elections. Hopefully there will be a lot more diversity and a lot more young people running. I am of the view that it can only be a positive thing for our democracy. I have a strong conviction on this and feel it is important that the commission be tasked with this work early on. We need certainty around it ahead of the next scheduled election event, which is the local and European elections of 2024. I thank all Senators for their contributions. They have been really valuable.

**Senator Niall Ó Donnghaile:** Gabhaim buíochas leis an Aire Stáit as an bhfreagra a thug sé. I thank the Minister of State for his response. I know it is sincerely offered. He referred to looking to the Scottish experience. Forgive me because this is not my daily work; it is more Senator Warfield's brief. Is that referenced in the legislation currently?

**Deputy Malcolm Noonan:** Yes, I think it is. It is referenced in the programme for Government so there is a programme for Government commitment. We are trying to go broader than that and look at the experience in other jurisdictions. That came out loud and clear from contributions on other Stages of the Bill. While the programme for Government commits to consideration of the Scottish experience, we are clear that we want to have a broader look at the experience in other jurisdictions.

**Senator Niall Ó Donnghaile:** Gabhaim buíochas leis an Aire Stáit. I agree with the point around politics responding to this down the line. As Senator Malcolm Byrne referenced, the research and studies show that it does not particularly favour any one party or political demographic. It benefits politics overall and we all benefit from that. There is the same research on diaspora votes and giving people outside the State a vote. Deciding to reside somewhere else does not dramatically change someone's political and electoral positions.

The Minister of State has agreed to meet Senator Warfield and that is welcome. Will he

please commit to meeting him before Report Stage so that work can be done?

**Deputy Malcolm Noonan:** We will try to do that if my diary allows.

**Senator Niall Ó Donnghaile:** I will withdraw the amendment and reserve the right to re-submit on Report Stage.

Amendment, by leave, withdrawn.

**Senator Niall Ó Donnghaile:** I move amendment No. 14:

In page 21, between lines 32 and 33, to insert the following:

“(c) examine the age at which a person is entitled to be registered as a European Parliament and Local Government Elector, in particular in relation to persons aged 16 and 17.”.

I withdraw and reserve the right to resubmit on Report Stage.

Amendment, by leave, withdrawn.

**Senator Niall Ó Donnghaile:** I move amendment No. 15:

In page 21, between lines 32 and 33, to insert the following:

“(c) examine the age at which a person is entitled to be included in the register of electors.”

I withdraw, with leave of the House, and reserve the right to resubmit on Report Stage.

Amendment, by leave, withdrawn.

**Senator Niall Ó Donnghaile:** I move amendment No. 16:

In page 21, between lines 32 and 33, to insert the following:

“(c) examine the age at which a person is entitled to be registered as a European Parliament and Local Government Elector.”

I withdraw, with leave of the House, and reserve the right to resubmit at Report Stage.

Amendment, by leave, withdrawn.

Section 14 agreed to.

## SECTION 15

**Senator Lynn Ruane:** I move amendment No. 17:

In page 22, between lines 20 and 21, to insert the following:

“(3) Where the Commission enters into contracts or appoints persons as consultants or advisers, a record of such contracts and consultations shall be kept and laid before both Houses of the Oireachtas on a bi-annual basis.”

This amendment inserts a new subsection into section 15 requiring that, where the com-

mission enters into contracts or appoints persons as consultants or advisers, a record of such contracts and consultations shall be kept and laid before both Houses of the Oireachtas on a bi-annual basis. This amendment is about transparency. When the body responsible for elections and referendums in our country enters into contracts or appoints advisers, it is important that a proper record of this is kept and deposited with the Oireachtas.

We are very lucky to live in a country where people have a higher degree of faith in the electoral process than is the case in many other countries. In order to keep this degree of faith, however, we must ensure there is complete transparency and accountability at every level of our democratic process.

**Deputy Malcolm Noonan:** Again, I thank Senators for the proposed amendment, which would require that the commission would lay a record of all contracts for consultants or advisers before both Houses of the Oireachtas on a biannual basis. Appendix B5 of the Code of Practice for the Governance of State Bodies - Business and Financial Reporting Requirements, requires that expenditure by public bodies on external consultancy and advisory services be set out as part of their annual report. Given that the commission is required to lay its annual report before both Houses of the Oireachtas under section 26, I am of the view that the Bill as it stands has regard to the aims of this proposed amendment. As such, I do not intend to take the amendment on board.

Amendment, by leave, withdrawn.

Section 15 agreed to.

## SECTION 16

**Senator Rebecca Moynihan:** I move amendment No. 18:

In page 22, lines 30 and 31, to delete “are civil servants within the meaning of the Civil Service Regulation Act 1956” and substitute the following:

“are civil servants (within the meaning of the Civil Service Regulation Acts 1956 to 2005) in the Civil Service of the State”.

This is a technical amendment around consistency of language. The Civil Service is divided into civil servants who work in Departments under Ministers and civil servants in the service of the State working in statutory and independent offices, such as the Ombudsman, the Director of Public Prosecutions, etc. The distinction is worth preserving and it has been ignored in how the section is drafted.

**Deputy Malcolm Noonan:** I thank Senators Moynihan, Hoey, Sherlock and Wall for tabling this amendment. Deputy Nash raised the matter to which it relates on Committee Stage in the Dáil and I undertook to consult with the Office of the Parliamentary Counsel on it. In the intervening period, I was advised that the reference in the Bill to the Civil Service Regulation Act 1956 is correct and it is not necessary to provide for an amendment along the lines suggested. Indeed, the reference to the Civil Service Regulation Act 1956 in the Bill is in line with similar references in other recent legislation. Taking this advice, I do not propose to accept the amendment. However, again I thank the Senators again for raising it and bringing additional scrutiny to this element of the Bill.

Amendment, by leave, withdrawn.

Section 16 agreed to.

Sections 17 to 19, inclusive, agreed to.

## SECTION 20

**An Cathaoirleach:** Amendments Nos. 19 to 22, inclusive, are related and may be discussed together by agreement of the House. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 19:

In page 24, line 39, after “time” to insert “, but only once”.

Amendment No. 19 seeks to limit the term of the chief executive to being renewable only once. Currently, the Bill provides that the chief executive can have a five-year term and may be reappointed but not for more than ten years sequentially at a time. This amendment would look to only allowing two terms for the chief executive and no more than that.

I spoke earlier about transparency and accountability. In other positions of great public importance such as the Chief Justice, there is fixed term and a recognition that an individual should not hold onto a large amount of power for long or indefinite periods. This is true of the role of the chief executive, who may have a variety of powers delegated to him or her. One issue in respect of which I have not submitted amendments but which will be the subject of amendments on Report Stage is that covered by subsection (11), which gives the service broad powers to make recommendations because we should be naming specific qualification criteria.

Amendment No. 20 is a straight deletion amendment of the provisions regarding the length of time a person can serve as chief executive. I will withdraw the amendment as I prefer my previous amendment on the matter and will bring something similar on Report Stage.

Amendment No. 22 seeks to add to the provision that where a chief executive is proposed to be removed from office that he or she can make representations on his or her own behalf to members of the commission. My amendment would simply require that a record of any such consultations should be kept. This is important in terms of transparency around the process for a removal and I urge the Minister of State to accept the amendment.

Amendment No. 21 would insert the phrase “, having due regard to the desirability of the appointee having knowledge of, and experience in, the areas as set out” in section 9(4) of the Act. This aims to ensure that a prospective chief executive of the electoral commission would possess relevant knowledge and experience, which would assist the chief executive in the fulfilment of functions as set out under the Bill.

Amendment No. 21 is similar in spirit to amendment No. 8 in setting out the experience and knowledge that ought to be required of members of the commission. It is important that this is reflected not only in the ordinary membership but at the executive level also. As drafted, the subsection sets out that the Minister shall agree with the Public Appointments Service the requirements relating to knowledge, ability and suitability for appointment as chief executive. I am sure the Minister, in consultation with the appointments service, would set out appropriate desired criteria in a prospective chief executive but it is important we provide loose guidelines for desired requirements of an applicant in legislation to ensure that what is sought in an applicant does not change between Governments.

To my mind, it makes sense to provide that an applicant would possess relevant knowledge relating to elections, the electoral system and politics more generally but I also stress the value in a candidate for chief executive having knowledge of inequality, disadvantage, disability and human rights and equality matters, as provided for by my earlier amendment No. 8. I encourage the Minister to consider amending the Bill to include greater clarity in terms of the requirements of a prospective chief executive, as provided for with this amendment.

**Deputy Malcolm Noonan:** I understand the Senator is not proceeding with amendment No. 20.

**Senator Lynn Ruane:** Yes.

**Deputy Malcolm Noonan:** I will speak to amendments Nos. 19 and 20 nonetheless because they are related. Amendments Nos. 19 and 20 propose to remove section 20(6) and instead insert that the chief executive can be reappointed only once. Both approaches seek to achieve the same goal and the option put forward by the Senators was considered in the course of drafting. However, my officials and I were guided by the Office of the Parliamentary Counsel on the best form of wording and so intend to proceed with the text in the Bill.

Amendment No. 21 relates to the setting of requirements relating to knowledge, ability and suitability for appointment of the chief executive of an coimisiún for the purposes of a selection competition to fill a vacancy. The amendment proposes that these be set having regard to the areas of expertise and experience for an coimisiún's ordinary members. I do not intend to accept this amendment for the following reasons.

First, my intention in setting out the process for the appointment and reappointment of the chief executive of the electoral commission was to ensure that although the Government would make the appointment, it has no say in who the independent selection process puts forward for appointment. I see this as a particularly important element of an coimisiún's independence from the Government. Second, I note other legislative precedents do not specify the recruitment process for their chief executives. At present, this section solely relates to the independent structure for the selection and appointment of the chief executive and I intend for this to remain the focus of the section. Third, having regard to the difference between the roles of an coimisiún's members and the chief executive, I do not intend to legislate to connect the selection processes for each.

Amendment No. 22 relates to section 22 of the Bill, which provides for the removal of the chief executive of an coimisiún and sets out the process for removal by an coimisiún's membership. Having regard to the principles of natural justice, section 22(4)(b) allows for the chief executive, having received notice of the proposed removal, to make representations to an coimisiún members in response to members' written notification of the proposal to remove the chief executive from office. This amendment proposes that any representations made by the chief executive to the members under this subsection to be recorded.

**Senator Jerry Buttimer:** I have a question on the process of removing the chief executive. Why did we not go with a provision for a two thirds majority of the board? I appreciate that section 22(4)(b) there is the issue of natural justice, which I support fully. I am nonetheless curious why we did not go with a two thirds majority rather than a simple and straight majority, which could potentially split the commission.

6 o'clock

For example, a GAA congress requires a two thirds example. I am curious as to why we did not go down that avenue here to preserve the integrity and functioning without having a split board. I know a simple majority is 50% plus one, which is fair enough, but the removal of a chief executive is a very serious step and I know there is a process to get to that point. Should we have that in the interest of preserving the harmony and working relationship the executive?

Although the chief executive is not a member of the commission, I presume that he or she will be able to participate in its workings. I know the Minister of State has said the chief executive may bring proposals to the commission. I presume he or she will have a very proactive role in the board meetings or in the decision-making process without having a vote; I accept that. I hope we do not tie the hands of the chief executive in the workings of the board or the commission. I use the word "board" because that is probably what it will be. As the Minister of State quite rightly said, it is about ensuring that we have a process and independence. I hope we do not tie the hands of the chief executive completely.

**Deputy Malcolm Noonan:** It is clear we are trying to have an equitable process for the removal of a chief executive. It correctly allows the chief executive to make representations. It must be equitable for due process. That is what we are trying to achieve here.

**Senator Jerry Buttimer:** I apologise if I have not read this right here. In the appeal of the dismissal or removal of a chief executive, I presume the board members who are party to the appointment initially may not be part of that process.

**Deputy Malcolm Noonan:** I will seek clarity for the Senator.

**Senator Jerry Buttimer:** I am curious about that. It is not an important point but I know that, for example, in the GAA the people who made the decision about the suspension of a person do not sit on the appeals board. Is that the process here?

**Deputy Malcolm Noonan:** I will get clarification on that for the Senator.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 20:

In page 25, to delete lines 1 to 3.

Amendment, by leave, withdrawn.

**Senator Lynn Ruane:** I move amendment No. 21:

In page 25, line 10, after "section" to insert ", having due regard to the desirability of the appointee having knowledge of, and experience in, the areas as set out in *section 9(4)*".

Amendment put:

The Committee divided: Tá, 5; Níl, 14.	
Tá	Níl
Boyhan, Victor.	Blaney, Niall.
Craughwell, Gerard P.	Buttimer, Jerry.



Flynn, Eileen.	Casey, Pat.
Moynihan, Rebecca.	Clifford-Lee, Lorraine.
Ruane, Lynn.	Conway, Martin.
	Dolan, Aisling.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Kyne, Seán.
	Martin, Vincent P.
	McGahon, John.
	O'Loughlin, Fiona.
	O'Reilly, Pauline.
	Seery Kearney, Mary.

Tellers: Tá, Senators Lynn Ruane and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

Section 20 agreed to.

Section 21 agreed to.

## SECTION 22

**Senator Lynn Ruane:** I move amendment No. 22:

In page 27, line 19, after “office” to insert “with a record of such representations to be kept”.

Amendment, by leave, withdrawn.

Section 22 agreed to.

Sections 23 to 25, inclusive, agreed to.

## SECTION 26

**An Cathaoirleach:** Amendments Nos. 23 and 51 are related and may be discussed together. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 23:

In page 29, lines 23 and 24, to delete “in such manner as the Commission considers appropriate” and substitute “in an accessible manner on a website maintained by the Commission”.

Amendment No. 23 seeks to amend the provision that the commission shall publish its annual report in such a manner as it deems appropriate by removing the language “as it deems appropriate” and replacing it with “in an accessible manner on a website maintained by the Commission”. We know that there are plain English requirements for public bodies as well as obligations under the UN Convention on the Rights of Persons with Disabilities, UNCRPD.

These obligations should be reflected in how the commission publishes its reports. I urge the Minister of State to accept the amendment.

Amendment 51 compels the commission to publish its review in an accessible format and both online and in a physical format. The amendment addresses multiple issues. First, it vindicates Article 9 of the UNCRPD on accessibility, which refers to enabling disabled persons to participate fully in public life. It is not sufficient that the review should be published in a manner the commission sees fit, if that manner is not an accessible one. It is essential that minimum accessibility requirements are included in the primary legislation, as we cannot in good conscience let the Bill leave this House without knowing what manner the commission will see fit to publish it in. Accessibility needs to be baked into all our legislation.

Second, the amendment addresses problems of digital inclusion. We know that Ireland has a significant problem in respect of digital literacy. It is one of the worst countries in Europe in that regard. With that in mind, it is incredible that almost no legislation includes requirements for information to be provided in a physical format. My colleagues and I have tabled similar amendments to many pieces of legislation. This is not a big ask but, rather, a bare minimum requirement of public life. Significant sections of the population are potentially excluded by public information being provided online only. I hope the Minister of State will engage constructively with amendment No. 51 and accept our proposal or similar wording that will ensure accessibility for disabled persons, older persons and other groups in society is enshrined in the legislation.

**Deputy Malcolm Noonan:** I thank Senators Ruane, Higgins, Black and Flynn for these amendments. Amendment No. 23 seeks to amend existing provisions in order that, in addition to an coimisiún's annual report being published, it would be published in an accessible manner. Amendment No. 51 seeks to provide that the post-electoral event reviews that an coimisiún may produce would be published in accessible formats.

I am not able to accept these amendments for the following reasons. The wording of amendment No. 23, which relates to the publication of an coimisiún's annual report, is based on established precedent set in section 28 of the Irish Human Rights and Equality Commission Act 2014. Being mindful of the independence of an coimisiún, I intend to leave the decision-making on this matter of the most appropriate means for the publication of an coimisiún's documents, including the annual report, to an coimisiún itself. It should be noted that under section 26, an coimisiún's annual report is required to be laid before both Houses of the Oireachtas. A complete record of all documents laid before the Houses of the Oireachtas is available on the Oireachtas website.

Amendments Nos. 23 and 51 relate to the accessibility of formats of documents. In that regard, the European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020 came into force on 23 September 2020 and will apply to the website of, and content produced by, an coimisiún. I am satisfied that accessibility of documents is already appropriately provided for.

Amendment, by leave, withdrawn.

Section 26 agreed to.

Section 27 agreed to.

SECTION 28

**Senator Lynn Ruane:** I move amendment No. 24:

In page 30, line 18, after “Office” to insert “, the Irish Human Rights and Equality Commission”.

The amendment seeks to provide that the Irish Human Rights and Equality Commission, IHREC, be included alongside the Central Statistics Office and Ordnance Survey Ireland as an organisation that may assist the commission in the performance of its functions. The IHREC has a unique role as a State body and is uniquely equipped to support the commission in areas of equality and human rights. The electoral commission will oversee the electoral process and it is important that the processes we have now and may have in future are rooted in human rights and equality.

**Deputy Malcolm Noonan:** Section 28 sets out that the Central Statistics Office and Ordnance Survey Ireland, OSI, shall provide assistance to the commission in its work free of charge. This section transposes existing legislation relating to constituency reviews. The amendment proposes to add to this section that the Irish Human Rights and Equality Commission will also provide assistance free of charge.

Section 40(3) of the Irish Human Rights and Equality Commission Act 2014 provides that the IHREC shall assist public bodies in carrying out their functions, having regard to eliminating discrimination, promoting equality of opportunity and treatment to staff and recipients of services, as well as protecting the human rights of members, staff and recipients of services.

I do not propose to accept the amendment as the service provided by the IHREC to public bodies is already specified under section 40(3) of the Irish Human Rights and Equality Commission Act. The assistance of the Office of Public Works and OSI to the electoral commission, which is legislated for in section 28, relates to the carrying out of core functions of the commission and the transposition of existing legislation.

Amendment put.

**Senator Lynn Ruane:** Vótáil.

**An Cathaoirleach:** Will the Senators claiming a division please rise?

*Senators Gerard P. Craughwell, Eileen Flynn and Lynn Ruane rose.*

**An Cathaoirleach:** As fewer than five Members have risen I declare the amendment lost. In accordance with Standing Order 61 the names of the Senators dissenting will be recorded in the Journal of the Proceedings of the Seanad.

Amendment declared lost.

Section 28 agreed to.

SECTION 29

**An Cathaoirleach:** Amendments Nos. 25, 36, 40, 53, 54 and 62 are related and may be discussed together. Is that agreed? Agreed.

**Senator Lynn Ruane:** I move amendment No. 25:

In page 30, between lines 32 and 33, to insert the following:

“(d) to review the electoral system and franchise for Seanad Éireann;”.

This is a really important amendment for the Civil Engagement group. It seeks to include that one of the expressed functions of the electoral commission would be to review the electoral system and franchise for Seanad Éireann.

We have two unfulfilled mandates when it comes to Seanad reform. First, the seventh amendment to the Constitution to allow for the creation of a single six-seat university panel, and, second, and more fundamental, the 2013 referendum where the public voted for reform, and voted for an Upper House in this Oireachtas that is democratically elected. In that referendum, the majority of the electorate, most of whom do not have an entitlement to vote in Seanad elections, placed their faith in the Oireachtas to deliver a reformed Seanad. One of the key slogans of the campaign to save the Seanad was “Open it, Don’t close it”. I would say that it is timely to include this in the Electoral Reform Bill but it is not. Timely would have been directly after the 2013 referendum so it is long overdue. This has been a very long time coming but we also have a mandate from 2013.

It is a disgrace that the last Seanad, which was the Twenty-fifth Seanad and only existed by the grace of ordinary voting members of the public of every kind who voted and chose to say that they believed reform is possible, did not deliver that reform. Some parties in government have now been in government longer than the mandate for reform given in 2013. Where is the meaningful action? Members of this House, including my colleague, Senator Higgins, acted in good faith and worked on the Seanad reform implementation group, which produced a report that I hope we have all read, scrutinised and taken on board. That work is there for us all to see and for us to all implement. The report contains agreed legislation by the implementation group to reform the Seanad. To be quite frank, the inclusion of a review of the electoral system in the functions of the commission is the least that the Government can do. The public placed their trust in us to deliver reform and they should be the ones to give the Twenty-seventh Seanad its mandate.

Amendment No. 36 again relates to the issue of Seanad reform. It would include in the provisions for the electoral commission to conduct constituency reviews that they would review the constituencies for election to Seanad Éireann. The amendment seeks to ensure that the commission looks at the Seanad as a political institution. We are all aware that to change the make-up of the panels, excluding the university panels, would require a constitutional amendment made by a referendum. That is why this document is so important. It is a blueprint that has been agreed by all parties on the Seanad reform implementation group to widen the franchise and give every citizen the right to vote for an Upper House. It does not require a referendum. It came out of a negotiation process between parties as an agreed compromise. Most importantly, it could urgently allow for each and every citizen in this country to cast a vote in a Seanad election. The reason I tabled this amendment is about looking more to the long term whereby if we widen the franchise, there may be a need in the future to alter constituencies. The electoral commission should be empowered now to be able to do this.

Amendment No. 40 is also related to the core issue of reforming the Seanad. As we walk in here every day, we see notices about Seanad 100. It is 100 years since the first Seanad sat. We

often refer to this building as the people's House, which it is, but the irony is that it is highly likely that any person who walks in to Leinster House, turns left and makes towards the Seanad Chamber will never be able to vote to elect Senators. Forty-three Members of this House are elected by just over 1,000 people. In the case of a by-election, the figure drops to just 220 people. Those 220 people can elect a national representative. This is a bizarre system and 100 years on from the first Seanad, we need to honestly reflect on the fact that only through reform of the franchise can we reform the Seanad. If citizens are still excluded from participating in elections for this House then reform will not be delivered.

This amendment seeks to provide that when preparing a report under the proposed subsection (1)(a)(iii), the Commission will have regard to any alterations to the electoral franchise for a constituency of Seanad Éireann and any alterations to the criteria by which the Taoiseach may nominate a person as a member of Seanad Éireann. It is about preparing the legislation for a time when we have a reformed Seanad in order that the electoral commission can fulfil the functions it needs to fulfil in respect of an open Seanad election and circumstances in which criteria are applied to inform the Taoiseach's decision to appoint Members of Seanad Éireann, as in a provision of the Seanad Bill 2020.

Amendment No. 53 mirrors section 48 of the Seanad Bill 2020 in that it seeks to establish an electoral register to be maintained by the electoral commission in the case of this legislation. Fundamental to the reforms put forward in the Manning report was the recommendation to expand the franchise of Seanad elections so as to include Irish citizens in the State and Irish passport holders abroad as well as persons from Northern Ireland, and also to expand the range of graduates who would be eligible to vote. This will enable members of the public to participate in Seanad elections in a way that has not been permissible before now. It is recognised that conferring more people with a vote will significantly increase the electorate at Seanad elections. The reason I am proposing this amendment, which I will not be pressing today in the hope that the Government will come back with constructive amendments on Report Stage, is that if we set up the Seanad electoral register, it will mark a tangible first step in the reform process and that, upon widening the franchise, the register would already be set up to begin the process of voluntary enrolment for people who want to vote in Seanad elections.

Amendment No. 54 is one I hope the Minister of State will accept because it is not asking for much, especially in the context of the promises that have been delivered in this Bill. The amendment seeks a report within 12 months of the passing of this legislation outlining the measures that have been taken to reform the electoral franchise for the vocational panels of Seanad Éireann, the electoral franchise for the university constituencies of Seanad Éireann and the criteria applied to the nomination of Members of Seanad Éireann under Article 18 of the Constitution.

I will speak briefly to the issue of Taoiseach's nominees to the Seanad as we have not spoken to that issue much yet today. The Seanad Bill 2020 seeks to provide guidance to the Taoiseach on making nominations to the Seanad, specifically that the nominees should improve the gender balance and diversity in Seanad Éireann and ensure a sufficient level of representation of persons who are concerned with the rights of minorities in Irish society. I have spoken already about the vocational panels. I fully support the implementation of the seventh amendment to the Constitution to give all graduates a vote in Seanad elections. This cannot be done in isolation, however. If only graduates are eligible to vote, the system will still be unjust. We need to urgently reform the vocational panels. I urge the Minister of State to accept this amendment because it is the least the Government can do given its failure time and again to do anything

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meaningful to reform the House's electoral franchise.

Progress reported; Committee to sit again.

Cuireadh an Seanad ar athló ar 6.45 p.m. go dtí meán lae, Dé Máirt, an 5 Iúil 2022.

The Seanad adjourned at 6.45 p.m. until 12 noon on Tuesday, 5 July 2022.