



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 13 Iúil 2022

Wednesday, 13 July 2022

Chuaigh an Cathaoirleach i gceannas ar 10 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for Transport to make a statement on further plans to reduce public transport fares, including beyond the end of 2022, in light of the expected further increases in the cost of living in the coming months, given that such fare reductions would be of great benefit to people living in commuter belts such as in Newbridge, County Kildare.

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

The need for the Minister for Defence to establish a naval base of operations for the east coast of Ireland in Dún Laoghaire Harbour, Dún Laoghaire, County Dublin.

I have also received notice from Senator Erin McGreehan of the following matter:

The need for the Minister for Health to make a statement on waiting lists for preventative mastectomies and the reason for the suspension of the service at St. James's Hospital, Dublin 8.

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

The need for the Minister for Health to make a statement on recruitment and staff shortages in home help services.

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

The need for the Minister for the Environment, Climate and Communications to make a statement on the planning process for offshore wind farms.

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

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The need for the Minister of State with responsibility for the Office of Public Works to provide an update on the appointment of a project design team for the development of a 1916 commemorative centre at 14-17 Moore Street, Dublin 1.

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

The need for the Minister for Social Protection to make a statement on the current youth unemployment rate and steps being taken to help young people into the workforce.

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

The need for the Minister for Housing, Planning and Local Government to make a statement on the number of social and affordable houses completed and occupied in each local authority area during 2021 and to date in 2022.

I have also received notice from Senator Tim Lombard of the following matter:

The need for the Minister for Housing, Local Government and Heritage to make a statement on the waiver of foreshore consent fees for businesses impacted by Covid-19.

I have also received notice from Senator Micheál Carrigy of the following matter:

The need for the Minister for Health to make a statement on the provision of an additional hospice care bed at St. Joseph's Care Centre, Longford.

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

The need for the Minister for Further and Higher Education, Research, Innovation and Science to provide an update on the proposed development of Kickham Barracks, Clonmel, as a dual campus of education between Tipperary Education and Training Board and the Technological University of the Shannon.

I have also received notice from Senator Sharon Keogan of the following matter:

The need for the Minister for Justice to make a statement on increased staffing for the Laytown Garda station in light of the population increase shown in recent CSO figures.

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

The need for the Minister for Housing, Local Government and Heritage to consider amending regulations governing domestic septic tanks to allow those who purchased homes with an unregistered septic tank post 1 February 2013 to avail of a grant for remediation works.

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

The need for the Minister for Foreign Affairs to make a statement on the current situation in Turkish prisons and the use of torture by the Turkish state.

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

The need for the Minister for Defence to make a statement on his plans to fund the transformation of the Defence Forces.

I have also received notice from Senator Aisling Dolan of the following matter:

The need for the Minister for Health to provide an update on the out-of-hours and red-eye cover by Westdoc for the east Galway and Ballinasloe GP network under Community Healthcare West, CHO2.

Of the matters raised by the Senators suitable for discussion, I have selected Senators Wall, Ward, McGreehan, Gallagher, Kyne and Fitzpatrick and they will be taken now. I regret that I have had to rule out of order the matter raised by Senator Keogan on the grounds that the Minister has no official responsibility in the matter. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Public Transport

An Cathaoirleach: The Minister of State is most welcome.

Senator Mark Wall: I welcome the Minister of State. I also welcome the recent 20% reduction in fares, as I have done previously, and the introduction of the youth travel card. Both changes are helping commuters and will make a difference but, as we all know, more is needed. The reason I tabled this matter is to once again highlight the totally unfair, penal and discriminatory difference in train fare prices between train stations in south Kildare and train stations inside the short hop zone.

I welcome the creation of a focus group by Newbridge Community Development in the past number of weeks to advocate for an extension of the short hop zone. I have spoken with the group's spokesperson, Jennifer Caffrey, in recent weeks. I will continue to support it and her in every way I can. The group is continuing to put together data on why these prices are so wrong. Since 2018, the local Labour Party in Newbridge has run a campaign to change the pricing structure. We met with Anne Graham, the CEO of the National Transport Authority, NTA, and presented her with 8,500 signatures from commuters in the area who also want to see a change in the pricing structures throughout south Kildare. Since that meeting, I have continuously raised the issue with various Ministers with responsibility for transport, the NTA and the Government at every opportunity.

Hard-pressed commuters are bypassing Newbridge and other train stations in south Kildare and driving to Sallins station in Naas to avail of the short hop fares. Who can blame them? Many people save up to €200 per month by choosing to drive past their local station in favour of stopping at Sallins station or simply by driving all the way into the capital for work. As a result, the N7 has become a car park and the Government has had to propose additional parking spaces at Sallins and Naas station.

As I have said in the context of previous Commencement matters relating to this issue, it is the human story that paints the true picture. I want to bring a few of the stories to the attention of the Minister of State. One person tells me they moved to Newbridge and get the train from

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Newbridge to Connolly. They avail of the tax saver scheme, costing them approximately €185 a month, but they work with colleagues who commute from Sallins and their tickets are almost €500 cheaper per year, so they are thinking of driving to Sallins. Another message I received reads:

Thanks for continuing to raise this. I travel from Kildare to Dublin by car most of the time because it's cheaper than the train - even with skyrocketing fuel prices. That's insane. So much for a climate crisis

Another says:

I'm living just outside Newbridge and work in Dublin. I always got the train from Newbridge but became so frustrated that my friend who is one stop away in Sallins paid half of what I paid each year. I now travel to Sallins twice a week because it's far cheaper.

It goes on and on. I can give the Minister of State as many examples as he requires. I have been told that an NTA review of the short hop zone pricing structure compared with the pricing structure for other stations and how these differences are impacting commuters is under way. That is to be welcomed but the CEO of the NTA is also on record as stating that, if funding was provided by the Government and the Minister, the NTA would be in a position to fix the pricing structure straight away. We are in a climate crisis. We need commuters using public transport from their nearest train station in south Kildare. It is the same case for all adjoining counties from which people travel to the capital. It is time this issue was sorted once and for all. Commuters have spoken with their cars. We need the Government to provide the funding. I hope the Minister of State has good news for the commuters of south Kildare this morning.

Minister of State at the Department of Foreign Affairs (Deputy Colm Brophy): I thank Senator Wall for his question. I welcome the opportunity to discuss this important topic with Members of the House today on behalf of the Minister for Transport. I reassure the Senator that the Government is strongly committed to helping to combat the rising cost of living being experienced throughout the country. A cost-efficient public transport sector including affordable and accessible public transport services is vital to a functioning economy. In this context, a number of measures have been taken to ensure services remain affordable.

As the Senator noted in his contribution, earlier this year, the Government announced the introduction of an average fare reduction of 20% on all public service obligation, PSO, services until the end of 2022, with the Government allocating €54 million in Exchequer funding to support this initiative. The first phase of the fare reduction was rolled out to PSO services outside the greater Dublin area on 18 April before a nationwide roll-out on 9 May. These discounted fares are benefitting the hundreds of thousands of people across the country who use PSO public transport every day, including those based in County Kildare.

The fare reduction is funded until the end of this year but the funding allocation does not include an extension of the scheme to commercial operators. However, it has always been the Minister for Transport's intention to include these operators as part of a longer-term young adult card initiative announced as part of budget 2022. This initiative allows any person nationwide who is between 19 and 23 years old to avail of an entitlement to discounted travel costs and increases the level of discount over and above the current student discount to an average of 50% across all services including city, intercity and rural services. Mature students in full-time education are also included in the scheme as are eligible visitors to Ireland who fall within the

young adult age cohort. This discount has initially been made available on all subsidised PSO bus, rail and Luas services but I am given to understand that it will then be broadened to include commercial operators with an expectation that this roll-out to the commercial sector will begin by the start of September.

It is clear that the young adult card will be of great benefit to this cohort of users and will not only promote modal shift in the transport sector, but should also contribute towards a reduced reliance on private transport with associated benefits. I have been advised that it is technically more challenging to roll out the young adult card on the commercial bus network than it is on the Leap card-enabled PSO network. However, the NTA is in detailed discussions with transport operators and the Department of Transport regarding the range of issues that need to be addressed.

The Minister for Transport has openly welcomed the deployment of both fare initiatives for 2022. The funding implications of the continuation of such initiatives into 2023 must be considered in the round along with all other funding asks. I am assured that the Minister, Deputy Eamon Ryan, intends to work closely with the Minister, Deputy Michael McGrath, and other Government colleagues in the context of the 2023 Estimates process to see what can be done about supporting public transport services and the travelling public.

Senator Mark Wall: I thank the Minister of State for his reply. As I said in my opening remarks, I appreciate what the Minister has done with regard to the forthcoming youth travel card and the 20% reduction in fares. Unfortunately, commuters in south Kildare will still be getting into their cars because doing so saves them €500 a year. In fact, some are saving €150 or €200 a month. I have some figures from the NTA for the Minister of State. They show that 23,458 adults bought tickets from Newbridge train station in 2021. This is an increase from 11,543 in 2016. We are using the train station in Newbridge but more and more people are using adult single tickets because it is too expensive to purchase other types of ticket. The Minister must look for this measure as part of budget 2023. I assure the Minister of State that the campaign will continue. I welcome the fact that commercial operators are also to be looked at and that funding will be allocated to them because many commuters from regions in south Kildare such as Athy take commercially-operated services to study in Maynooth, which is costing them a lot of money. It is important that the new measures be rolled out to commercial operators. I encourage the Minister of State to raise with the Minister, Deputy Eamon Ryan, the issue of climate and the fact that the commuters of south Kildare are still getting in their cars to travel to Naas train station, which is no good for anybody. I ask the Minister of State to bring that message back to the Minister.

Deputy Colm Brophy: I thank the Senator for his remarks. I will of course bring his message back to the Minister. I have heard this issue raised by a number of colleagues. I heard the Minister, Deputy McEntee, raise it with regard to her constituency and area. There is no question but that there is an issue there, which the Senator has very clearly highlighted today. Obviously, there is the 20% reduction. The Minister is very firmly committed to extending that into 2023 and to seeing what other measures can be taken.

Naval Service

Senator Barry Ward: Cuirim fáilte roimh an Aire Stáit. I am conscious that, as we speak, the Minister, Deputy Coveney, is launching the report of the Commission on the Defence For-

es in McKee Barracks. I am very grateful to the Minister of State for coming here today. I welcome that report and the fact that the Government has taken on this issue and dealt with it in a concrete way, putting forward proposals that will ensure the future of all three branches of the Defence Forces. We can be proud of what is going to come from that report and the progress that will be made in respect of the Defence Forces, with the Government opting for level of ambition 2, which is realistic and achievable.

With that comes an expansion of the Defence Forces. It is projected that there will be up to 2,000 new members of the Defence Forces. That is particularly important in the context of the Naval Service, where we have had serious staffing issues resulting in ships that cannot be crewed sitting in Haulbowline or other bases rather than being at sea and doing the job we intended them to do. In the aftermath of Brexit and Russia's initiation of hostilities against Ukraine, we now know that we can no longer rely on the *status quo*. The Irish Sea represents not just an Irish border, but a European border. It is therefore tremendously important that we staff and equip the Naval Service in a way that allows it to patrol our coastal waters and make sure that we are protected to the greatest extent possible. I also recognise that the report includes plans to increase radar capacity, which is also tremendously important, but I want to particularly focus on the Naval Service and the patrolling of coastal waters. As I have said, the Irish Sea now represents a European border as well as an Irish border. It is an area that needs to be patrolled by the navy and in which we need to have strong capacity. I suggest that very strong consideration should be given to creating a new naval base of operations in Dún Laoghaire Harbour. The Minister, Deputy Coveney, may well be of the mistaken view that Cork is the capital of maritime Ireland-----

Deputy Colm Brophy: Or the capital of Ireland.

Senator Barry Ward: The capital of Ireland, indeed. However, I am sure he will recognise that the maritime capital is, in fact, Dún Laoghaire. Dún Laoghaire has a great maritime heritage. We obviously have the National Maritime Museum in Dún Laoghaire but the harbour itself, which recently celebrated its bicentenary, is a tremendously important asset strategically and historically. At the moment, it is less used than it could be. Since the departure of the ferry services, there is no substantial commercial activity within the harbour with the possible exception of Irish Lights, which covers the whole of the island of Ireland in maintaining lighthouses, buoys and other nautical markers that protect mariners. There is a real opportunity for the Naval Service to put a base of operations in Dún Laoghaire. The port is accessible at all hours from a tidal perspective. It never dries out. All naval ships can go in and out. It does not have substantial commercial traffic going in and out so there is no difficulty with interrupting naval operations. As we expand naval operations, it makes perfect sense to locate a naval base of operations in Dún Laoghaire Harbour, which is an underused State asset and an available historic place that is connected with the navy in very many respects.

The *LÉ James Joyce* was commissioned and named in Dún Laoghaire Harbour. I was at that ceremony, however many years ago it took place. As we expand the Naval Service, there is an opportunity for the Defence Forces to create a base with capacity that is located appropriately, which is right at the centre of our east coast and allows us to patrol a vast volume of water in a very effective way. I ask that consideration of the future of the Defence Forces will involve a serious examination of the possibility of establishing a proper base of naval operations in Dún Laoghaire, with one of the two new coastal patrol vessels we have acquired from the New Zealand navy being based there. It would effect real control in its patrols of the Irish Sea from Dún Laoghaire.

Deputy Colm Brophy: As the Senator mentioned, the Minister is attending the launch today. The Minister welcomed the publication of the Report of the Commission on the Defence Forces in February. The establishment of the commission was set out in the programme for Government. The members of the commission were drawn from a wide range of national and international experts. The publication of the report represents the culmination of the work carried out over 13 months, and is testament to the considerable efforts of all of those who contributed to its completion.

The report is wide-ranging and comprehensive. It contains 69 main recommendations. Together with sub-recommendations, there are 130 individual recommendations. The report proposes significant changes for the Defence Forces, including significant cultural changes and HR practices. It also includes proposals relating to high-level command and control structures and for the level of defence provision in Ireland.

Yesterday, Government approval was given for a move to level of ambition 2, as set out in the capability framework devised by the Commission on the Defence Forces. This will result in the Defence budget rising from €1.1 billion to €1.5 billion, in 2022 prices, by 2028. That is the largest increase in defence funding in the history of the State. The Government also approved the high-level action plan which sets out the response of Government on each of the 130 specific recommendations in the commission's report. Of the 130 individual recommendations, 103 have been approved or approved in principle, with the remaining 27 requiring further investigation.

An implementation structure is also set out in the high-level action plan. As part of this, it is intended that a detailed implementation plan will be approved before the end of 2022. The establishment of a naval base on the east coast was not one of the specific recommendations made by the commission in its report and, therefore, is not specifically referenced in the high-level action plan approved by Government yesterday.

The Minister for Defence cannot make any commitment at this time in respect of establishing a naval base of operations on the east coast of Ireland. However, this may be considered in the future. The Naval Service has availed of Dún Laoghaire Harbour to mark many significant events. These events included the commissioning ceremony of *LÉ James Joyce*, that took place in 2015. The freedom of entry to the county was bestowed upon the Irish Naval Service in 2017 by Dún Laoghaire-Rathdown County Council in recognition of its work in the Mediterranean humanitarian crisis. The Naval Service's official 75th anniversary celebrations began in Dún Laoghaire Harbour in 2021 when the *LÉ Samuel Beckett* berthed overnight and departed the harbour, heralded by a 21-gun salute.

There is a long-standing and ongoing tradition of Naval Service ships using Dún Laoghaire Harbour for shelter and shore leave. The Naval Service also uses the Harbour for training the Naval Service Reserve. The Minister for Defence is satisfied that the connection between Dún Laoghaire Harbour and the Naval Service is an important and strong one that continues to be fostered on an ongoing basis.

Senator Barry Ward: I thank the Minister of State. I was on the council when many of the events he described took place. We are tremendously proud of our connection to the Naval Service. For many years, *Creidne*, the Naval Service training vessel, was moored in Dún Laoghaire. I do not think it is in the Naval Service anymore. The Atlantic Youth Trust is moving to base sail training vessels in Dún Laoghaire too. Dún Laoghaire has immense maritime

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heritage and connections with the Naval Service. Leaving that aside, I am grateful for the suggestion that this will be considered. I hope that will come to pass. I also recognise that there must be an objective analysis of whether it is the right thing to do. I suggest that Dún Laoghaire Harbour represents an unparalleled location and opportunity for the Naval Service to base a vessel to patrol the Irish Sea. I have discussed this with the Minister on a number of occasions in recent months. I hope he will take the opportunity to put the base there because there is an underused asset that could be of enormous strategic importance to the country.

Deputy Colm Brophy: I will convey the Senator's views to the Minister, as he has done himself on many occasions. I will also add my own personal take, since we have both known Dún Laoghaire Harbour since childhood. I agree with the Senator that it is underutilised. It is a tremendous facility. For as long as I can remember, the association between the Naval Service and Dún Laoghaire has been strong. The local people love to go along the pier to see naval ships and see which one is currently in harbour. That happened when I was a child and continues to the present day. I will take the Senator's remarks on board and convey them to the Minister.

Hospital Services

Senator Erin McGreehan: I welcome the Minister of State, Deputy Feighan. I welcome the opportunity to speak on this important issue that involves saving lives. It is of utmost importance to many women, men and families all round the country. I have worked with my Fianna Fáil colleague, Councillor Teresa Costello, in South Dublin County Council on many breast care issues. This is another issue that she and I work on regularly. I ask for an update from the Department of Health on the waiting list for preventive mastectomies and about the service at St. James' Hospital in particular. This is a life-saving service. There is excess demand for it, so it is important that the service is expanded without delay. People with a higher risk of cancer due to their family history have to wait far too long for genetic testing in the first place. There are long, stressful waiting times for preventive mastectomies due to overstretched services and due to delays caused by Covid.

Inherited faulty genes play a major role in 5% to 10% of all cancers. Genetic testing is an important tool in aiding understanding of an individual's risk of certain types of cancers, including breast, bowel and ovarian cancers. Not knowing whether their family history of cancer puts them at higher risk of developing the disease can be a cause of great anxiety and stress for people. Having early access to genetic testing can provide options for that preventive treatment and reduce the possibility of ever receiving a cancer diagnosis at all. A growing number of women are taking the difficult decision of having double mastectomies and then reconstruction or of having their ovaries removed to reduce the risk.

There are major delays at many of our public hospitals. As a genetically inherited alteration passes through those family lines, the breast cancer gene, BRCA, significantly increases a person's risk of developing cancer. A mastectomy can reduce the chances of people who carry those BRCA genes developing cancer by 90% to 95%. That is an astronomical figure.

A recent survey by the Irish Cancer Society found that one in seven people have been waiting for more than a year for tests, with some waiting for more than two years for risk-reducing procedures. I highlight issues at St. James's Hospital in particular. In 2018, the family history service was curtailed due to excessive demand. I know that urgent and high-risk patients con-

tinue to be seen at the family risk clinic, but there is only one consultant plastic surgeon who supports the breast care service. There is increasing demand for the symptomatic breast service, diagnosed cancer, surgical treatment and reconstruction. They are being targeted but it is not enough. I understand a business case is being developed, but it is a crass way of describing an important preventive measure that is designed to save people's lives.

Minister of State at the Department of Health (Deputy Frankie Feighan): I confirm that it has not been decided to suspend this service at St. James's Hospital. Urgent and time-sensitive surgeries for women with cancer diagnoses are prioritised to provide priority access to care based on clinical need as assessed by treating physicians. Preventative mastectomies are usually risk-reducing surgeries for women who have been diagnosed with a BRCA gene alteration. As the Senator will be aware, people who inherit harmful variants in one of these genes may have an increased risk of breast cancer. Testing for inherited cancer-causing genes is commonly carried out following assessment and discussion with a genetic counsellor, either at the cancer genetics service at St James's Hospital or in the department of clinical genetics at Children's Health Ireland at Crumlin hospital.

Women who have been diagnosed with a BRCA gene alteration usually elect to undergo a period of surveillance with breast imaging prior to considering a bilateral mastectomy. For the minority of women who decide to undergo a risk-reducing bilateral mastectomy along with a bilateral reconstruction, this is a complex procedure requiring significant theatre time and expert surgeons. Because these women do not yet have breast cancer, they may be prioritised behind women diagnosed with cancer who are awaiting surgery. This has been a particular issue during the pandemic given, when hospitals and staffing levels are under unprecedented pressure, elective surgical services are curtailed and cancer treatment surgeries are prioritised over risk-reducing surgery. A further challenge is that it is not generally suitable or appropriate to outsource this type of complex surgery.

The HSE's national cancer control programme is working on a needs assessment for those with a BRCA gene alteration and this is close to completion. The needs assessment has been developed with a broad range of stakeholders, including representatives of those with a BRCA gene alteration, and will inform the planning of investment in the required services. The growing role of genetics in cancer care is well recognised and the development of a model of care for cancer genetics has been prioritised by the national cancer control programme. It has established an advisory group to agree a national framework for hereditary cancer services. This will incorporate the identification of those with an inherited cancer predisposition and their ongoing management. It will also consider the resources required to deliver this model within cancer centres, specialist cancer genetics services or other national enablers. It will be essential that investment in and development of services will extend to the required healthcare for those who have been found to have a genetic predisposition, including the resourcing of risk-reducing surgeries. The work of this advisory group will also inform the hereditary cancer aspects of the national genetics and genomics strategy, which is expected to be completed by the HSE in late 2022.

Senator Erin McGreehan: I thank the Minister of State. It is good news that the advisory group will report. I very much welcome the ongoing work by the Department in all services to reduce waiting lists, increase care and improve outcomes for many patients. I will follow up with the Department on specific details about the waiting lists and ask which services will be expanded in the short term before the advisory group reports. If someone is awaiting a feared cancer diagnosis, late 2022 is too far off. I will push for that, therefore, with the Minister for

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Health and his Department in order that there will be, I hope, additional services in the meantime.

Deputy Frankie Feighan: I thank the Senator for her contribution on this matter, which has been very helpful. The HSE's national cancer control programme is aware of the waiting times for risk-reducing mastectomy surgery within the designated cancer centres. These surgeries are carried as part of a prioritisation with other cancer surgeries, and tumour-directed breast cancer surgery for a woman with a cancer diagnosis will invariably be prioritised. I reiterate it has not been decided to suspend this service at St. James's Hospital. Significant funding has been provided by the Government in recent years for cancer services and funding for €20 million of our new development funding was allocated for implementing the recommendations of the national cancer strategy in 2021, with an additional €20 million allocated for the implementation of the strategy in 2022. The model of care will be aligned with the development of a national genetics and genomics strategy to be completed later this year, although we hope it will be sooner.

Home Help Service

Senator Robbie Gallagher: I welcome the Minister of State and thank him for taking the time to be here. It has been widely accepted for some time that older people are happier, and live longer, in their own homes. Home care packages are essential in supporting older people to continue to live within their communities. As we know, however, the home care sector is beset by a staffing crisis. Close to 5,000 people are waiting to be provided with a carer in their home. In the constituency where I live, Cavan-Monaghan, more than 250 people are waiting for home care packages, about 50 are waiting for first-time packages and more than 200 for additional hours, some of whom have been waiting for more than 12 months.

The demand is clear in the HSE's service plan, which states that the HSE expects to deliver 23.67 million home care hours this year, up by more than 2 million on the 2021 figure. Home care packages have improved but, unfortunately, there is no one to deliver them. Fears are increasing that older people may be forced into residential care sooner than they would like or left to languish in hospital because they cannot go home as there is no home care package in place for them. Age Action has called for a radical shift in how home care is managed because the delays are putting people at risk of harm. Older people may be forced to move into residential care sooner than they want or may be stuck in hospitals unable to be discharged. They may suffer consequences for their physical and mental health and their independence. Access to home care has, traditionally, been affected by funding issues but, thankfully, that is no longer the case. Just 286 people were waiting on funding for home care at the end of 2006, whereas just before the pandemic, that figure stood at 9,000, according to Department of Health data. The very significant increase in the budget is to be welcomed. Additional money had to be found for home care packages and I, along with my party in opposition, am delighted that is now the case.

The problem, however, has moved to being one of staffing. Low pay and erratic hours for carers are key issues. It can be difficult work and we as a nation owe these workers deep gratitude for the work they do. A Government workforce advisory group has been working on the recruitment crisis in home care and nursing homes and it is clear some radical thinking is required. In the past, home care was provided by the family, but family life has changed and it is now very difficult to do that. Nevertheless, families may be able to work with the HSE to find solutions. There may be a way for families to subcontract the work at local and family level,

allowing, for example, a number of family members to work as a team to provide care and support to an older family member. Indeed, a similar scheme has been rolled out in Australia and the UK, where it is referred to as the consumer-directed home care scheme, which allocates a certain degree of funding to the families to spend on whatever care they deem fit. There is much merit in such a scheme because it would give families more freedom by providing carers with more financial support. With the appropriate training and oversight, the home care provided would be an added benefit to families and their connections with one another.

The advisory group may come up with other solutions and possibilities, but it needs to move quickly as the current circumstances will have knock-on effects not just for older people needing home care but also in the wider health service, in both the short and medium term. It is clear that something needs to be done sooner rather than later.

Deputy Frankie Feighan: I thank the Senator for raising this important issue. The Government is committed to the development of improved community-based services, shifting care to the home and offering greater choice for older people. In budget 2021 the Government allocated additional funding of €150 million for home support to progress the development of a reformed model of service delivery to underpin the statutory scheme for the financing and regulation of home support services and to provide 5 million additional hours of home support. The funding secured in budget 2021 to provide the additional 5 million hours has been maintained for 2022. In 2021 some 20.4 million hours were provided to over 55,000 people, around 2.9 million more hours compared to 2020, which represents an increase of 17%. In 2022, our aim is to provide 23.67 million hours of home support. At the end of May preliminary data showed that 55,392 people were receiving home support, and over 8.7 million hours of home support have been delivered this year to date, around 9% more hours than was provided for the same period last year. The preliminary data also show that significant inroads have been achieved in reducing waiting lists for funding approval for new or additional services, from over 7,800 in January 2020 to 348 in May 2022. This reduction has been achieved through a combination of validation of the waiting list and availability of additional funding to address those waiting.

However, there can be a lag between funding approval and the actual delivery of home support hours. Certain geographical areas that are experiencing increased pressures due to staff availability are particularly affected. At the end of May 4,720 people who had been assessed and approved for home support were waiting for a carer to be assigned to them. In January 2020, approximately 1,300 people were in this category. Despite the increase, it is important to note that the total number of people waiting for home support across both categories has reduced from over 9,000 at the start of 2020 to 5,068 at the end of May 2022.

Ensuring an adequate supply of appropriately skilled healthcare support assistants and healthcare assistants is a key objective of the advisory group initiative. The group has met five times since March and is currently working with key sectoral stakeholders in a structured programme of ongoing consultative engagements to further explore the issues and identify approaches to respond to the strategic workforce challenges. The group provides a forum for agreement on strategic approaches to address sectoral workforce challenges and will submit a report for the Minister of State's consideration by September 2022. The report will outline the group's key findings and recommendations.

Senator Robbie Gallagher: I thank the Minister of State for his comprehensive response. I commend our carers the length and breadth of the country on the work they do. We are deeply indebted to them. I acknowledge the huge effort being put into resolving this issue by the Min-

ister of State, Deputy Butler. I recognise that. I welcome the fact that the advisory group will conclude its work and publish its recommendations in September, which is only a few months away. Now that the hours have been allocated, it is vitally important that we recruit the people to carry out that work. The model of allocating funds to families directly to spend as they see fit is key. The recruitment of workers is a challenge across the entire economy, as the Minister of State is aware. It is key that the money is allocated to the families who are best placed to provide the care. If the families cannot provide the care themselves, they might know others in their communities who can do it. It is a key component in trying to resolve the staffing crisis.

Deputy Frankie Feighan: I thank Senator Gallagher for highlighting this most important issue. As I said, we see this issue in all of our constituencies. The number of home support hours provided in communities is increasing in line with enhanced investment. Delivering this enhanced capacity requires substantial recruitment. The recruitment process has been affected by the strategic workforce challenges in the home support sector. Therefore, it is our ongoing objective to meet the continued increased demand. The Minister of State, Deputy Butler, has established an advisory group to examine the relevant issues, including the obstacles to recruiting carers, and to make recommendations. The group, which is engaging with key stakeholders, will publish its report in September. I look forward to its publication. In addition, work to progress the development of a new statutory scheme for the financing and regulation of home support services continues. Taking place in the broader context of the Sláintecare reforms, the work encompasses the development of the regulatory framework for the new scheme, the examination of options for the financing model for the scheme, and the development of a reformed model of service delivery. I thank the Senator again for raising this important issue.

Renewable Energy Generation

Senator Seán Kyne: I thank the Cathaoirleach's office for selecting this Commencement matter today. I welcome the Minister of State, Deputy Smyth, to the House. I am raising this issue for two reasons. First, our climate action plan has ambitions in respect of the need to reduce the use of fossil fuels, particularly in energy production. The ambition is to generate significant renewable energy from wind, with a major focus of the plan being to decarbonise the electricity system and to generate 80% of electricity using renewable energy by 2030. The second reason I am raising the issue relates to the concerns over short-term, medium-term and long-term energy supply and security in this country. We know that there are concerns around the necessary and increasing use of electricity as our economy continues to grow and prosper. We are aware of the challenges that puts on the system over time. It is important that we ensure we have short-term, medium-term and long-term solutions on energy supply. The Government is acting on that.

The generation of wind energy, particularly off the west coast, has been discussed. The idea has been supported across these Houses and has received support among the general public. It is a no-brainer and a game changer, and it is necessary for us to reach our climate change targets. The Maritime Area Planning Bill 2021 passed all Stages in the Oireachtas in December of last year. It establishes in law a new planning regime for the maritime area that will enable the development of offshore energy. The maritime area regulatory authority, MARA, now has to be established. I understand that its administrative headquarters will be in County Wexford. MARA will be tasked with regulating development consent and planning for new wind projects. At present, it can take up to eight years to deliver these projects. That is too long. Clearly,

the public has an interest in many aspects of offshore wind projects, including the impact on the fishing sector, the location of cables when they come ashore, environmental studies and impact assessments, and foreshore licensing. Consent around the various aspects of these projects takes a certain period of time. The planning takes time. There is a bit of confusion around the current system of planning and consent for offshore wind projects. I ask the Minister of State to outline the timeframe for the establishment of MARA, the process and timelines for the consent, licensing and approval of offshore wind projects, and the level and type of statutory engagement envisaged for offshore wind projects. That is clearly important. There has to be a continued role for people who have legitimate and not vexatious concerns in respect of any project and that there is a process there with which they can engage with the Department and with the regulatory authority. Concerns have already been expressed by fishermen, for example, in respect of the impact of the construction and operation of wind farms and projects on the west coast of Ireland that might impact on fish movements, and everything else that goes with that. It is important that there is clarity on what the present process is for major wind farm projects and the timelines that they will go through to deliver their projects. There is general acceptance of the need for offshore wind projects. That is not to say that there are not concerns and that there will not be objections and challenges to the process. Perhaps the Minister of State may be able to outline the process as it stands to the House, please.

Minister of State at the Department of the Environment, Climate and Communications (Deputy Ossian Smyth): I thank Senator Kyne for his question. Ireland has one of the best offshore renewable energy resources in the world with a sea area of 490,000 sq. km, which is approximately seven times the size of our landmass. Because of Ireland's location at the Atlantic edge of the EU, we have more offshore energy potential than most other countries in Europe.

The Climate Action Plan 2021 includes a suite of actions to realise the full potential of the totality of Ireland's offshore renewable energy resources and commits to the achievement of 5 GW of installed offshore wind capacity by 2030. Our programme for Government sets out a further commitment to develop a longer-term plan to harness the estimated potential of at least 30 GW of offshore floating wind power in our Atlantic waters, which could enable Ireland to become a major regional generator and exporter of offshore renewable energy.

The Maritime Area Planning Act 2021 was enacted in December last year, establishing the legal framework for a new planning system for the maritime area. One of the main features of the Maritime Area Planning Act 2021 is the creation of a new State consent, the maritime area consent or MAC, as a first step in a new and streamlined planning process.

The Maritime Area Planning Act also provides for the establishment of a new agency to regulate development in the maritime area, which is to be called the maritime area regulatory authority, MARA. MARA will have four key roles, namely, granting of all maritime area consents for the maritime area; granting maritime licences for specific scheduled activities, including environmental surveys; ensuring robust compliance and enforcement measures; and managing the existing State foreshore portfolio of leases and licences

Prior to the establishment of MARA and to make achievement of our 2030 targets feasible, a pathway was provided to enable a select number of projects which had advanced under the existing foreshore regime to transition to the new maritime area planning regime.

Under the Maritime Area Planning Act, the Minister for the Environment, Climate and Com-

munications is responsible for assessing and granting maritime area consents for a first batch of offshore projects. Those are the projects which satisfy the definition of “relevant maritime usage”, under the legislation.

The maritime area consent regime assesses the viability of proposed offshore renewable energy developers in a number of key areas, including in respect of their financial and technical competency. The robust assessment of potential offshore developers who apply for a maritime area consent will ensure that only the most viable offshore projects will have the opportunity to apply for development permission from An Bord Pleanála.

On 25 April 2022, an eight-week window opened for maritime area consent applications from projects satisfying the definition of “relevant maritime usage”. The first maritime area consents are expected to be issued in the second half of this year. This will mark an important step towards reaching our 2030 targets.

After the assessment and grant of the first batch of offshore renewable energy projects, responsibility will be transferred over to the maritime area regulatory authority. It will be established and operational from next year. The establishment of this authority is one of the highest priorities for the Government.

Projects which obtain a MAC will still be required to apply for all of the requisite consents and planning permission and will be subject to the full environmental assessment and public participation procedures by An Bord Pleanála.

A new offshore renewable energy development plan, OREDP II, will be published in early 2023. The OREDP II will assess Ireland’s offshore energy resource potential, including for floating wind power generation off the west coast and will provide an evidence base for the identification of the areas most suitable for the sustainable development of fixed and floating wind, wave, and tidal technologies in the Irish exclusive economic zone, while also considering other maritime activities and marine biodiversity. The OREDP II, along with a planned economic analysis, will set out the pathway for the long-term sustainable development of offshore renewable energy beyond 2030. This plan will provide a framework for the future sustainable development of Ireland’s offshore renewable energy resources.

The development of offshore renewable energy in Ireland will bring us closer to achieving our energy and climate goals, reducing our reliance on imported fossil fuels and increasing our security and diversity of energy supply.

Senator Seán Kyne: I thank the Minister of State for the comprehensive response and I welcome that MARA will be operational from next year. It will have a body of work to do on new applications which are made for wind energy. I also welcome that there will be, if I can put it like this, a screening of those projects which are going to be developed and a robust assessment of the potential offshore developments which apply, whereby only the most viable offshore projects will have the opportunity to apply for development permission from An Bord Pleanála. Can the Minister of State provide further information on what statutory role and at what stage will MARA engage in consultation with stakeholders? That is a key part. At what stage also will the developer of the offshore wind project have to engage with communities? Is a list available to the public of the current projects that the Minister will be assessing and making decisions on by the end of this year?

Deputy Ossian Smyth: One of the main things is that our planning process at the mo-

ment is lengthy, as has been pointed out by the Senator. It needs to be compressed if we are going to meet our targets and if we are going to deal with the energy crisis that is happening across Europe. The EU has agreed under the REPowerEU proposals to compress the planning period down to a maximum of two years for major renewable projects and then to one year for particular go-to zones which each member state must designate as being areas where rapid development of offshore energy is to take place. I expect that the process of obtaining all of the consents, particularly the planning consents, is going to be speeded up.

MARA is separate from the planning process and is being established to replace the former regime for any type of offshore planning consents that were granted in the past. These were covered, in other words, by the Foreshore Acts dating back to the 1930s. This was a lengthy and not very streamlined system. The idea is that MARA will be a modern version or replacement for those Foreshore Acts and will involve ensuring that the projects are compliant, suitable, properly financed and technically viable.

It has not been fully decided at this stage what types of benefits are available for communities and this will be subject to public consultation. It is clear that for major renewable projects to succeed, however, they must have the consent not only of the authorities but of the public and that members of the public buy in to the fact that this is giving a direct benefit to their local communities. It is going to be important that there will be large, substantial and obvious benefits from any renewable energy project.

National Monuments

Senator Mary Fitzpatrick: The Minister of State is very welcome and I thank him for coming in to take this Commencement matter in which I seek a date from his Department for the appointment of a design team for the national monuments site at Nos. 14-17 Moore Street. It is more than 106 years since the 1916 rebels, including Pearse, McDermott, Connolly and Plunkett, surrendered on Moore Street here in the heart of our capital. It is more than 15 years since those buildings were declared a national monument site by a Fianna Fáil-led government in 2007.

Since I was first elected as a city councillor in Dublin city, I have worked with relatives, traders on the street and with my own colleagues at the city council not just to protect but to seek restoration and commemoration also on that site. Most recently, over a year ago, with others I was part of the latest ministerial advisory group which reported back in May 2021. Our report, *The Moore Street Report Securing History 3*, made practical, pragmatic and deliverable recommendations.

11 o'clock

Included in the recommendations were the establishment of an expert group for the market and, most importantly, the endorsement of the Irish Landmark Trust proposal for the restoration and management of the national monument and for the operation of that monument. We were really bolstered by the allocation by the Government of €12 million in urban regeneration funding for the national monument. I do not know if the Minister of State has been down to Moore Street recently, but it is shameful. It is heartbreaking for the traders and for the relatives. It is heartbreaking for anybody who cares about our history and our State and for anybody who visits it.

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I hope the Minister of State will provide us with a date for the appointment of a design team. When the State neglects such important history and fails to take action not just to protect and restore but also to commemorate and celebrate our brave heroes whose actions led to the republic we enjoy today, it is shameful. I hope the Minister of State has a date for us today and the work will commence soon. I look forward to his reply.

Minister of State at the Department of Public Expenditure and Reform (Deputy Patrick O'Donovan): I thank Senator Fitzpatrick for raising this. As she is aware, the future of the historical houses at 14 to 17 Moore Street has been fraught with difficulty over the years. A significant amount of time and effort has been devoted by a large number of people, organisations, the State and volunteers to try to resolve some of the issues so we can make progress. There have been a number of entities involved in this issue over the past several years, including the relatives, the Moore Street stallholders, the Department of Housing, Local Government and Heritage and Dublin City Council, just to name a few who have been focused on both the historical aspects of the site and the regeneration of the local area for the local community. The Government has rightly had a focus on allowing all the parties to debate the issues and contribute to the solution. We are pleased that positive conclusions have been reached and forward momentum is now possible.

Having considered all the issues involved and having consulted extensively all the relevant stakeholders through the Moore Street advisory group process, the Government has decided most recently to proceed with a scheme of works to create the commemorative centre at 14 to 17 Moore Street and has instructed the Office of Public Works, OPW, to manage the project. While the OPW has been curating the site since it was requested by the Minister for Housing, Local Government and Heritage to become involved in 2018 and 2019, our work up to this point has been simply to keep the monument safe and secure until a decision could be made about its future. We are happy that this process has been successful, that there has been a resolution of the issues that were proving contentious and that the project is now moving forward.

In the short term, our focus is on the Phase 1 works which are required to stabilise these very fragile structures and create the platform for the provision of the commemorative centre and visitor experience within them as a second stage. As I indicated recently in the Dáil, my officials in the OPW are currently making arrangements to resource the project properly and to put the necessary supports in place to make a substantive start. The work will be overseen by an expert technical team in the OPW led by our assistant principal architect and head of conservation in Dublin and including others within the OPW heritage services division with direct experience of creating and managing appropriate commemorative projects such as the Kilmainham Gaol Museum and the new visitor facilities at Pearse Cottage in Connemara.

This core OPW team of conservation specialists and project managers will be supplemented through the appointment of additional external technical services teams, including architects, engineers and cost specialists, who will help us to manage the project. The OPW hopes to conclude the relevant formalities with these professionals within the next three to four weeks and will expect to be in a position to make formal appointments immediately thereafter, enabling us to get started on the design preparation works that have to be done before contractors can be engaged and work commenced on the site.

Senator Mary Fitzpatrick: I thank the Minister of State. Am I to understand from the reply that a design team will be appointed within the next three to four weeks? I hope that is what he is saying because there is genuine bewilderment as to what is happening. It is over a

year since the report was submitted. The recommendations were accepted and endorsed, and they have been backed with €12 million of public funding. I hope the Minister of State is saying that a design team of experts will be appointed within the next three to four weeks and that we will see work commence.

I have been in those buildings over the last number of years. They are old buildings. Sure, they need care and sensitive treatment, but their fragility is not to be used as an excuse. They are precious and they need to be preserved and commemorated. However, as long as they are left there idle it is just adding to dereliction and making the job of the city council, the city traders, the relatives and the citizens of the city so much harder to regenerate and occupy that street in a positive way.

In the city council, I chaired the expert group for the future of the market on it. The city council advertised and received one reply. Only one operator would tender to trade and operate a market on the most prestigious market street in our country. That reflects the lack of confidence there is in Moore Street at present. That is an all-time low. It is something we cannot tolerate or support. We cannot allow it to drift. I hope the Minister of State can confirm that within the next month a technical team will be assigned and works will commence.

Deputy Patrick O'Donovan: What I can confirm is what I said already, which is that the OPW has been involved in this for the last three years, two of which were locked down with Covid-19. I can also confirm that this has been fraught with issues. The most important thing we have to do now is stabilise the buildings because if we do not, given our experience of doing work on the Four Courts, the Custom House, Kilmainham Gaol and other important buildings across Dublin, they could be at risk of further erosion or worse. The first and most important priority for the technical expertise in the OPW is to make sure there is no substantive further damage done to those buildings, and we have a good history in that regard.

With regard to an earlier comment the Senator made, the OPW has no intention of neglecting its role in this. It has a very proud history with national monuments. The Senator is quite right that the wider issue around Moore Street and O'Connell Street is a matter for the local authority. I was there two weeks ago and what I saw did not fill me with confidence. O'Connell Street is a show and the streets off it are not much better. It is festooned with plastic and everything that should be taken down. The local authority is failing in its duty to look after the principal street in the capital city of the country. Our role, to be honest, will show up the neglect that has been led by the local authority.

Senator Mary Fitzpatrick: Please do.

Deputy Patrick O'Donovan: However, I would not stand here and suggest that the OPW has been anything other than respectful to the monument and all the associated monuments. We will look after them. The role of the market, the associated street infrastructure and so forth are primarily matters for Dublin City Council. I have to say, having walked there less than a fortnight ago, I was less than inspired.

Cuireadh an Seanad ar fionraí ar 11.08 a.m. agus cuireadh tús leis arís ar 11.33 a.m.

Sitting suspended at 11.08 a.m. and resumed at 11.33 a.m.

Gnó an tSeanaid - Business of Seanad

An Leas-Chathaoirleach: I call the House to order on this very beautiful sunny morning. It is my pleasure, privilege and honour to welcome the Belgian ambassador, H.E. Karen Van Vlierberge, to the Distinguished Visitors Gallery. Tá fáilte Uí Cheallaigh romhat.

Speaking on behalf of the Cathaoirleach, I want to say a few words on the national day of Belgium. Next week, on 21 July, Belgium and friends of Belgium will celebrate their national day. The bonds of friendship between Ireland and Belgium are deep and strong. Our enduring friendship is grounded in historic connections from the era of the saints, including Dymphna, Bridget and Faolán, and scholars at the Irish college in Leuven, our shared values, including around the table at the EU and UN, and our creative artists and enterprises. This relationship has been strengthened by our common interest and increased connectivity throughout the challenges of Brexit. It is important to say that Ireland is very grateful for the steadfast support of Belgium and all her other EU partners during that very difficult phase. Unfortunately, it continues.

Many thousands of Irish people have chosen to study, live, work and retire in beautiful Belgium, where they have found a warm welcome and, more recently, Kilkenny limestone in much of the paving of the city streets beneath their feet. If they have not found gold, they have found Kilkenny limestone.

Ireland has also become home to many innovative Belgian citizens, including several waves of artisans, weavers and brewers as far back as medieval times, and to many innovative businesses today. Belgium is, of course, famous for its chocolate, frites and beer, while its citizens really enjoy our beef, lamb and seafood, as well as our music and dance. These cultural, commercial and culinary exchanges continue to enrich all our lives.

We are especially grateful to Belgium for the Island of Ireland Peace Park in Messines, which will mark its 25th anniversary next year. The peace park was opened in 1989 by the then President of Ireland, Mary McAleese, in the presence of Her Majesty Queen Elizabeth II and His Majesty King Albert II of Belgium. We are also grateful for its contribution to the peace garden here at Christchurch, which underlines Belgium's deep commitment to peace and reconciliation.

In June 2017, the centenary of the start of the Battle of Messines Ridge, an island of Ireland commemoration jointly let by the Government of Ireland and the Government of the UK, in partnership with the mayor of Messines, was marked at the Island of Ireland Peace Park. The ceremony reflected on the engagement, side by side, of the 36th Ulster division and the 16th Irish division at the Battle of Messines. The remembrance of this battle has become an important symbol of reconciliation on the island of Ireland.

I send special greetings to the ambassador, H.E. Karen Van Vlierberge, and to all Belgian citizens in Ireland. *Gelukkige nationale feestdag aan Belgen en vrienden van België. Joyeuse fête nationale aux Belges et amis de la Belgique. Schönen Nationalfeiertag an die Belgier und Freunde von Belgien.* That is the most beautiful greeting the ambassador will have heard in a while.

Senator Rónán Mullen: It is certainly the most unusual, I suspect.

An Leas-Chathaoirleach: You are very welcome, ambassador. It is good to have you here.

An tOrd Gnó - Order of Business

An Leas-Chathaoirleach: I invite our distinguished Deputy Leader to announce the Order of Business.

Senator Gerard P. Craughwell: There is an awful lot of the word “distinguished” going on here today.

Senator Lisa Chambers: I concur with the Leas-Chathaoirleach’s remarks. I am not quite sure what he said in his last few sentences but the ambassador is most welcome.

Senator Gerard P. Craughwell: Neither does anyone else.

Senator Lisa Chambers: I have no doubt it was complimentary and it was informative.

Before I announce the Order of Business, I extend a vote of sympathy to our colleague, Senator Timmy Dooley, on the passing of his father, Mr. Joe Dooley, who was buried in Clare two days ago. Ar dheis Dé go raibh a anam. I am sure I speak on behalf of all of the House in extending our sympathies to Senator Dooley and all of the Dooley family and to all of their community.

Senator Gerard P. Craughwell: Hear, hear.

Senator Lisa Chambers: I acknowledge the passing of Judge Séamus Hughes, a former Mayo Deputy, who passed away after an illness. I extend our sympathy also to Deputy Alan Farrell on the passing of his father.

The Order of Business is No. 1, motion regarding the arrangements for the sitting of the House on Thursday, 14 July 2022, to be taken on conclusion of the Order of Business without debate; No. 2, Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022 – Committee and Remaining Stages, to be taken at 12.45 p.m. and to adjourn at 3.25 p.m., if not previously concluded; No. 3, Civil Law (Miscellaneous Provisions) Bill 2022 – Committee and Remaining Stages, to be taken at 3.30 p.m.; No.4, motion regarding the earlier signature of the Civil Law (Miscellaneous Provisions) Bill 2022, to be taken on conclusion of No. 3, without debate; No. 5, Communications (Retention of Data) (Amendment) Bill 2022 - Committee and Remaining Stages, to be taken on the conclusion of No. 4 and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 6.30 p.m. by the putting of one question by the Chair which shall, in relation to amendments, include only those set down or accepted by Government; No. 6, Education (Provision in Respect of Children with Special Educational Needs) Bill 2022 - Committee and Remaining Stages, to be taken at 6.30 p.m.; and No. 109, motion 3, Private Members’ business, to be taken at 7.30 p.m. or on the conclusion of No. 6, whichever is the later, with the time allocated to this debate not to exceed two hours.

An Leas-Chathaoirleach: Very briefly, I associate myself with the Deputy Leader’s words

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of sympathy, first, to our colleague, Senator Dooley, with whom I had the privilege of serving on a committee of this House for a number of years, to our colleague in the Dáil, Deputy Alan Farrell, and also to the Hughes family in Mayo.

Senator Fiona O'Loughlin: As this is the last Order of Business before the recess, on behalf of the Fianna Fáil group I extend our deep gratitude and thanks to all of the officials, to everybody in the Clerk's office and everybody who makes our workings go very smoothly, in particular when we have late nights and early mornings. I thank them for that, and I hope they all have a nice recess. I appreciate that work will continue for them.

The weather is beautiful and it is lovely to see people out enjoying themselves. It is particularly sad that we have had two drowning fatalities in the past 24 hours. We extend our deepest sympathies to the bereaved families in Dublin and in Clare. We send out a strong message for people to be very careful when they are out and when they are near the sea.

Councillor Lisa McDonald, a former Member of this House, launched a wheelchair mat yesterday in Rosslare. It is the second of its kind in Ireland and I understand it is a pilot project. The mat allows people with a wheelchair to go out onto the strand to enjoy themselves with family and friends. This is an innovative idea and it would be wonderful to see it rolled out on beaches all around the country. We might make that call.

This week in Kildare, two highly significant planning permissions have been sought. One is for the 95-bed unit in St. Vincent's, Athy, which is a hospital for older people. The sum of €900,000 was allocated to the project in recent weeks. It is great to see the planning application going in. That will help with respite and when older people need to have a longer hospital stay.

At the same time, planning permission has also been sought for a new permanent Alzheimer's day care centre. I have spoken about this a number of times in this House. It is very important. The Alzheimer Society of Ireland, ASI, has operated for 20 years without a permanent place for people to go. We are going to have that now in Kildangan, which is very welcome. I thank the ASI for all its help with that.

We heard a few days ago that Horse Sport Ireland will not be moving to Dublin. This was the subject of a matter I raised in a Commencement debate previously. I am very pleased that it will stay in Kildare. The Army Equitation School was based in The Curragh, but it is now in McKee Barracks. It would be wonderful to see the Army Equitation School move to The Curragh and Horse Sport Ireland being located beside it. That makes a lot of sense in terms of national investment in a centre of excellence.

I happened to see that the Deputy Leader has the interim report of the Joint Committee on Gender Equality in front of her. That is something that we are all deeply interested in. It is important that we have a referendum sooner rather than later on a woman's place in the home. I would appreciate it were the Deputy Leader to give us an outline in regard to that.

Senator Seán Kyne: I welcome the ambassador to the Chamber. She is very welcome. I wish her well on her national day.

I also take the opportunity on behalf of the Fine Gael group to thank the offices of the Cathaoirleach and the Leas-Chathaoirleach for their work and co-operation over the course of this term. I hope that all staff get a good and well-deserved break as well.

I spoke previously, as did many others, on the need for a debate on the Defence Forces. I welcome the announcement yesterday and the official announcement today of the new era for the Defence Forces, as the action plan has been announced. This is very welcome. I hope we will have time for an in-depth discussion on issues relating to the Defence Forces soon after we resume. I welcome the fact that the report of the Commission on the Defence Forces, which was initiated by the Minister for Defence, Deputy Coveney, will see investment planned over the coming years.

Three options were presented by the commission. One was pretty much the *status quo*, which would still require an investment of approximately €47 million. The second option would allow for investment to increase the forces from approximately 9,500 personnel to 11,500, including 700 extra Naval Service personnel, and to get the Reserve Defence Force back up to 3,000. The investment includes improvements in primary radar capability, medium-range aircraft, and to the Army's firepower and armour. All of that is very welcome. The third option, which is not to be pursued at this stage, was based on getting to the level outlined in the second option. It would involve improving the capability, resourcing and level of personnel anyway before even engaging in the possibility at a future date of pursuing the third option. That would be to match what other European countries do and would require a threefold increase in resourcing.

This is a game changer for the future of the Defence Forces. As the Minister said, it will provide a modern workplace for the Defence Forces. Two new civilian posts will be created, namely, a head of transformation and a head of strategic human resources. In practice, it will take a number of years to deliver this change for the Defence Forces. It is clear now that the future is bright and strong for those of us who have very important barracks, such as Dún Uí Mhaoilíosa, Renmore, Galway. We will see continued investment and increased levels of personnel in all barracks like that, which will require accommodation and resources. I welcome this Government initiative based on the decisions and work by the Minister, Deputy Coveney, who has had a significant interest in the rebuilding of the Defence Forces.

Senator Rónán Mullen: I also welcome the ambassador, H.E. Karen Van Vlierberge. Although I do not normally speak in any way in support of a drink culture in this country, if there is anything she can do to increase the supply of Westvleteren beer coming into this country, she would be doing us all a service. That is a beer that is made by Trappist monks about an hour and a half from Brussels, but only in such small quantities as allow them to continue their business. They say they make beer in order to be monks, not the other way around. The only way I was able to get hold of it was by visiting the monastery. The restaurant beside the monastery was heaving with people on a Saturday evening, enjoying a meal and drinking sensibly. It was possible to get it there, but it is impossible to get it otherwise. You have to go on a list, and it takes ages. They take your car registration number and your mobile phone number and they will not sell it to you again for a certain period. It is quite a remarkable product that has been voted the best beer in the world on a number of occasions.

Senator Robbie Gallagher: Hear, hear.

Senator Rónán Mullen: I hate to start on a note like that because I do now have to talk about a very sad topic. I listened to the report about the HSE report into abortion as part of the three-year review yesterday on RTE and I thought it was tragically tendentious and horribly biased. There was no talk of whether women who chose not to go through with abortions after the initial consultation were interviewed. There was no talk about the report that doctors are disturbed that in the case of late-term abortions, there are children who remain alive. There

was no talk about whether precautionary pain relief should be administered. There was no talk about reducing abortions by seeing it as something that should be rare or about giving women the option of seeing ultrasound, all the many hard questions that have to be asked about how abortion operates in our country now. I agreed somewhat with the Leader last week on the need to reduce the number of abortions. She saw the matter first and foremost in terms of contraception access. We should not only see abortion as something to be reduced or to be used when contraception fails; we should also see it as something we want to reduce because it is something regrettable. Let us at least agree on that. At the moment, we have a perverse use of language. Abortion is being described in the media, very flippantly, as abortion care. There is no care for the baby involved. Let us never forget that.

Since the commencement of the current law, we have seen approximately 21,000 unborn babies aborted in just three years. That is a harrowing reality. It is a massive explosion in the numbers. The case for reducing the numbers is not getting an airing. The reason we have to guess rather than know for sure how many abortions have taken place is because the Minister has still not released the abortion numbers for last year as required under the law. Why is this Minister never honouring his obligations in this area? He has consistently used the phrase “in the coming weeks”. In the context of making an announcement on the future of telemedicine abortion policy, however, he keeps postponing facing up to his responsibilities.

An Leas-Chathaoirleach: Thank you.

Senator Rónán Mullen: He has been irresponsible and reckless in this area. I call for change and debate in respect of this matter in the next term.

Senator Lynn Boylan: Since this is the last Order of Business, I thank everybody for their work, especially those who keep these Houses running behind the scenes. This morning, I wish to raise an issue relating to energy poverty. This is something that came to light through the National Traveller Money Advice and Budgetary Service, MABS. Its 2019 study on energy poverty indicated that 77% of Travellers living in mobile homes were in energy poverty. It also found that their weekly energy use was €108, which is 26% of their income. That is well above the 10% threshold for energy poverty. The Government’s electricity rebate was supposed to soften the blow of the large increases in electricity bills. However, despite the extraordinary levels of energy poverty in the community, a large cohort of Travellers did not benefit from the rebate according to the National Traveller MABS. In the case of families living on halt-ing sites, the local authority has an account with the electricity company. The account was not considered a domestic account and therefore there was no rebate payment made at all. In many situations, the families do not receive electricity bills directly because families make payments for electricity directly to local authorities as part of their rent. In some cases, where they did get the electricity credit, it was divided between the number of bays on-site, meaning that they only got about €7 per family because the mobile homes share the parking bays.

Again, despite being in energy poverty, many families were done out of the full rebate while millionaires and holiday home owners benefitted, despite our attempt to exclude them in amendments. To add insult to injury, the Select Committee on Environment and Climate Action heard yesterday that €20 million of the €400 million that was set aside for the electricity credit scheme went unspent. When the Minister of State, Deputy Noonan, was asked how many Traveller families did not receive the payment, he was unable to give an answer. The Government and local authorities need to get to the bottom of this quickly and make sure the Traveller families get the previous payment and that if the scheme is repeated - and there are kites being

flown that it will be repeated in the early budget - that the same mistakes are not made again. I echo the real concerns by the National Traveller MABS on this. This issue has received very little coverage in the media.

Senator Rebecca Moynihan: I wish to raise the review of An Bord Pleanála by Mr. Remy Farrell and the internal report. The head of the strategic housing development, SHD, division, Mr. Paul Hyde, resigned on Friday following allegations and an investigation into some of the decisions he took. We need to ensure that the report into this matter is published in full by the Minister in order that we can see its contents and whether there was any reason for Mr. Hyde's resignation. I also ask that the internal report be published in order to ensure faith in our planning system. It has been very undermined by the SHD legislation and the number of judicial reviews that have been taken, especially in the context of the number that those involved lost.

With that in mind, I want object to the amendments being included in Planning and Development (Amendment) (No. 2) Bill 2022, which deals with substitute consent and which is being taken in the Dáil today. That Bill will come to the Seanad tomorrow and will be debated for a mere 45 minutes. Substantial changes are being made at the last minute. These had obviously been in train and planned by the Minister. To rush the Bill through the Houses, particularly in light of the issues relating to An Bord Pleanála and people's lack of faith in it, is a disgrace. When we legislate in haste, we tend to repent at leisure. That is very much the case with the SHD system. We do not know what is in the report but I imagine it will raise issues with regard to process, conflicts of interests and how the board allocates work. There are many people making substantial decisions for many communities throughout the country. I object to the Bill being rushed through and to the introduction of last-minute amendments without the Opposition being given sufficient opportunity to consider them in advance.

Senator Mullen referred to the biased report from the HSE. It is not a biased report. It relates to the lived experience of women who had been affected by Ireland's abortion laws. It is not anyone's ideological position but their lived experience. To call a report on the lived experience of people who have been at the raw end of those laws biased is an absolute disgrace. It should not be allowed to happen in this House.

An Leas-Chathaoirleach: I thank the Senator for her contribution. I thank Senator Keogh for informing me that the Ray of Sunshine after-school group from Wicklow, including its teachers and leaders, is in the Visitors Gallery. It is lovely to have them here. I hope that they enjoy their day in Leinster House and that the sun continues to shine on them through life. Ray of Sunshine is a wonderful name.

To take the mystery out of what I will do next, I will balance party rotation with time of arrival. On foot of that, our next speaker will be Senator Gallagher.

Senator Robbie Gallagher: I also extend a very warm welcome to our visitors. I hope they enjoy their day.

It gives me great pleasure to extend a very special birthday wish to a very special individual, namely, Councillor Ian McGarvey from Ramelton in County Donegal, who turns 92 tomorrow. He truly is a remarkable man indeed. He was first elected to Donegal County Council aged 73 years. He went on to serve as mayor of Donegal at 82 and in 2018, aged 88, he was mayor of Letterkenny. In the 2016 general election, he was the oldest ever candidate at 85 years. He is a role model for us all. It proves you can never been too young or old to stand in political life

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and that people of older years should never be dismissed. We all know how important it is to encourage young people, and especially women, to get involved in politics. That is something we must continue to do but we should never lose sight of the benefit of years of experience too. Councillor Ian McGarvey proves that age should never be a barrier.

They say that behind every great man there is an even better woman and in Ian's case that is true. His life partner is Marjorie, and only a few weeks ago they celebrated their 68th wedding anniversary. They really are a remarkable couple. It gives me great pleasure to wish them a very special wedding anniversary and Ian a very happy birthday. I wish them continued good health and happiness for many years to come.

12 o'clock

I would be grateful if the Deputy Leader would send a little note of congratulation to them both on behalf of us all.

An Leas-Chathaoirleach: We all heartily join in those good wishes. It is a remarkable achievement. I remind my good friends, Senators Cummins and Buttimer, who are Fine Gael Members from the Labour Panel, that I am very inspired by those remarks.

Senator Sharon Keogan: Well done.

Senator Barry Ward: As this House rises for the summer recess tomorrow, that day will also mark 140 days of hostilities by Russia against Ukraine. That is 20 weeks during which ordinary Ukrainian citizens have suffered, have been displaced and have been killed in their homes, towns and communities. One of the issues our Ukrainian friends face is keeping the war imposed upon them by Russia to the forefront of the news. The real danger is we will forget what is happening on a daily basis throughout Ukraine, and eastern Ukraine in particular, including the displacement of citizens and the victimisation of ordinary, innocent people.

What is perhaps most galling is this happens and continues to happen at the same time as certain Irish MEPs are denying that Russia is culpable, or that it is at fault or to blame, for this sacrifice of humanity going on in Ukraine. It is not only important we remember what is happening, keep the Ukrainians to the forefront of our minds and constantly remind ourselves an illegal invasion of their homeland is still going on, we must also remember to call out those who are peddling propaganda from the Kremlin. It cannot be tolerated in a free and democratic Irish politics. Of course, people can say what they like but when it is objectively untrue, and they are peddling propaganda from a rogue state that is conducting an illegal invasion, it must be challenged and we must say we will not accept it.

We stand with Ukraine. We continue to keep the Ukrainian people in our hearts and minds as they continue to repel an illegal Russian invasion.

Senator Gerard P. Craughwell: I join with others in wishing the staff who run the Seanad well as we head towards the summer recess. Last weekend, *The Irish Mail on Sunday* carried a story about the Leader and me, and the Air Navigation and Transport Bill that is passing through this House at present. The article referenced the likely impact on the Leader's position as a result of the position she has taken in the House. We are Senators, not Deputies or county councillors. We are here to evaluate or appraise legislation as it passes through the House. There should be no Whip. We are elected to vocational and university panels and do not have constituencies. That is it. That is where it starts and ends. The Leader looked at the legislation,

found flaws with it - similar to those I found - and took a position. She should be honoured and not castigated for that.

An Leas-Chathaoirleach: To assist the Senator, we will debate that Bill for two hours tomorrow.

Senator Gerard P. Craughwell: I appreciate that. The point I am trying to make, and this is something we should all reflect on as we go away for the summer, is about the role of the Seanad. Most of us are proud to be in this House. Its role is to challenge the Government, to look at Government legislation as it works its way through, to initiate legislation and to bring topical matters of concern to the nation to this House. I found it particularly difficult to read the article on Sunday because I know how deeply committed the Leader is to her job and to the legislation. It is not an easy thing for a member of a party to stand up against legislation that is passing through the House.

I slagged off my colleague, Senator Ahearn, yesterday for representing County Tipperary. We all do it from time to time. Every day, Senators stand up in the Chamber to talk about their constituency. I do not have a constituency. I come from County Galway, live in Dublin and do not have a constituency, but I fully accept people do. I ask us to reflect over the summer on the vitally important role we have in challenging the Government.

An Leas-Chathaoirleach: I thank the Senator for those words. The Leader will express her views on the legislation tomorrow. He has also articulately expressed his views, which is fair enough.

Senator Tim Lombard: I will raise a very unfortunate issue about which an article appears in today's edition of the *Irish Examiner*. It is about how we dealt with the organs of children following post mortems. I was approached by a constituent, Ms Laura Kelleher and her husband, who now reside in Australia. They were involved in this unfortunate issue at Cork University Hospital. They were distraught that the organs of their daughter, Hope, were not disposed of appropriately and they were not kept informed regarding it. It was very distressing for them. They found this information out hours before an RTÉ "Prime Time Investigates" programme was broadcast.

An internal HSE audit has been done regarding this issue. Similar issues pertaining to other hospitals have also materialised. It is a significant issue of trust. To think that a person in such an unfortunate situation could not trust the hospital or consultants regarding what happened to their child's organs when permission was given for a post mortem, is a major issue for the State, families and society. The legislation being proposed, the human tissue Bill, which I have raised in the House several times, has not yet come before the Houses. It has to come before the Houses in the next session. We cannot have a scenario where a Bill that is proposed to sort out this issue has been drafted but not actually brought to the Houses.

From reading about what happened in this morning's edition of the *Irish Examiner*, there is a much bigger issue here. Some kind of tribunal should be established in order that parents can find out exactly what happened. An internal HSE audit has been published. That is not good enough. We need to appoint a High Court judge to review exactly what happened and look at the conduct of consultant A in the context of the article published today. This is a really significant issue for us and I propose we have a debate on it when we come back in September. The Minister should come before us regarding the legislation. There needs to be public

accountability. The families affected need this, as do the mother and father I met in my office. I respectfully say we need to see real movement on this Bill and a public, independent inquiry put in place.

Senator John Cummins: I will raise an issue around domestic septic tanks that has come to my attention. The Environmental Protection Agency has been highly critical of the number of inspections that local authorities have been able to carry out throughout the country, and the fact many septic tanks are failing inspections, yet remediation action has not been taken. Domestic septic tanks had to be registered before 1 February 2013. The issue that has been brought to my attention is grants are not available for those not registered before that date.

While I can understand the State not wanting to support somebody who failed to register before that period, the issue I have concerns those who bought properties in the intervening period. A constituent of mine bought a property two years ago and its septic tank has been found by the local authority to require remediation action, but that person is not entitled to a grant, through no fault of his or her own. The fact it was not registered was identified in the sales process but the issue of that person not being entitled to a grant has only come to light now after the fact. As the previous homeowner did not register the septic tank by 1 February 2013, the new homeowner who bought the property in 2019 is being penalised for the inaction of someone in 2013, without the ability to fix that issue. If we want to improve groundwater and improve the issues around septic tanks, it is counterintuitive that the State would penalise a new homeowner who has bought a property in good faith but is unable to access the €5,000 grant, which is available to remediate that septic tank. I am sure this is an issue also in many other parts of the State and not just in my own area in Waterford. I have written to the Minister about this issue and I certainly hope we can see movement on that. Perhaps the Deputy Leader will schedule a debate on the wider issue of groundwater when we return after the summer recess.

Senator Sharon Keogan: I also wish to be associated with the condolences to Senator Timmy Dooley and to Deputy Alan Farrell on the deaths of their fathers.

I offer congratulations to Councillor Ian McGarvey who will be 92 years of age. I met him and Marjorie on his 90th birthday. Good health to him for many more years to come.

I submitted a Commencement matter this morning that was not selected, but I really want to air the issue prior to the summer recess. Earlier this week I also highlighted the matter with the Minister for Education. The Duleek area of Meath is in need of a new post-primary school given the rapidly increasing population there. The people of Laytown and Bettystown are also renewing their calls for a 24-7, fit-for-purpose Garda station in that area. These requests from the people of these areas have been growing for some time.

The 2022 census figures show that the need is even more dire than previously thought. With an increase from 2016 of more than 25,000 people in the county, policing has become increasingly stretched. Laytown Garda station is not fit for purpose. We need a new building there and we need a new 24-hour Garda district there to deal with any emergency calls in the area, which are currently dealt with from the Ashbourne district. The distance to be traversed in these instances by gardaí responding to calls can be significant and especially when time is of the essence. The east Meath area has the highest population growth in the county after Navan and this should be acknowledged and reflected in the investment into essential services there. What service is more essential than our gardaí who keep our community safe?

I ask the Deputy Leader if we could have a debate in the Chamber on the national police force in the State, and that Members of the House would take a forensic look into the areas in many of our counties where Garda resources are not fit for purpose and where upgrades are needed.

Before the summer recess, I want to thank the staff, the Leas-Chathaoirleach, and all of the staff in the Seanad and throughout the Oireachtas, including the porters, the ushers, the catering staff, the cleaners, and the Library and Research staff. I thank them and I hope they enjoy their summer recess. I thank them for all of the help throughout the year.

An Leas-Chathaoirleach: I thank Senator Keogan for her felicitous remarks.

Senator Malcolm Byrne: I wish to be associated with the vote of thanks to all of the members of staff in the Seanad and in the Houses of the Oireachtas more generally. We certainly could not do our job without their help, and also the work of our secretarial assistants. I hope all of the staff will get a well-deserved break at some stage over the summer.

I congratulate the Houses of the Oireachtas on its organisation of the Mná sa Seanad yesterday. It was great to see and hear Tras Honan. Ms Honan made such an enormous contribution to Irish life and she still has a very keen interest in it. I thank all of those who organised that event.

I welcome the fact that the Minister for Justice, Deputy McEntee, has announced that she is going to proceed with hate crime legislation. I am conscious that the Minister has announced this on a number of occasions but it now seems to be the case that it is progressing. I commend my colleague, Senator O'Loughlin. The Senator has introduced hate crime legislation previously in the Dáil and in the Seanad. When the Senator's Bill came before this House I was fortunate to be able to second it. Such legislation is required as a matter of urgency. I ask the Deputy Leader to do everything she can to expedite this legislation.

We have finally seen the publication of the report by the Future of Media Commission yesterday. The report was delivered to the Government nine months ago. I am glad that the Government has taken on board 49 of the 50 recommendations. I am disappointed that we will not have time in this session to have a debate on the future of media. We need a debate around local and national media, how it is funded, and tackling fake news and disinformation. I ask that this House would communicate our concern around the issue of funding of RTÉ. The question of licence fee reform has been kicked down the road yet again with another working group. I understand entirely that there must be an overhaul and that there has to be a review, but when this takes place I ask that a decision is taken quickly so that the national broadcaster can have certainty with regard to its funding.

Senator Lynn Ruane: I wish people a happy summer recess. I hope they get the time off they deserve. Today I want to acknowledge the work of our secretarial assistants. I would not like to come back into another Seanad term without their pay addressed and changed so they do get the actual wage they deserve for the work they do.

Senator Niall Ó Donnghaile: Hear, hear.

Senator Lynn Ruane: This issue has been even more relevant over the past few weeks as we move through a huge amount of legislation at such a quick speed. Our secretarial assistants sometimes work above and beyond the hours they should be working, going through the legis-

lation with us line by line. This applies especially to Independent Senators because we do not have a huge amount of staff and resources. We rely heavily on each other within our group.

I believe that we do not acknowledge each other enough. I would like to acknowledge the leader of the Civil Engagement Group. She would be raging if she walked in now. I am absolutely honoured to work with such a powerhouse. She does not only think about herself or domestic issues: her vision is far-reaching for Ireland, for the globe, for Europe. Seeing the way in which she approaches every single piece of legislation, I do not believe I would have the level of smarts to be able to actually understand such nuance in the way she does. I also acknowledge Senator Seery Kearney, from whom I have learned a huge amount.

Senator Micheál Carrigy: Hear, hear.

Senator Lynn Ruane: Sometimes we do not extend this appreciation across the House. I have been working with Senator Seery Kearney on the surrogacy committee and we have also engaged other issues. It is always great to see women working towards enriching the lives of people, enhancing people's experiences, extending human rights to people, and not looking to sow division or to exclude people.

Sometimes in here we can wrap quite exclusionary language in civility. We can wrap aggression in politeness. We can see through it and we can see that language matters. Sometimes I will come in and I will be quite blunt and harsh and there is outrage but not everybody wants to hide what they think and believe behind civility and politeness. It is much braver to be our true authentic selves and to be fully clear of what we mean, what we say, how we say it, and be very clear that it is not framed in any other shape or form. I hope when we return to the Houses in the new term we can actually call this out and hold people accountable when they are wrapping violence up in civility.

Senator Niall Ó Donnghaile: Well said.

An Leas-Chathaoirleach: I thank Senator Ruane.

Senator Mary Fitzpatrick: I extend my sympathies to Senator Dooley and to Deputy Farrell, and to any Member of the Houses and the staff. Many of us have lost loved ones over the Covid period. It has been a strange time. I hope that everyone gets a bit of time during the recess to have that time to themselves.

I thank all the staff in the Seanad who have assisted me and all of us. We have had a very heavy workload. It is a huge privilege to be one of the women of Seanad Éireann and to serve with such great women and men. It is a particular pride for me. From a housing perspective, we have made some very significant changes in the Seanad. These are changes which will serve generations into the future and which put the State at the forefront of leading on the delivery of housing. On home ownership, security and affordability, empowering our local authorities, using State-owned lands to build homes that are affordable and secure for people, this is work we can all be proud of.

I also commend our own Seanad party leader, Senator Chambers. It has been great to work with her, with our colleagues, with people from outside of our party from right across society and from experts in their field in the area of women's health. The first women's health policy to be produced by a political party was launched yesterday. I want to thank all those who attended and helped with the launch and preparation. Ms Corona Joyce, who works in the Fianna Fáil

office, did a tremendous job. Our secretarial assistants, SAs, work tremendously hard also. We do not have an army of staff. Whether Fianna Fáil is considered a big or a small party depends on which poll one reads. All I can say is that I am very appreciative of everyone who helps me and I am sure every Senator is. We all benefit from support, both formal and informal. That is a great privilege for all of us to have and to be able to take the benefit from here.

Finally, as we go into the recess, we need to remember that Europe is at war, that Ukraine is under attack, and that we must all be very much committed to supporting that country.

Senator Garret Ahearn: I will pick up on what Senator Craughwell said in talking about one's own county. I will never apologise for talking about Tipperary. I also remind him that there are 167,000 people living in Tipperary and it is the lowest represented county in the country. It needs more voices. I assume at some point, when the commission is set up, that Tipperary will be seen as a very large county that needs more representation.

I acknowledge the vote of confidence in the Government yesterday, the resounding victory the Government received in that motion, and the mandate that it now has going forward through the summer and into the budget, which will be an important one for the people of Ireland. Rather than create division in the Lower House, it has united our party and, in fact, the three parties and our other supporters into the future to do what is right for the country.

It has also told us how certain people think, in particular Independent representatives. I was listening to Senator Ruane speaking about Independent voices. We are quite lucky in this Chamber that we have Independent voices with clear vision and leadership. Unfortunately, we do not have that in abundance in the other Chamber where we have Independent Deputies who go which way the wind blows and who are all things to everyone. The interesting thing about last night is that they had a decision to make as to whether they supported this Government or wanted a Sinn Féin government.

It is clear from last night that the people of Tipperary now know that Deputy Mattie McGrath wants a Sinn Féin government. Independent Deputies have for years been all things to everyone but last night they had to make a decision. People in Tipperary now know that a vote for Deputy Mattie McGrath is a vote for Sinn Féin. This is a welcome development in Tipperary because people need to know that. I thank the Leas-Chathaoirleach.

An Leas-Chathaoirleach: I remind Members of this House that Members of the other House should not be referred to here, but we will move on. I call Senator Dolan to speak now, please.

Senator Sharon Keogan: Now that he has said it all.

An Leas-Chathaoirleach: It is between her and Senator Carrigy and I hope I have the order correct as they both came in close to each other.

Senator Aisling Dolan: I thank the Leas-Chathaoirleach. I want to bring up the HSE service plan and Westdoc. Westdoc provides GP cover and many people around the country would know that this service comes in under different names in different regions. It provides out-of-hours and red-eye cover. That is, out-of-hours between 5 o'clock and 6 o'clock in the evening until 12 o'clock at night and then red-eye cover from midnight until about 6 o'clock or 7 o'clock in the morning. The challenge is that in east Galway - I know are other parts of Galway are affected as Senator Kyne has mentioned his area of Moycullen - there is no cover in

the towns of Ballinasloe, Kilconnell, Laurencetown and Kiltormer. The GPs in those towns are not included in Westdoc. Representations have been made in respect of the HSE service plan to include this region. I would hope to bring this up and would very much like to have an opportunity to potentially talk about health prior to the budget with the Minister for Health. How are we going to ensure we have GPs and that we recruit and retain them, particularly when so many of them are young women with families? How are we going to attract them then to live in regional areas when they have to travel, have more nights on than off, and do not fall under the Working Time Directive?

In other words, if they work a night on duty, they are working again at 9 o'clock the following morning. We already have about ten vacancies in the west for GPs. This is very significant. At the moment the HSE is paying out for locums to deliver this service when we should have GPs in our local areas.

This is a serious issue which has been brought forward in respect of the HSE service plan, but it was not implemented this year. We need to look at how we can do that next year but also look at the areas in the west. The Deputy Leader will be aware that in her region, we also need to look at incentives for GPs.

What will those incentives be? I am aware that the HSE is looking at how we can put forward incentives via *per capita* payments but we need to look at how we are doing that in the west. We do not have the GPs. They are not coming to live in rural areas where they have to work a night on, a night off, then again at 9 o'clock in the morning and have to travel an hour, if not two hours, to their nearest patient. We need to have a discussion on this issue.

Senator Micheál Carrigy: Like Senator Ahearn, I will never apologise for representing where I am from which is Longford. I also want to raise the whole issue of the CLÁR funding scheme which is very beneficial to community groups in my home county. I am aware that 15 applications have been submitted by Longford County Council to the Department and these schemes will be looked at over the summer months. I hope and ask that perhaps extra funding can be obtained to ensure that a high number of those applications will be successful. The reality is that this is where the money trickles down into the local communities, it is where our local school gets set up with projects and where our local community centre or our sensory garden is developed. A great amount of work has been put in by all of the organisations that have applied and it is very important that extra money would be put in place to ensure that, if not all of them, a significant number of these organisations are successful in their applications.

I understand that discussions in the Department will take place over the summer months on the rural regeneration scheme. A significant application has been submitted for Granard in County Longford through the Lus na Gréine family resource centre to develop childcare and after-school facilities in a growing town where there is a severe lack of such facilities. It is needed in the area, the figures stack up and the numbers are there. I hope the Department looks very favourably at this application and that it is successful.

I have referred to the issue of boxing on a number of occasions in this Chamber. An extraordinary general meeting, EGM, was held in Roscommon last weekend where nearly the entire executive of the Irish Athletic Boxing Association, IABA, was voted out of office. We had a vote in respect of recommendations that were put to the clubs, which were voted against unanimously. We should be supporting the clubs, the members, the volunteers, and the sports people but we are not. The CEO and chairperson of the IABA need to step away and step down if we

are going to progress boxing in Ireland. The Minister of State and Sport Ireland should take back the threat of withdrawing the association's funding, should ask those people to consider their positions, and put the vote to the members. They will support it and will move forward. We need to have changes at the top.

Senator Garret Ahearn: Hear, hear.

An Leas-Chathaoirleach: To move to the right, although I am not sure they might be happy with that appellation.

Senator Jerry Buttimer: They are moving to the centre, in any event.

Senator Pat Casey: They have moved a great deal in 100 years, in fairness.

An Leas-Chathaoirleach: Senator Ó Donnghaile to speak, without interruption.

Senator Niall Ó Donnghaile: I thought the Members would be in much better form today, but nevertheless I thank the Leas-Chathaoirleach and I join other colleagues across the Chamber in acknowledging and thanking staff across the Oireachtas for everything they do for us throughout the term of the sitting. They keep us right, safe, fed and watered and do a great job, and we are very thankful to them. This is the case as we emerge from the very difficult circumstances of Covid-19 and all the burdens that placed on them.

I fully endorse what Senator Ruane said about our secretarial assistants. Regardless of anything else, we can come in here and argue about politics, which is only right and proper, but we can all agree that people are facing a cost-of-living crisis and that many people are having a really difficult time, and are stretched. In spite of all the fantastic work that secretarial assistants do to support each and every one of us, the reality is that they earn less than the living wage. Many of them, even if they do not live in Dublin, spend a huge amount of their time in Dublin and struggle to survive on such pay. We, as a House, are united in the belief that we need to resolve this issue. We should feel unabashed and unashamed for trying to fix this situation for these workers who give such a good service to us, these institutions and, indeed, political life.

I will not debate the Private Members' motion now and simply urge colleagues across the House to support this motion, which was put forward by my colleague, Senator Warfield, who is a member of the Sinn Féin group. The motion concerns the night-time economy and night life while recognising that both of them are about much more than alcohol. They are about stimulating creativity, supporting communities, and developing cultural spaces and creative opportunities. We have a job of work to do to support this sector through the cost-of-living crisis, provide support and keep safe the workers in that sector and industries, and continue our culture, arts and language for which Ireland is known for throughout the world. We can do much better so I urge Senators to support the motion.

Senator Alice-Mary Higgins: I join in the expressions of thanks to staff. I acknowledge the incredible work that people do and have done, especially as business intensifies. I thank all of the staff of the Seanad Office. I thank the staff of the Bills Office who I know must work overtime. I do not believe they should have to work so late because we should not rush legislation through in the way that we do. I acknowledge the incredible work done by the staff of the Bills Office.

I join in the words of acknowledgement and thanks expressed for secretarial assistants.

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Their case is a live issue. The secretarial assistants who work with Senators do extraordinary work on legislation. They deal with incredibly dense and important work. As mentioned, they pore over legislation line by line; my assistant goes through each line of all legislation with me. It is important that progress is made and that the SA issues are not put on the long finger or excuses made. I hope that by the autumn progress will be made to improve the terms and conditions for SAs.

I join the acknowledgement by colleagues right across this House that the Seanad is incredible and transformative, especially when Senators engage in discussion and work together in a constructive manner. I hope that we all will be fully rested when we resume in the autumn and have exciting new ideas about what we can achieve in the Seanad to mark the 100th year of Seanad Éireann. I refer to the idea of minority voices and the Seanad being able to lead on issues of equality and human rights. Indeed, the Seanad has an inspiring record of bringing forth laws that lead to major changes in society and legislation. In the autumn, let us add some new points to that chapter to mark the 100th year of the Seanad..

In terms of major changes, I want to acknowledge the launch today of the interim report by the Joint Committee on Gender Equality. The Deputy Leader and I are members of that committee. We have put in a very strong marker that indicates that we think Ireland should hold a referendum to change the Constitution in order that it properly acknowledges care. We must move away from narrowing things but make sure that care is acknowledged, and make sure that all families are properly reflected and acknowledged in the Constitution.

Finally, I wish to alert everybody and their parties to the fact that this summer one person will die from hunger every five seconds in the Horn of Africa. The famine is not solely due to what is happening in the Ukraine but is caused by climate change. Therefore, I urge Senators and their parties to endeavour to ensure that action is taken over the next three months.

An Leas-Chathaoirleach: A point well made.

Senator Maria Byrne: I will never apologise for mentioning Limerick. I became a Senator in 2016 and I was proud then, and remain proud, of where I come from.

Senator Ned O'Sullivan: Fair play.

Senator Paddy Burke: Hear, hear.

Senator Maria Byrne: On Sunday, Limerick will play Kilkenny in the all-Ireland senior hurling final. The Limerick hurlers are led by Declan Hannon and I wish him and the rest of the Limerick hurlers all the best. Limerick seeks to win three all-Ireland finals in a row and we are proud of that tradition.

Today, WP Engine moved to its new offices located on Henry Street in Limerick city. I wish Mr. Paul Ryan and his staff all the best in their new endeavour. WP Engine announced that there will be 20 new jobs created, which will add to the 120 existing jobs. WP Engine has been a very proactive company since arriving in Limerick city in 2016 and I wish everyone all the best in its new premises. I was invited to attend the launch but it is good to be here in the Seanad.

I wish everybody a nice rest over the summer because they deserve that. I thank all of the staff across the Houses of the Oireachtas. I thank the staff in the Seanad Office and the various departments in the Oireachtas. I hope that all colleagues in the Seanad have a nice rest and

return invigorated and ready for more hard work in September.

Senator Martin Conway: I concur with my colleague, Senator Byrne, in wishing the staff of the Houses of the Oireachtas and the entire parliamentary community in Leinster House a very enjoyable summer. Thankfully, it will be a normal summer or at least as normal as it can be despite the rise in the number of Covid cases.

I ask the officials in the Department of Health to clarify details about the winter programme, specifically regarding vaccinations. I ask for that because some vulnerable people have not received their fourth vaccine and that is not good enough. The Minister for Health has referred matters to the national immunisation advisory committee but I cannot understand why NIAC is taking so long to make recommendations to him. The incidence of Covid will be very serious as we move into the winter. It is now the summer and the number of Covid cases is peaking so God only knows what the situation will be like in the wintertime.

We do not know when the flu vaccination programme will be rolled out. Two or three years ago there was a difficulty with the supply of the flu vaccine. I presume that any difficulties have been resolved and the vaccine will be readily available. I believe that the flu vaccine should be made available to everybody free of charge because it is an essential health measure.

We need to know when the human papillomavirus, HPV, vaccine will be rolled out in order to forward plan. It is great that the Minister has announced that there is a catch-up programme and that all females under-25 years who have not received the vaccine do not have to pay any costs. Has a catch-up programme been announced? Have GPs signed up to rolling out the programme? Will pharmacists be involved in the delivery of the programme? People have many questions about the catch-up programme so clarifications are needed. I ask that the Deputy Leader arranges a debate on vaccines for Covid, the flu and HPV.

An Leas-Chathaoirleach: Thank you.

Senator Martin Conway: Earlier I could not speak as the Leas-Chathaoirleach was having a full flowing conversation so I shall finish making my point. I ask that a debate on all elements of the vaccination programme is arranged for the first week of the next term.

An Leas-Chathaoirleach: Well done, Senator.

Senator Vincent P. Martin: Last Sunday, an extraordinary general meeting, EGM, of the Irish Athletic Boxing Association, IABA, took place in Roscommon town where the delegates voted against allowing company EGMs and annual general meetings, AGMs, to take place in Northern Ireland. Furthermore, again concerning EGMs and AGMs, a motion to change the wording in the company's constitution from State to the island of Ireland was not passed.

In advance of the recent EGM, the Ministers with responsibility in this area, namely, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin, and her Minister of State, Deputy Chambers, made it very clear what that organisation had to do to reach the required, necessary and accepted standards of governance. It has been documented. I am enraged on a different level. I am enraged that a sport that has done so much to heal rifts in this country would decide to snub people in the North. I refer to people like Hugh Russell. Do people not remember Barry McGuigan in the King's Hall or in the stadium on Loftus Road with his late father singing "Danny Boy"? Do they not remember Wayne McCullough and Michael Carruth? Do they not remember Paddy Barnes and Michael Conlan? Do they not have an

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inkling that boxing is so much more than just a fight? Boxing in this country has transcended sport, and been a healing and unifying force.

Senator Paddy Burke: Most definitely.

Senator Vincent P. Martin: The IABA delegates acted in a reckless way with no regard whatsoever for the fine boxing heritage and history in this country. They do not reflect the followers of boxing. They do not reflect the Kellie Harringtons and Katie Taylors. They do not reflect Eric “Lilywhite Lightning” Donovan from County Kildare, who epitomises all that is decent in the sport of boxing and wish him well as he has a title fight in Belfast in September.

I urge the IABA delegates to rethink their actions and hope they have not done irreparable damage to a wonderful tradition that has survived much tougher and challenging times. Boxing did not go the way of many other sporting organisations. It was one place where you could park your politics before entering any boxing stadium. The delegates have done sport and their own sport of boxing a terrible disservice. I hope that we can still rectify the situation. We can talk again about corporate governance and this situation goes to show how endemic the problem is in leadership. I wish to emphasise that not everyone in the IABA is at fault. The senior people in the IABA urged a different outcome but their advice was ignored, neglected and declined by people who did not have the sport’s unity and healing front and centre in their thoughts.

An Leas-Chathaoirleach: Thanks to the courtesy of Senator Buttimer we will get Senator Currie back to an important meeting.

Senator Emer Currie: I wish to raise the issue of the community services programme, CSP, managed by Pobal, as we are in the run-up to the budget. This issue affects the Huntstown Community Centre and various other community centres in Dublin 15 and nationally, as represented by the national CSP managers’ network. As people will be aware, the programme ensures that community centres are provided with support, which is topped up through the social enterprise aspect of the centres and the shortfall is met. The programme creates employment in areas for people who might struggle to secure employment elsewhere. It also provides social, economic and environmental services in communities. We can feel very proud of the programme in terms of what it delivers.

I wish to state that the support aspect of the CSP programme has not been increased since 2009 and stands at €8.65 an hour. As we know, the national minimum wage is currently €10.50 an hour and the living wage is €12.90 an hour. These centres and other partners in the programme have faced Covid but now face ongoing and rising cost-of living charges, and increases. Therefore, we need to examine the programme in the budget as the hourly CSP rate has not increased since 2009. At present, managers earn €32,000 and they seek an increase that will bring their wage up to €40,000, which would be money well spent. They also want the current support of €8.65 an hour increased to the current minimum wage rate.

Tomorrow, 14 July, is the deadline for the community centre investment fund and I wish community centres all around the country the best of luck.

I thank my secretarial assistant and agree with Senators who have said today that the secretarial assistant issue must be resolved, as a matter of urgency. Finally, I wish everyone a good recess.

An Leas-Chathaoirleach: And now, the ever-patient and courteous Senator Buttimer.

Senator Jerry Buttimer: I endorse the comments made by Senators Carrigy and Martin in asking that the Minister of State at the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Chambers, is invited in here for a debate on the future of Irish boxing. Notwithstanding the reasons pertaining to the decisions made at the EGM last weekend, those of us who love boxing and support the sport are concerned and worried about the future of boxing. I know through the good work done by Andrew Duncan and others that the sport was reformed. However, I firmly believe we need to have a serious debate about the governance and future of Irish boxing. I am not going to lecture the boxing fraternity about what it should do but as Senator Martin noted, boxing brought people together and for those of us who admire the sport, I hope we will have that again in the future.

I ask that the Report of the Future of Media Commission be debated in the House with the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, as a matter of urgency. In fact, we should have had a debate on it this week. Together with Senator Carrigy, I was a member of the Fine Gael subcommittee that fed into the outcome that is the publication of the report yesterday. It is disappointing that the licence fee has not been looked at. I think that we, as a Government, made a mistake in not doing so and I hope that we can reverse course. Although 49 of 50 recommendations have been accepted, we need to examine the licence issue. In a cost-of-living crisis, perhaps the Government should consider reducing the cost of the licence fee to give the hard-pressed taxpayer and those who are faoi bhrú an opportunity to get a rebate. I also ask RTÉ to look at its structure of costs.

Finally, I concur with the Members of the House by wishing everybody and all the staff of the House a very happy summer vacation. We are well served by people who range from the people who record us, the stenographers, to staff in the Seanad Office and the Bills Office, who were here until 7.30 p.m. last week and we never reached the amendments. I thank the secretarial assistants and staff of Senators who do tremendous work. On behalf of the Fine Gael Group, I can say that we have a tremendous team on this side of the House, of which I am very proud. They do extraordinary work on behalf of the people whom we represent.

An Leas-Chathaoirleach: Leis an fhocal scoir, an Seanadóir Seery Kearney.

Senator Mary Seery Kearney: I echo everything that has been said about secretarial assistants and wish everybody a good summer. I am very grateful for the words expressed by Senator Ruane. Likewise, it has been an honour to serve alongside her on the Joint Committee on International Surrogacy and the Joint Committee on Children, Equality, Disability, Integration and Youth. In honour of her words, I will be absolutely blunt in my last contribution here before the House goes into recess.

This morning, I received yet another email from an absolutely distraught parent of a child with a disability. At this point, that parent is in a broken relationship, in a broken life, has a broken heart and has a broken child because the HSE is not supplying the services it is supposed to supply. The HSE is absolutely not recruiting and not supplying nurses. Today, a child sits in her home while needing dressings that respond to her particular disability. She has been left without dressings for several days. This situation has arisen but not for the want of the work done by the fantastic Minister of State at the Department of Health, Deputy Rabbitte. I am not criticising the Minister of State because I think that she is a saint, and her office is incredibly responsive. However, we have people who do not prioritise children, allow children to languish without supports and cause devastation in families.

Senator Victor Boyhan: Hear, hear.

Senator Mary Seery Kearney: I regret that we are going into recess because I am terrified these situations will continue without our voices in here and people being able to daily apply pressure. By God, I promise that on our return in September, I will talk about this issue on a daily basis because I am tired of sitting in kitchens with broken women who are doing everything they can for their children. It enough that the hearts of these women are broken at the loss of opportunity, life and living life to the best that is ahead of their children but they must fight all day and every day to get the most basic of services. It is not good enough.

Senator Jerry Buttimer: Hear, hear.

Senator Mary Seery Kearney: I want a task force headed up by the Department of Health.

An Leas-Chathaoirleach: Go raibh míle maith agat, a Sheanadóir.

Senator Mary Seery Kearney: I am sorry but this is too important. We cannot trust the HSE. Its representatives have come before committee after committee. We are dealing with recruitment but that is no use to this child today or the many other children who are affected.

Senator Jerry Buttimer: Hear, hear.

Senator Mary Seery Kearney: It is time to deal with the issue. This House needs to start impassioning a task force to get to the bottom of this as a matter of urgency.

An Leas-Chathaoirleach: Go raibh míle maith agat, a Sheanadóir. Well done. You clearly feel strongly on this issue. I ask the Deputy Leader to be brief in responding to the Order of Business as we have time issues.

Senator Lisa Chambers: If it is okay with Members, I will not go through everything in as much detail as usual as we have run over time considerably to accommodate people coming in on the last Order of Business before the recess.

On the point raised by Senator Seery Kearney, I certainly would be in favour of a collective approach in this House to a weekly debate on that issue. What is going on is disgraceful. People are being left with what is, in effect, a life sentence because they get no help. It is breaking up families and leaving people at the point where they may think of checking out of life. We all agree with the Senator on this. Let us do something like she has proposed. If we do not do it, it will not get done. I thank her for her remarks regarding the Minister of State, Deputy Rabbitte, who is trying her damndest. We have seen how she has been treated by some officials in terms of blocking her from doing her job. I am with the Senator on that, as are all Members. Let us make this our top priority for the next term.

I concur with the remarks thanking all the officials and staff who have worked with us this term. I hope they get a break over the summer months.

I join Senator Gallagher in congratulating Councillor Ian McGarvey, who is about to turn 92 years of age. That is a significant milestone. It is a good message for all of us to take on board that although we are often looking for younger voices, there is always space for everybody.

Several Members called for a debate on the Defence Forces. I hope to have it scheduled for the first sitting week in September. Senators Malcolm Byrne and Buttimer called for a debate

on the Future of Media Commission. I am afraid it will not happen this week but it will be one of our top priorities for the first week or two after we return in September.

Senator Moynihan raised a particular issue relating to the Planning and Development (Amendment) (No. 2) Bill 2022, expressing concern that there will not be time to debate amendments. There is no time limit in that regard and we may debate amendments for as long as is needed during the debate this evening. The debate will not be cut off and will only adjourn once Members have finished speaking on it. There is no guillotine.

I take on board what Senator Mullen said regarding the abortion services review and the associated report. I note he is representing a particular viewpoint that is held by many citizens. There is respect for that, although many of us in the House take a different view on the matter.

Senator Moynihan requested a debate on An Bord Pleanála and the report that is due. We will look for that debate.

Senator Cummins spoke about EPA provisions regarding septic tanks. I suggest that he put in a Commencement matter on that issue, which concerns the grant not being available to people who purchase a home after the deadline and where the tank was not registered. This might be appropriate for discussion on the Commencement debate.

I concur with the remarks by Senators Fitzpatrick, Ward and others on the ongoing war in Ukraine and the need to keep a focus on that issue. It is very nice for us that we are heading off into the summer recess but our friends and neighbours in Ukraine, who are 20 weeks into this conflict, will continue to be in that situation. It is important that we keep shining a light on the atrocities that are happening.

If it is okay with Members, I will leave it at that.

An Leas-Chathaoirleach: I thank the Deputy Leader. Before we conclude the Order of Business, Senator Higgins, who is always so factual and knows what she is talking about, is anxious to correct the record. What she discussed is tragic but she wants it noted that she made a mistake in saying that one person would die every five seconds in the Horn of Africa. She wants to correct the record to state that a person will die every 48 seconds. This remains something beyond tragic.

I want to associate myself and the Cathaoirleach with the words of appreciation for our excellent staff at all levels of the Seanad, including those based in the offices in the other building and those who work here. We really appreciate them and the work they do.

Order of Business agreed to.

Sitting Arrangements: Motion

Senator Lisa Chambers: 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 sitting of the Seanad on 14th July, 2022:

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(1) The Seanad shall meet at 9.30 a.m. on Thursday, 14th July, 2022, and the following arrangements shall apply:

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

(b) there shall be no Order of Business;

(c) the business to be taken shall be confined to the items set out in the Schedule to this paragraph and, accordingly, no other business shall be taken unless the Seanad shall otherwise order on motion made by the Leader of the House or such other Senator as she may authorise in that behalf.

Schedule

Motion regarding Animal Welfare.

The proceedings on the Motion regarding Animal Welfare shall be taken at 9.30 a.m. and shall, if not previously concluded, be brought to a conclusion after two hours.

Air Navigation and Transport Bill 2020 [Dáil] – Committee Stage (resumed).

The resumed proceedings on the Committee Stage of the Air Navigation and Transport Bill 2020 [Dáil] shall be taken at 11.30 a.m. and shall, if not previously concluded, be adjourned at 1.30 p.m.

Child Care (Amendment) Bill 2022 [Dáil] – All Stages.

The proceedings on all Stages of the Child Care (Amendment) Bill 2022 [Dáil] shall be taken at 1.30 p.m., and shall, if not previously concluded, be brought to a conclusion after one hour by one Question, which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Government; the opening contribution of the Minister at the debate on Second Stage shall not exceed 5 minutes, the contribution of all Senators shall not exceed 5 minutes and the Minister shall be given no less than 5 minutes to reply to the debate; Committee and Remaining Stages shall be taken immediately on the conclusion of Second Stage.

Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022 [Dáil] – Committee and Remaining Stages.

In the event the proceedings on Committee and Remaining Stages of the Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022 [Dáil], do not conclude on Wednesday, 13th July, 2022, the resumed proceedings on the Committee and Remaining Stages of the Bill shall be taken on the conclusion of the proceedings on the Child Care (Amendment) Bill 2022 [Dáil].

Planning and Development (Amendment) (No. 2) Bill 2022 – [Seanad Bill amended by the Dáil] - Report and Final Stages.

Subject to the passage by the Dáil of the Planning and Development (Amendment) (No. 2) Bill 2022, and it being considered, by virtue of Article 20.2.2° of the Constitution, as a Bill initiated in the Dáil, the proceedings on Report and Final Stages shall commence on the conclusion of the proceedings on the Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022 [Dáil], or if appropriate, on the

conclusion of the proceedings on the Child Care (Amendment) Bill 2022 [*Dáil*].

(2) The Seanad on its rising on Thursday, 14th July, 2022, shall adjourn until 2.30 p.m. on Wednesday, 14th September, 2022.”

Question put and agreed to.

Remediation of Dwellings Damaged By the Use of Defective Concrete Blocks Bill 2022: Committee Stage

Section 1 agreed to.

SECTION 2

Senator Victor Boyhan: I move amendment No. 1:

In page 6, to delete lines 17 to 20 and substitute the following:

“ “defective concrete blocks” means concrete blocks that contain excessive amounts of free or unbound muscovite mica or reactive pyrite or any deleterious material or combination of materials as may be prescribed under section 41;”.

There is a lot of work to do here today and I do not intend to delay unduly or engage too much. There has been an extensive debate on these proposals, including in the Lower House and in committee.

Before setting out the rationale for this amendment, I want to correct the record for people outside the House. I received some correspondence indicating that a number of people are disappointed by the outcome of votes in the Seanad on this Bill. To be clear for anybody listening to this debate, I stand in solidarity with people. I share, as do many Members of this House, their genuine concerns. However, this is the first amendment to the Bill to be tabled and discussed in this House. Seanad Éireann has neither considered nor made any other amendments to date. It is important to clarify this because the information I was given is that we passed amendments and people were unhappy with them. We have not had any amendments to consider before today. I say this for the benefit of people outside the House listening to the debate. It is important they fully understand that no amendments have been either approved or rejected in the House at this point in time.

The rationale for this amendment arises from the need to ensure the definition of “defective concrete blocks” is inclusive. The definition in the legislation appears to be restrictive. The amendment will allow for greater flexibility within the approved redress scheme, as the Minister has set out. The amendment is based on suggestions from homeowners and their advocates in affected areas and counties. It is important that we take steps to ensure anyone whose home is damaged or made uninhabitable by excessive amounts of deleterious material is supported. I urge Senators to support the amendment and I look forward to the Minister’s response.

Senator Gerard P. Craughwell: I thank the Minister for coming to the House for this debate. My colleague made the point that some of us have received emails referring to our vote in favour of the Bill on Second Stage. No amendment could be moved on that Stage. Unfortunately, there are people playing politics with this issue, which involves a devastating situa-

tion for families all over the country. We want to see a resolution of the problem as quickly as possible. Playing politics certainly will not resolve the issue for anybody. It might get people favourable emails because they were able to point the finger at those of us who voted to move to Committee Stage.

1 o'clock

However, it does not do the families on the ground any good whatsoever to use this as some sort of football. I deeply resent it because all of us-----

Acting Chairperson (Senator John McGahon): Let us just stick to the amendments as best we can. With due respect, the Senator is giving a Second Stage speech.

Senator Lynn Boylan: We do not have much time, I am afraid.

Senator Gerard P. Craughwell: Just let me finish off. At the end of the day, we want to see the families compensated as best we can. I am not going to say a whole lot more. The amendment we tabled stands for itself. I ask the Minister to accept it and I am willing to listen to his response.

Senator Malcolm Byrne: I thank the Minister for coming to the House. It is important to acknowledge his work and that of his officials. He has put an incredible amount of work into this. He has chosen not to play politics with it. He wanted to resolve an issue affecting significant numbers of individuals and families. I am speaking specifically to the amendment. We all value our homes. They are where we live and probably represent the biggest investment most of us ever make. We know how much money we put into them and, therefore, know why this legislation is particularly important and comprehensive. I commend the Minister and his officials on engaging with so many groups that have been affected.

Speaking specifically to the amendment, much of the focus is on mica but there are homes with defective blocks containing other materials. In Wexford, some of the affected houses had materials other than mica that caused problems. Indeed, in December 2020, Engineers Ireland identified that outside Donegal and Mayo, in Wexford, significant numbers of defective blocks may have been used. In Wexford, Mr. Nicholas Redmond and Mr. Sean Murphy, two individuals whose homes have been impacted, have been quite active in raising concerns around this issue.

I am aware the State is going after, insofar as possible, the builders, quarries and suppliers of the bricks and so on. Ultimately, we must remember that the taxpayer will be picking up the tab to ensure the homes are repaired. However, in the context of this scheme – this is why the amendment is relevant – it is a question of considering materials beyond just mica. It is a matter of defective concrete blocks generally. Deputy Darragh O'Brien wanted to be the Minister responsible for housing to ensure people could be provided with safe homes. He is doing a very good job in that regard but we have got to try to ensure everybody impacted feels they will be treated fairly. Considering the engagement the Minister has had with most of the groups, they believe that is the case. I want to make the specific case for some of those homeowners in Wexford who have also been impacted by defective blocks. I hope the Minister can give us some reassurance in his response.

Senator Timmy Dooley: Like others, I welcome the Minister to the House. I thank him for his engagement with me on the concerns I raised about residents in Clare whose homes have

suffered very serious damage due to the presence of pyrite in concrete blocks. From a very early stage, he visited some of the homeowners and met the group. As time went by, Clare was included in the scheme. Having spoken to the Clare Pyrite Action Group, headed by Dr. Martina Cleary and Ms Mary Hanley, two formidable women who have worked hard to put together a comprehensive response, I have learned they still have very serious concerns. They are not questioning the Minister's integrity at all but are concerned about how this will play out over time. They have raised some serious issues with me. It is understandable because the homeowners concerned in Clare, who are no different from those anywhere else, are concerned about their future. Some are elderly and know they are not in a position to gain access to additional borrowings to finish off a house that has to be rebuilt. People are concerned about whether the gable end will fall, leaving them without a home. Others, who have mortgages, are concerned about their ability to continue to repay those mortgages if they are unable to reside in their residences. From their perspective, there are significant gaps in the legislation. That might have been better. I am aware of the timescale and the argument the Minister rightly makes, namely, that we need to get this legislation on the books and start helping people whose homes are affected, but the difficulty in getting the legislation through before the end of this term is that it is not being thrashed out in debate in the way some would like, such that they can better understand the specific issues. I understand the Minister's position on that fully, but it makes it a little more difficult when people do not hear the debate go on for longer. I am not suggesting we can change that now but just want to vent the concerns raised with me.

Unfortunately, I could not be here on Second Stage due to a family bereavement. The Acting Chairperson might therefore give me some latitude to outline some of the concerns. One of the main issues I hear about from Clare homeowners concerns the damage threshold. There is a belief that it will determine who will be accepted under the scheme. As yet, that damage threshold has not been determined. People are worried that when regulations on this are set, 90% of applicants could be refused. These are the concerns that have been raised with me. I am raising them to give the Minister an opportunity to address them, hopefully in the relatively short time we have.

All homes with pyrite block damage should be included in the scheme. The damage threshold, if it is to be in legislation, should be used only to prioritise the order of remediation and not prevent homes that are damaged from qualifying.

It is important to note that pyrite block damage seems to manifest more slowly than mica block damage. Therefore, it is often less dramatic visually. However, scientific evidence from core testing shows that blocks have crumbled to dust or rubble beneath the render. In Clare, people have been advised for years to cover the cracks of the walls to keep the rain out for as long as possible. They are now concerned that if the damage threshold is used in a particular way in circumstances in which they have plastered over the cracks, and if it is based on a visual inspection, they could potentially be excluded. Maybe the Minister could state whether those whose cracks manifest at a later stage will still be considered for the scheme. I will conclude on that. We might talk about other issues later.

Senator Niall Blaney: I acknowledge the work that has gone into this scheme and its evolution since 2020, as alluded to the last day. I have never witnessed legislation evolve like this, with such access given by a Minister to his departmental officials. I sincerely thank the Minister for that access to his officials. It was useful to work with them in changing the scheme dramatically.

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I acknowledge Senator Craughwell's comments because I too would like a constructive debate today on the issues that still arise. This is our last opportunity to air and discuss them. Consider the circumstances if I am approved for stage 2 of the old scheme and have started works only for the engineer to realise the deterioration of the house has accelerated. Where an engineer believes option one should apply to the house, he does not have the ability to achieve that under the current legislation. Is there any way around that? It is a big bone of contention for many people. It was great to get to the point where those rebuilding their homes on the same sites and with the same footprints were exempted from having to obtain planning permission. As the day goes on, I would like clarity on whether an individual downsizing will also be exempted.

My next point, on the standard of blocks sold today, may not relate to this legislation and may be for another day. It is important from here in that suppliers of concrete products specify in their dockets what is in those products and the standard of the block, sill or whatever it may be. Suppliers of concrete products should be indicating on their dockets what is in those products, such as the standard of that block, cell or whatever. Those standards should be outlined on the docket the purchaser receives. That should be their guarantee.

There are other matters I will comment on as the debate proceeds. I am not fully *au fait* with the position regarding external walls that are not connected to the house and garage. Such walls can also contain mica. I would like it if, somewhere along the way, the Minister could have another look at that and introduce something in respect of it, particularly as it also gives rise to a direct cost for the homeowners. There is flexibility in there somewhere. I ask that the Minister takes a look at the matter if he gets a chance.

Senator Eileen Flynn: On a point of order, are we not going amendment by amendment, because-----

Acting Chairperson (Senator John McGahon): Yes, we are. The point I was going to make after a very fair point from Senator Gavan is that we are on amendment No. 1. I have probably given a little bit too much latitude for people to discuss matters outside the amendments-----

Senator Eileen Flynn: Perhaps we could just get through-----

Acting Chairperson (Senator John McGahon): If the Senator would just let me finish. I have given people a great deal of latitude. I will not do that from now on. Senator Keogan is last up, and then we will move on to new amendments. We are finishing at 3.20 p.m., so brevity is key in order for everybody to get in.

Senator Sharon Keogan: I thank my colleague, Senator Boyhan, for bringing forward this amendment, the purpose of which is to change the definition of "defective concrete blocks". We believe that the definitions listed in the legislation and in the amendment proposed by Sinn Féin Deputies in the Dáil do not go far enough. The current definition in the legislation is too restrictive.

Too often, there is a problem in Ireland whereby people are deprived of much needed support because they do not adhere to some strict criterion or other. We see this regarding a range of Government services, whether it be in social welfare, disability support or healthcare. We need to ensure that the same thing does not happen to everyone affected by mica or pyrite scandals. Therefore, we have made a definition as broad as possible, but within reason, to meet

everyone's concerns.

The scheme being brought in under the Bill could cost the taxpayer €3 billion over its lifetime, although many believe it could cost €8 billion or more. We must not encounter a similar controversy in the future. There are many problems with the building regulations in Ireland. The report of the expert panel on concrete blocks in 2017 outlined a serious regulatory and surveillance issue in respect of the building sector. The same could happen again. In that context, we need to ensure that anyone affected has access to proper remedies. Some in the building sector, such as Ray Brosnan, managing director of Brosnan Property Solutions, said that there is an unfair onus on manufacturers to engage in self-certification. We acknowledge this as an issue outside the amendment's scope, but our concern at the moment is protecting homeowners.

The amendment is based on a suggestion from homeowners. If the Government does not accept it, I would ask that it please ensure that people whose homes are damaged or made uninhabitable by excessive amounts of mica or pyrite will be entitled to support. The Government can only acknowledge the contribution made by grassroots activists, particularly those in Donegal, Sligo and Mayo, have made in respect of this matter and by the many councillors who have been in touch with us on this issue. I thank them and all the concerned residents and homeowners for engaging with us to put forward these amendments on their behalf.

Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien): I acknowledge the Acting Chair's ruling. I know that we have a number of amendments to get through. It might be helpful if I address some of the questions in the context of the overall debate as we get to other amendments.

First, I will speak directly to the amendment, which is the definition. The Bill states, "'defective concrete blocks' means concrete blocks that contain excessive amounts of free or unbound muscovite mica or reactive pyrite or a combination of both, or excessive amounts of such other deleterious material or combination of materials as may be prescribed under section 41". I put it to the Senators that this definition is broad and allows for things such as, for example, the work we are doing to scientifically test foundations. I want to put on the record of the House again what I said on Second Stage, namely, that should an issue arise that is proven scientifically, with pyrrhotite for argument's sake, in the foundations, we will include the foundations in the scheme. I just want to be very clear in order that there is no ambiguity in relation to that statement. I made it on Second Stage in the Dáil as well. However, the definition, as proposed in the Bill – I say this respectfully to Senator Boyhan, who tabled this specific amendment – is the strongest definition we can have. It will allow us as well to broaden it should, let us say, I am using the example of the foundations or other material that are proven to have a detrimental effect to properties, that they will actually be included. I will not be accepting the amendment. I appreciate the fact that Senator Boyhan tabled it.

The consultation on this legislation started in June 2020. There was previous scheme in January 2020 that, I agree with homeowners, was deficient. One of the first things I did was visit Buncrana with Senator Blaney and the Minister for Agriculture, Food and the Marine, Deputy McConalogue. I told residents in Buncrana that schemes evolve, and I have no doubt this scheme will evolve. I will be happy to see it evolve as it operates. However, we do not get a scheme into operation unless we pass the legislation. If we do not pass this legislation, we will be back to the old scheme, which is 90% grants up to a maximum of €247,500, no guarantee, no second grant and a cost of €5,000 to €7,000 to get into the scheme. I outlined all the changes on Second Stage. They are on the record of the House. If this legislation does not pass,

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we will go back to operating under the old scheme. That is just the reality.

In reply to Senator Dooley, I take this opportunity-----

Acting Chairperson (Senator John McGahon): We might come back to that later matter on because we are just conscious of time. Perhaps the Minister could comment on it during his summation.

Deputy Darragh O'Brien: Okay. I will not respond to these questions.

Acting Chairperson (Senator John McGahon): It is just that those questions do not relate to the amendment.

Deputy Darragh O'Brien: It might be helpful to speak on the damage threshold.

Senator Lynn Boylan: We will get to that.

Deputy Darragh O'Brien: We might.

Senator Lynn Boylan: We will get to it if-----

Acting Chairperson (Senator John McGahon): Excuse me. I am in the Chair. Comments will be made through the Chair at every stage.

(Interruptions).

Acting Chairperson (Senator John McGahon): The Minister may finish briefly.

Deputy Darragh O'Brien: Damage threshold ensures that the worst are remediated first. It is not to keep anyone out. Genuinely. That is the way it operates. The east coast scheme has been referred to as well. It is the principle of worst first, which residents wanted and which is what I want as well. There are thousands of homes to remediate. This scheme will be in operation for a significant number of years - probably ten to 15. Other counties will come in, such as Wexford, should the submissions come in too. That is the purpose of the damage-----

Acting Chairperson (Senator John McGahon): We will discuss it with amendment No. 8.

Deputy Darragh O'Brien: I will not be accepting amendment No. 1.

Amendment put and declared lost.

Acting Chairperson (Senator John McGahon): Amendments Nos. 2 to 4, inclusive, are ruled out of order due to potential charge on the Revenue.

Amendments Nos. 2 to 4, inclusive, not moved.

Senator Eileen Flynn: I move amendment No. 5:

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

“ “foundations” means the lowest load-bearing part of a building, typically below ground level;”.

Since I have the opportunity, I would like to say that we should be adults in this Chamber this evening and get through this legislation respectfully for the people. This is not politics, to

a certain extent; it is about the people on the ground.

Again, I believe that foundations should be included in the Bill. That is my only point.

Senator John Cummins: The Minister has been very clear on this issue, to be fair. He stated on the record of this House and in the Dáil that the exercise is being carried out by the National Standards Authority of Ireland, NSAI. If it is found that there are issues with foundations, then foundations will be included in the scheme. That point has been very well made.

Senator Eileen Flynn: I do not believe the point is very well made in the Bill. If I did, I would not have tabled the amendment.

Deputy Darragh O'Brien: I thank the Senator for tabling the amendment. To be very clear again, it will be based on scientific research. The relevant research was sought and is being carried out. I understand why people want that. The process will take time. If the research, which is independent of me and my Department, indicates that there is a problem, that problem will be rectified. If there is a problem with foundations, then foundations will be included. The Senator does not understand. The definition is broad enough as it stands. We will be able to do it by way of regulation. I do not propose to accept the amendment.

Amendment put and declared lost.

Section 2 agreed to.

Sections 3 and 4 agreed to.

SECTION 5

Acting Chairperson (Senator John McGahon): Amendment No. 6 is out of order as it involves a charge on the Revenue.

Amendment No. 6 not moved.

Acting Chairperson (Senator John McGahon): Amendments No. 7, 8, 23, 24 and 50 are related and may be discussed together by agreement.

Senator Eileen Flynn: I move amendment No. 7:

In page 8, to delete lines 34 to 37 and substitute the following:

“(11) For the purposes of making a recommendation, the Housing Agency shall consult with—

(a) the local authority which made the request, and

(b) affected homeowners’ representative groups, including nominated competent building professionals (as defined in Part 2 of this Act) and/or academic professionals with expertise in the fields of geology and materials science (of the homeowners’ choice), from the administrative area of the local authority which made the request, and

(c) such other persons as it considers appropriate.”.

I strongly believe that homeowner groups should be consulted as suggested in amendment

No. 7. On amendment No. 8, the people should be consulted with and spoken with in regard to all aspects of the Bill.

I do not want to speak too much because we are collectively pressing votes. I will move and withdraw, if that is okay, instead of speaking to all of them because they are all related.

Amendment, by leave, withdrawn.

Senator Eileen Flynn: I move amendment No. 8:

In page 9, line 1, after “with” to insert the following:

“affected homeowners’ representative groups, including nominated competent building professionals (as defined in *Part 2* of this Act) and/or academic professionals with expertise in the fields of geology and materials science (of the homeowners’ choice) from the administrative area of the local authority which made the request, and”.

Amendment put and declared lost.

Senator Victor Boyhan: I move amendment No. 9:

In page 9, between lines 16 and 17, to insert the following:

“(16) The Minister shall request the National Standards Authority of Ireland to complete the review of I.S. 465:2018, in a timely manner and as far as is possible to ensure that that review is completed in time for the opening of the Defective Concrete Block Scheme as provided for in this Act.”.

IS 465:2018 outlines a protocol which can be used to assess and categorise the damaged properties, such as concrete blocks suspected of containing the minerals mica and pyrite. It is ensuring that the defective concrete blocks system is robust, and I believe that it is important. It is in the interests of everybody - the Minister and Senators elected, and the councillors who represent these communities that are affected by this problem - that this issue would be addressed.

It is a simple commonsense amendment. I do not think the Minister is against it. We may have issues around timing and when it will happen. I would urge Senators to vote in favour of this amendment.

Senator Niall Blaney: I understand where the Senator is coming from in relation to this amendment but I would have concerns that that review has to be sufficient and widespread, and comprehensive. As such, I do not see it being done in a timespan that will allow this scheme to take off. I believe the scheme has to start now.

I have been an advocate of ensuring that the old scheme was never gotten rid of because there are many people in a logjam waiting to get their houses done. They have preparations done and they are ready to start their works. I want to see those works start within weeks. I do not believe the IS 465 review will be done before that. The Minister may inform us otherwise.

Deputy Darragh O’Brien: I thank the Senators for tabling the amendment.

To follow on from what Senator Blaney said, that is fundamentally the issue. There are homes that are ready now to be remediated in the coming weeks and months and many homeowners will want to move that forward.

The review is really important. Senator Boyhan's amendment proposes that the Minister request the National Standards Authority of Ireland, NSAI, to ensure that the review of IS 465 is completed in time for the opening of the defective concrete block scheme as provided for in the Bill.

My Department has begun the consultation with the National Standards Authority of Ireland on the review. While the review has begun, it has been confirmed by the NSAI that the research necessary to inform the review will take some time. It is an important review and we will need external advice on it as well. We might need some international advice on it too. It will likely be 2023 before the review is complete.

I do not think there are many here who would want to see the scheme delayed until that work was concluded. Maybe there are. What we are interested in is providing the solutions, getting the new scheme and getting people's homes fixed and not delaying it for other reasons, which I know is not the Senator in question's purpose of this amendment.

I am conscious that the Senator does not want to delay the commencement of the enhanced grant scheme given that there are homeowners who need and want to press on with the application and remediation works necessary. As I advised earlier, the Bill makes provision for a review of the Act within three months of any review of IS 465 by the NSAI and for a report of those findings and those conclusions to be provided to each House of the Oireachtas.

I am of the view that we need to push on with getting this greatly enhanced grant scheme up and running and we cannot wait until 2023 to do that. Therefore, I cannot accept the amendment.

Amendment put and declared lost.

Section 5 agreed to.

Sections 6 to 7 agreed to.

SECTION 8

Acting Chairperson (Senator John McGahon): Amendments Nos. 10 and 11 are ruled out of order.

Amendments No. 10 and 11 not moved.

Section 8 agreed to.

SECTION 9

Acting Chairperson (Senator John McGahon): Amendments Nos. 12 to 16, inclusive, are all out of order.

Amendments Nos. 12 to 16, inclusive, not moved.

Section 9 agreed to.

SECTION 10

Acting Chairperson (Senator John McGahon): Amendments Nos. 17 and 18 are related. Amendment No. 18 is a logical alternative to amendment No. 17. Amendments Nos. 17 and 18

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may be discussed together by agreement. Is that agreed? Agreed.

Senator Paul Gavan: I move amendment No. 17:

In page 12, between lines 39 and 40, to insert the following:

“(4) The Minister shall, within seven weeks of the passing of this Act, lay a report before both Houses of the Oireachtas on the implications of construction sector inflation on *subsection (3)* and whether there is a need to raise the grant cap by way of amending legislation.”.

I will read the amendment into the record to make it clear what we are looking for: “The Minister shall, within seven weeks of the passing of this Act, lay a report before both Houses of the Oireachtas on the implications of construction sector inflation on subsection (3) and whether there is a need to raise the grant cap by way of amending legislation”.

This is an issue that was raised by a number of Senators on Second Stage. The impact of inflation in the construction sector is a real concern. Indeed, Senator Cummins expressed concerns about inflation on Second Stage as well and I look forward to the Senator supporting our amendment.

We know from speaking to people in Donegal this week that inflation there, in terms of social housing, is running at between 12% and 13%. That is what the officials are telling us. According to the Bill as it is currently constituted, a further review of the rates that were set last January cannot happen until 12 months after this scheme opens. What that means in reality is that homeowners will be impacted by, I would say, at least 20%. In terms of the 100% redress that they are looking for, it is clear that because of construction inflation they will be down anywhere between 13% and 15% or 20%.

It makes common sense for the Minister to adopt this amendment to have a report to show him the impact of inflation and then, if necessary, take sufficient amending steps when we return in September. That is a way of addressing the issue realistically. Right now, if it is not addressed, the impact of inflation is such that the homeowners who suffered so much will be impacted.

Let me be clear. This amendment is coming from the homeowners. We are here to represent them today. Any amendments that my colleagues, Senator Ruane or I will speak to are at the request of the homeowners from Clare, Mayo, Sligo, Limerick and Donegal. This is their ask.

No one will deny the fact that there is a problem in terms of inflation in the economy in general and, most certainly, in the construction industry. I quoted a figure of 13% from the Donegal officials.

The Minister has an opportunity to amend this. Here is the choice. It is not a binary choice. The Minister has the opportunity to improve this Bill today to protect those homeowners in terms of the inflation scourge that is there at present. The Minister has the opportunity to do it with this amendment. On behalf of the homeowners who are tuning in today from all of the counties that I have mentioned and more, I hope that the Minister will do what is sensible, acknowledge there is a problem with inflation, acknowledge that problem will not be addressed by the Bill as it stands and adopt this amendment so that we can tackle it on behalf of all of the homeowners.

Senator Niall Blaney: Everybody in this House represents the homeowners. We all speak for homeowners. We speak to homeowners. Certainly, I have spent as much time as any other public representative in these Houses on this scheme - hundreds of hours over the past two years - and I would like to think I was doing the work on behalf of homeowners who consult with me.

I also recognise that there are those issues of inflation. I raised them here with the Minister on Second Stage. In Donegal, there is talk of 15%. I do not know the officials the Senator is talking to. I cannot get an official to tell me is it exactly 15%, is it less or is it more, but inflation is an issue. I also recognise there is an independent mechanism of setting prices but, certainly, I would acknowledge that inflation is an issue.

Senator Timmy Dooley: Together with others, I recognise, and I am sure the Minister does, the importance of ensuring that people do not get priced out of the market just as there appears to be a scheme that has the potential to help them. Inflation is certainly out of control at present. We see it in every aspect of life. Prior to the war, the pandemic and the impact that it had on disruption of supply chains have seen timber, steel, concrete - you name it - really increase and I am sure it will be necessary to put in place some kind of an escalatory mechanism to ensure that people are protected based on the grants. I am sure the Minister will look at that because it is one of the issues that is raised on an ongoing basis.

Senator John Cummins: There is obviously an issue in terms of construction inflation but it is interesting to note that this scheme is providing €165 per square foot. Sinn Féin proposed, in its housing policy and budget of last year, to build 20,000 homes at a cost of €2.9 billion. That works out as €123 per square foot. The Government is putting in place a scheme that is more than 35% higher than what Sinn Féin costed in its budget for the building of 20,000 homes. Perhaps it can magically build homes for 35% less than what they proposed to provide.

Acting Chairperson (Senator John McGahon): Speak to the amendment.

Senator John Cummins: It is to the amendment. We are specifically talking about cost inflation. If we accept that there is cost inflation in the market, we also have to acknowledge that if it is 35% above what Sinn Féin provided for in November 2021, then the party was not providing enough in the first place, which we all know is the case.

I look forward to the Minister's response on this. I know the scheme is adaptable in order to provide for inflation. It is important when discussing all of today's amendments that we are mindful of homeowners. I received an email from a mica-affected homeowner who stated that the reason for writing to me was because there is so much confusion around the supports for mica homeowners and this is adding to the additional stress. The onus is on all of us in the House not to confuse people about the significant package of supports being put in place by the Government to assist homeowners.

Acting Chairperson (Senator John McGahon): Before I call on the Minister, I am pleased to welcome Sinéad Ní Fhatharta, Paul Nevin, and Meadhbh Nevin, from County Galway. This is Paul and Meadhbh's first visit to Leinster House and they are guests of Senator Wilson. This is an important debate and they are very welcome to it.

Deputy Darragh O'Brien: Cuirim fíor fháilte roimh na haíonna. Section 11 provides for an increase or a decrease in the overall caps by way of a Government order. The reason for doing this is because it means we can change the amount by up to 10% for the first three years

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by regulation, thereby allowing the Minister flexibility which means he or she does not have to come before the Dáil or Seanad to make amendments. I am not sure whether the Senators who proposed the amendment were at the hearings held with homeowners and experts from the Society of Chartered Surveyors Ireland, SCSi, who set the remediation cost per square foot. They did a superb piece of work. I thank them for the work they did independently of me and the Department. That was a big ask of the homeowners which I was happy to accede to. It was done independently of me and my Department and I accepted it in full. That work was produced four months ago in February 2022.

The SCSi was asked this question about varying the rates. Let us remember that we are operating within an overall cap of €420,000 and not €247,500, and providing 100% redress and not 90%. We are allowing for additional costs for rent and storage. What must also be mentioned is the access to the Sustainable Energy Authority of Ireland, SEAI, grants in addition to the caps, which is very significant and had not been provided for. The experts who gave testimony during the hearing were asked about this specific issue. The SCSi advised that it would not be prudent to view inflation over a short-term period such as three or four months, which I agree with, and that a 12-month period, which most people would agree with, is a far more appropriate period to consider such cost inflation. I am very satisfied that the Bill provides for that very measure.

I refer to Section 11. I will not go through the whole section as I am sure the proposing Senators have read it. It clearly states that the Government shall not:

increase the amount referred to in *paragraph (a), (b) or (c) of section 10(4)* by more than 10 per cent of the amount referred to in that paragraph, or where the amount in that paragraph has been increased or decreased, to an amount specified by a previous order made under *subsection (1)(b)*, by more than 10 per cent of the amount specified.

We are allowing that variation simply by way of Government order and it is right to provide that flexibility. It is also prudent that a longer-term view is taken on that. Generally, inflation should be looked at over a 12-month period. Interestingly, we have seen the cost of certain materials decrease and flatten in recent months. We do not want the situation in which we have to come before the Houses to chase either inflation or deflation in construction product costs. Let us not forget the overall cap, which is at such a significant level that it will cover 99% of households with full 100% redress. Variation in costs is provided for within that.

The Bill rightly provides a mechanism for me, the Minister, to vary those rates by plus or minus 10% some 12 months after the passing of the Act. It provides for a decrease in costs, although I do not expect that to happen. It is better to do it by way of regulation rather than tying it into the Bill that will become an Act, which would mean if there were any future changes, we would have to come before the Houses to amend the Act. I understand the Senator's point. I respect his contribution but we are providing for that in a better way.

Senator Mary Fitzpatrick: I thank the Acting Chairperson for allowing me to contribute. I thank the Minister for his reply, his officials for all the work they have done on the Bill, and all the homeowners who have been in contact with me and my colleagues in counties Donegal, Mayo, Clare, Sligo and other counties.

Everyone who speaks here today speaks with the best interests of the homeowners. Perhaps some of us are more motivated to deliver a package for homeowners that will allow them to

reclaim their lives and restore their homes. The Bill has been the subject of a lot of talk for a very long time. It is indisputable that this legislation will replace a scheme that fell far short of what homeowners wanted and deserved. This Bill will put in place a scheme that homeowners will be able to access promptly that will give them full redress and allow them to reclaim their lives and rebuild their homes.

I have a problem with this amendment in that it calls for a review within seven weeks of the passing of the Act. It would appear that some Members do not want to see this Bill ever being passed. Even if it were delayed, prevaricated and prevented from being passed promptly, we will do everything in our power to prevent this, because we want to deliver a redress scheme for homeowners and see the passing of this Bill before the end of this sitting. Fianna Fáil Senators and the Government parties will stay here until this Bill is passed because it is vitally important that a scheme is in place for homeowners and that they are not left with a substandard scheme.

If the Bill were to pass with the proposed seven-week timeline, it would immediately become dated. We all know that it is a dynamic economic environment. Europe is at war. Russia did not just attack Ukraine. It attacked western civilisation and that has a direct impact on construction costs. We discussed and debated this at length at the Oireachtas joint committee. We have had a number of hearing on this subject. We need to accept that today's priority has to be to use our time productively to deliver a scheme for people that will allow them to reclaim their lives and rebuild their homes.

Senator Paul Gavan: I am happy to just press the amendment.

Amendment put and declared lost.

Senator Rebecca Moynihan: I move amendment No. 18:

In page 12, between lines 39 and 40, to insert the following:

“(4) The Minister shall within seven weeks of the passing of this Act lay a report before both Houses of the Oireachtas on the implications of construction sector inflation on the amount referred to in subsection (3), and whether an order should be made under section 11 to increase or decrease that amount.”

Amendment put and declared lost.

Amendment No. 19 not moved.

Section 10 agreed to.

Amendments Nos. 20 to 22, inclusive, not moved.

Section 11 agreed to.

Amendments Nos. 23 and 24 not moved.

Section 12 agreed to.

Amendments Nos. 25 to 27, inclusive, not moved.

Section 13 agreed to.

Section 14 agreed to.

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SECTION 15

Amendments Nos. 28 and 29 not moved.

Acting Chairperson (Senator John McGahon): Amendments Nos. 30 and 31 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Paul Gavan: I move amendment No. 30:

In page 19, to delete line 36 and substitute the following:

“(b) that the level of damage as determined by the damage threshold will determine the order of priority for the remediation of the dwelling.”.

This is a crucial amendment to the homeowners who have contacted Senators and asked us to push this amendment on their behalf. The Minister will immediately understand what this simple amendment seeks to achieve. It reads: “that the immediately that the level of damage as determined by the damage threshold will determine the order of priority for the remediation of the dwelling”. In other words, the amendment seeks to ensure that no one is excluded but that the purpose of the damage threshold is only to prioritise people. That aspect is of massive concern to the whole host of homeowners who have contacted Senators.

The visual inspection is an issue that has already been mentioned here. The Minister will be aware, for example, that in counties like my own county of Limerick, and in counties Clare and Mayo, damage by pyrite has resulted in hairline cracks but not cracks of 1.5 mm or more caused by mica so homeowners are concerned that they will be excluded. The beauty of the amendment is that it makes clear that the “damage threshold” is there to just prioritise the order. Who could possibly argue against that? The homeowners seek to ensure that there is inclusion and I hope the Minister will accept the amendment.

Senator Niall Blaney: I get where Senator Gavan is coming from in terms of this matter. As the owner of a home damaged by mica and someone who has witnessed cracks go down the side of his wall, I can say that cracks open at a fairly sharp rate. Over two years a crack that is 1.5 mm will very quickly increase in size, and so much so that one can put one’s hand through the wall. I get where the Senator is coming from but I do not see this as an issue. I come from an engineering background, and having talked to engineers about this matter, I do not see this as an issue but I would like someone to prioritise the houses that are in an awful shape at the moment. Furthermore, I do not want anybody to be excluded from the scheme if they have the cracks that are not as big as 1.5 mm.

Senator Timmy Dooley: At the outset, I expressed my concerns about this matter so I think that the Minister knows my concerns. There is a view, particularly regarding pyrite, that the cracking is relatively less severe when it comes to mica. I have seen many affected houses throughout my county and over time cracks manifest themselves to a greater extent, which may fall in with the prioritisation of the remediation of homes.

I would like to hear the Minister’s thoughts on the following. If it turns out that elements of this scheme are not workable to a point where they help to resolve the issues for people, then will he look at the regulations? Perhaps he could have a better, closer or tighter definition at that point.

I am bit worried about a reference to 1.5 mm cracks. A couple of homeowners have in-

formed me that they have already filled in the cracks and I gave them my thoughts on that rather than concrete information. I said that the cracks which have been refilled will generally reappear and even where walls have been entirely replastered the cracks return. In a visual inspection account will be taken of the situation. If there was extensive cracking, then a trained eye will be able to establish, according to the way that they were filled, that they were filled on the basis that the cracks were extensive prior to that. I would like that situation to be acceptable.

Deputy Darragh O'Brien: I thank Senator Gavan for the amendment and thank Senators for their contributions. There is mention in the very first section that the damage category ratings and thresholds exist to ensure that we can prioritise the worst homes first. We need to do that because, potentially, thousands of homes are affected so this scheme will be with us for quite some time. Also, we want people to apply to join the scheme.

The way that the amendment is structured means that if people do not apply for a couple of years but when they do join and the damage threshold is worse than someone else then the new applicant would be placed ahead of someone else who is already in the scheme. What we will do is prioritise the people in the scheme. Obviously we want people to apply to the scheme. I will prescribe the criteria by which the Housing Agency will determine the way it will assess applications, which includes the level of damage. We will do that in the regulations and it will be very clear.

I wish to advise Senators Dooley, Blaney and Gavan that once people meet the minimum thresholds of damage then it is above that when one gets into the scheme. Then, when one gets into the scheme, we must prioritise how the work is done. Obviously there is a remediation option. There are a number of options within the scheme. It is important to state that for the non-full demolition options we will allow a second access to the scheme. We are providing a guarantee on the work so options 2 to 5, as they are known.

We must manage the workload. That means not just processing applications but analysing how many people can actually do the work, and assess the capacity of the sector in the affected regions to carry out that work. I have a lot of experience of that in my own area in terms of pyrite and infill in what has been referred to as the east coast scheme, which is the removal of infill in foundations. The damage category ratings work to be able to ensure that the homes that were worst affected are done first.

Senator Dooley made a good point about filled cracks. Certainly if there are issues where people have done remediation work as a stop-gap move then that acts like a sticking plaster and does not deal with the fundamental problem that house has. In my view such a situation would not keep somebody out of the scheme. Again, I have experience of people saying they did such work.

Earlier Senator Blaney made a point that is relevant to this amendment whereby someone who is already in the scheme is given a remediation option, say, one of the non-demolition options, but when it comes time to do the work the damage looks worse. In that case, the person can get back into the scheme but that would be a second application, which would be prioritised by the Housing Agency based on the new evidence.

Senator Niall Blaney: Would people have to submit a new application?

Deputy Darragh O'Brien: Yes, with the new evidence. We are not going to insist people stick with a remediation option that is not going to work. I will explain what is required in that

instance. An independent engineer will have conducted an assessment and a remediation option will have been chosen. However, if, because of the passage of time or whatever, it is found that another remediation option is more appropriate, which could be within options 2 to 5 or, indeed, option 1, then a new application is made containing the new data, and then the applicant would rejoin the scheme with a new recommendation. That is an important point and I did not mean to miss stating that earlier.

I understand the purpose of the amendment but believe it is counterproductive. I think the amendment might prevent people from applying to the scheme until they think that the damage is bad enough. I want people to join the scheme so that we can assess the damage, work through that and plan the works. Many of the affected homes are individual homes. In County Donegal, there are a lot of individual homes that are affected thus it makes it more difficult to procure the work. There are schemes within estates. There are more affected homes in estates in counties Mayo, Limerick, Sligo, Clare and other counties so one can manage that work better. We have got to be able to see who is coming into the scheme. Those who are already in the existing scheme will benefit from the improvements in the new scheme. That is subject to the Bill being passed by the Seanad this week and us getting the regulations drawn up and into operation with the new scheme before the end of the year.

Senator Eileen Flynn: It is inappropriate that a Minister gets to determine the level of damage to people's homes to meet the requirement for inclusion in the scheme. It should be scientific evidence that determines that level of damage. None of us in these Chambers is qualified to do such a thing.

Senator Niall Blaney: I thank the Minister for his reply. There is an engineer from Donegal working on the scheme who has a case where the works were approved for level 2 remediation of outer wall. On starting the works, it was realised that the rate of deterioration was such that there was much more extensive damage. On further inspection, the building in question now needs level 1 remediation. The Minister has given us good news today in that regard.

There is the damage threshold of a 1.5 mm crack. I would like the Minister to take into context in a county like Donegal, which takes in a big geographical area, the availability of a contractor along with the damage threshold. I might be a priority for a house to be demolished, for example, and somebody like Senator Dooley might be further down the priority list. If Senator Dooley is in a very remote part of Donegal, a builder may be more freely available for him. The availability of builders must be brought into the damage threshold context.

Deputy Darragh O'Brien: I assure Senator Flynn that I am not setting the thresholds of what damage should look like or the minimum threshold. That has been informed by the expert group, which comprises experts such as scientists and people qualified in the appropriate areas. There was reference to the 1.5 mm threshold and it is a recommendation from the expert group. We will set the threshold on the basis of these hearings, including feedback in the Seanad, Dáil and other forums. It is the right course of action. Ultimately, we are elected to decide what schemes we bring forward and what legislation we introduce. This is informed by expert opinion and it is why we had the expert group and homeowners' liaison group established. It is why we had hearings before the joint committee.

We will prescribe the thresholds by way of regulation. This allows flexibility into the future to deal with the very matters Senators Dooley and Blaney have mentioned today, and so if we find a bump in the road, we can fix it. That is really where we are. In that context, I will not

accept the amendment.

Amendment put:

The Committee divided: Tá, 13; Níl, 30.	
Tá	Níl
Boyhan, Victor.	Ahearn, Garret.
Boylan, Lynn.	Blaney, Niall.
Flynn, Eileen.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Maria.
Higgins, Alice-Mary.	Carrigy, Micheál.
Keogan, Sharon.	Casey, Pat.
Moynihan, Rebecca.	Cassells, Shane.
Mullen, Rónán.	Chambers, Lisa.
Ó Donnghaile, Niall.	Clifford-Lee, Lorraine.
Ruane, Lynn.	Conway, Martin.
Sherlock, Marie.	Cummins, John.
Wall, Mark.	Currie, Emer.
Warfield, Fintan.	Davitt, Aidan.
	Doherty, Regina.
	Dolan, Aisling.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	O'Loughlin, Fiona.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.
	Wilson, Diarmuid.

Tellers: Tá, Senators Paul Gavan and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

2 o'clock

Amendment No. 31 not moved. Section 15 agreed to.

SECTION 16

Amendment No. 32 not moved.

An Cathaoirleach: Amendments Nos. 33 to 35, inclusive, have been ruled out of order as they involve a potential charge on the Exchequer.

Amendments Nos. 33 to 35, inclusive, not moved.

An Cathaoirleach: Amendments Nos. 36 and 38 are related and amendment No. 38 is a logical alternative to amendment No. 36. The amendments may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Boylan: I move amendment No. 36:

In page 22, between lines 20 and 21, to insert the following:

“(11) Within seven weeks of the passing of this Act the Minister shall lay before both Houses of the Oireachtas a report examining whether an exceptional circumstances grounds for the awarding of a remediation grant under the scheme, as provided for in section 17 of the Pyrite Resolution Act of 2013, should be introduced by way of amending legislation.”.

This amendment relates to the exceptional circumstances that were provided for in the Pyrite Resolution Act 2013.

This amendment seeks just to echo that in order that the people who will access this remediation fund will be treated the same as those who have accessed the pyrite scheme. As Senator Gavan said earlier, all these amendments are put forward on behalf of the families. They give real examples. In the case of a row of terraced houses, for example, if the first and third houses have defective blocks but the house in the middle does not, and if demolition is required on the two affected houses, the person in the middle house should be able to avail of the scheme due to the exceptional circumstances. That was provided for under the pyrite remediation scheme, so I look forward to hearing the Minister's explanation as to why it is not provided for in this Bill and I encourage him to accept the amendment.

An Cathaoirleach: Senator Moynihan, do you wish to speak to amendment No. 38?

Senator Rebecca Moynihan: It is the same point. Essentially, it seeks to allow for exceptional circumstances that were applicable under the Pyrite Resolution Act to apply to this Bill as well. Amendment No. 38 is therefore relatively self-explanatory.

Deputy Darragh O'Brien: I have not purposely compared the pyrite remediation scheme for the east coast and this Bill. They are very different schemes. There are additional items in this scheme, particularly in respect of second properties, second grant options registered with the Residential Tenancies Board, RTB, increased costs and grant amounts. It is therefore a substantially better scheme than the east coast scheme.

I did talk on Second Stage, however, about the issue we had with multi-unit developments, being apartments, and the need to return to consideration of them. We will do apartments; we just have to find a mechanism to do them. There is the question as to how they might be included under this scheme. There are complex ownership and owners' management company issues. We will work on that to make sure that a smaller number of apartments are excluded.

I have included separate schemes for approved housing bodies and for social housing, so we will do them too. People said at the start of this process that they would not be included, but they will be.

As for exceptional circumstances, I will give similar consideration to this clause, which might apply to the example Senators Blaney and Boylan and others have raised with me of a terraced house between two other houses being done. There were some difficulties under the east coast scheme, to which reference has been made, with getting the middle terraced house done if it did not reach the damage threshold. The exceptional circumstances clause, which is very straight in the operation of that scheme, has not been applied as often as it should have been. I want to make sure that whatever exceptional circumstance clause we have in this Bill is done appropriately. I am not sure how *au fait* the Senator who proposes amendment No. 36 is with the infill scheme and its operation, but exceptional circumstances did not apply. Even in respect of the appeals process, not one appeal was granted under exceptional circumstances. That is not a situation I want just by tying something into legislation to say "job done". That is not job done. I want to make sure we have something that actually operates.

The seven-week timeframe, I say respectfully to Senator Moynihan, is not realistic. We will not have this done within seven weeks. I will attempt to have that done through the regulations and as the scheme moves on. I intend to include multi-unit developments, that is, duplexes and apartments, and I will include the issue of exceptional circumstances. It is not as simple as putting a seven-week timeframe into the Bill and, as a result, getting this done. We want to be realistic in our approach. I want to do that and we will do it. Some issues have to be worked through. In that context, I cannot accept either amendment.

Senator Rebecca Moynihan: May I ask for a clarification from the Minister? While it is welcome that he will look at multi-unit developments, terraced houses and approved housing bodies, AHBs, does he anticipate that that will be done through regulation or will we have to table further amendments to the Bill in the autumn? If the latter, I would like an indicative timeline as to when any amendments will be tabled and included.

Deputy Darragh O'Brien: I think we should be able to deal with multi-unit developments and apartments and the exceptional circumstances clause through regulation. If that requires a small amendment to an Act, which it may, we will do that. We have not bottomed that out, but I am putting on record here, as I did in the Dáil, that it is my absolute intention that both those elements be dealt with. We just have not concluded the work on ownership of apartments. If I had, I would be bringing that forward. We have issues with some multi-unit developments. There are owners' management companies for most, there are landlords who are not resident here and there are other things like that that need to be worked through. I am confident we will be able to do so.

Timeframe-wise, I would like to be able to get this bottomed out in the coming months. We will not leave it because it is important. I do not want to hinder the operation of the scheme. I am conscious as well that we have many hundreds of applications under the old scheme, for

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want of a better phrase, that we can now move on and move through the process. I want to get those done.

We will not stop working on other improvements to this. I do not believe that amendment No. 36 is needed in the Bill itself. Also, I would not be able to stick to the seven-week time-frame so I cannot accede to it, but I intend for us to deal with these matters.

Amendment put:

The Committee divided: Tá, 13; Níl, 26.	
Tá	Níl
Black, Frances.	Ahearn, Garret.
Boyhan, Victor.	Blaney, Niall.
Boylan, Lynn.	Buttimer, Jerry.
Craughwell, Gerard P.	Byrne, Maria.
Flynn, Eileen.	Carrigy, Micheál.
Gavan, Paul.	Chambers, Lisa.
Higgins, Alice-Mary.	Clifford-Lee, Lorraine.
Keogan, Sharon.	Conway, Martin.
Moynihan, Rebecca.	Cummins, John.
Ó Donnghaile, Niall.	Currie, Emer.
Ruane, Lynn.	Davitt, Aidan.
Wall, Mark.	Dolan, Aisling.
Warfield, Fintan.	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	O'Loughlin, Fiona.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.
	Wilson, Diarmuid.

Tellers: Tá, Senators Paul Gavan and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

Senator Paul Gavan: I move amendment No. 37:

In page 22, between lines 20 and 21, to insert the following:

“(11) Within seven weeks of the passing of this Act the Minister shall lay before both Houses of the Oireachtas a report on the issue of providing retrospective grants in cases where relevant owners had to replace or remediate relevant dwellings prior to the introduction of the grant scheme.”

What we are calling for is that within seven weeks of the passing of this Act, the Minister shall lay before both Houses of the Oireachtas a report on the issue of providing retrospective grants in cases where relevant owners had to replace or remediate relevant dwellings prior to the introduction of the grant scheme. We are looking for some element of retrospection on behalf of the families; this is another of the amendments from the families where the homeowners have singled out on what they want to see change in the Bill. It was mentioned by Senator Dooley earlier. We all know of cases where people have taken remedial actions, simply on health and safety grounds in many cases. There has to be a retrospective element in this Bill. It is a key ask of the homeowners involved. I hope the Minister will accept this amendment.

Deputy Darragh O'Brien: I will now address amendment No. 37. Retrospective application of benefits of the enhanced scheme will apply to applicants under the current scheme. Retrospectively including homes which were remediated before the grant scheme and the IS 465 standard would, if it was introduced, be extremely complex. It is genuinely not clear how many such homes are in this situation. In the absence of the IS 465 standard it is not clear what analysis was carried out on those homes before they were remediated or on what basis the remediation option which was carried out was grounded. We do not know if there are any in this position or to what standard any works were actually done or who took the decision to do those works. I am not talking about the emergency works piece to which Senator Dooley referred. We have an additional grant there for shoring-up work and that type of thing. This really refers to homes that have been remediated but what I would say is such homeowners would be eligible if they say they did a remediation job. I do not know if any have done a full remediation to be honest. If the Senator knows, he certainly should let me know because we have not been able to quantify that. Such homeowners would be eligible to apply for a grant under the current or enhanced scheme in respect of any additional works which may be required to the home arising from damage associated with the use of defective concrete blocks in its construction. It is standard practice with grant schemes that work carried out prior to the grant scheme being put in place or prior to an application having been made would not be eligible for funding. However, they would be able to reapply back into the scheme but we have no sense of any full remediations, who did the work - not who decided because obviously if it was done, the homeowner may have in good faith decided to - but who did the work and to what standard, were they qualified to do the work, all of those things. We have an additional grant in the new scheme for cases where shoring-up work has been done to keep a home safe. We have received applications for that as well. I take it in this instance that where a home is not fully remediated and some emergency works were done, that home would still be able to come in to the enhanced scheme. Therefore I am not accepting the amendment.

Amendment put:

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The Committee divided: Tá, 12; Níl, 29.	
Tá	Níl
Black, Frances.	Ahearn, Garret.
Boyhan, Victor.	Blaney, Niall.
Boylan, Lynn.	Buttimer, Jerry.
Flynn, Eileen.	Byrne, Malcolm.
Gavan, Paul.	Byrne, Maria.
Higgins, Alice-Mary.	Cassells, Shane.
Keogan, Sharon.	Chambers, Lisa.
Moynihan, Rebecca.	Clifford-Lee, Lorraine.
Ó Donnghaile, Niall.	Conway, Martin.
Ruane, Lynn.	Craughwell, Gerard P.
Sherlock, Marie.	Cummins, John.
Warfield, Fintan.	Currie, Emer.
	Davitt, Aidan.
	Doherty, Regina.
	Dolan, Aisling.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	O'Loughlin, Fiona.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.
	Wilson, Diarmuid.

Tellers: Tá, Senators Paul Gavan and Eileen Flynn; Níl, Senators Seán Kyne and Robbie Gallagher.

Amendment declared lost.

Senator Rebecca Moynihan: I move amendment No. 38:

In page 22, between lines 20 and 21, to insert the following: “(11) Within seven weeks

of the passing of this Act the Minister shall lay before both Houses of the Oireachtas a report on whether grounds for the awarding of a remediation grant in exceptional circumstances, as was provided for in section 17 of the Pyrite Resolution Act 2013, should be introduced.”.

Amendment put and declared lost.

Amendment No. 39 not moved.

Section 16 agreed to.

SECTION 17

An Cathaoirleach: Amendment No. 40 has been ruled out of order. Amendment No. 41 in the name of Senators Boylan, Gavan, Ó Donnghaile and Warfield. Amendments Nos. 41 and 43 are related. Amendment No. 43 is a logical alternative to amendment No. 41. Amendments Nos. 41 and 43 may be discussed together by agreement. Is that agreed? Agreed.

Amendment No. 40 not moved.

Senator Lynn Boylan: I move amendment No. 41:

In page 23, between lines 12 and 13, to insert the following:

“(6) Within seven weeks of the passing of this Act the Minister shall lay before both Houses of the Oireachtas a report on the implications of subsection (5) on relevant owners and whether there is a need for amending the Act to allow for a reduction in the internal floor area of the dwelling demolished without any reduction in the amount of the remediation option grant approved by the Housing Agency.”.

This relates to the downsizing penalty which we keep hearing does not exist but saying it does not exist does not make it true. An example of how this penalty is working is a homeowner in Mayo who has a home of 90 sq. m who gets a remediation grant of €169,000 but the cost of rebuilding that home is valued at €200,000. There is clearly a shortfall of €31,000 but remember these are ordinary homeowners, people who in some cases are already retired or are not working for one reason or another, or are close to retirement age. As a huge compromise on their part, they are offering to downsize their home so they can at least rebuild within the budget of the €169,000.

Misinformation has been put out there that homeowners are trying to make money on this. They are not seeking to pocket the difference. All they are asking is that they not be penalised for not having the financial ability to match the difference, or it may be that they do not wish to get into debt. Some of them may be coming up to retirement age. In effect, there is a penalty as the Bill stands. This is about people who are making a significant compromise. They built their dream home but are accepting a much smaller house in order to stay within the budget. There are other Members who wish to speak to the amendment. It is a critical issue. It would be deeply unfair to allow the section to stand as it is.

Senator Niall Blaney: I do not fully subscribe to the amendment as put forward. There has been spin in respect of the scheme and this is part of it. The scheme covers 100% of the cost. It was a big step to get the Minister to allow downsizing. Many applicants want to downsize and it is good that they are allowed to do so under the Bill. I refer to what I said earlier, however, in

respect of whether a planning exemption exists for those on the same footprint. Those who are downsizing need to know whether the exemption applying to those rebuilding will also apply to them if they downsize.

Senator John Cummins: When homeowners were before the Oireachtas joint committee a few weeks ago, this issue was raised. I discussed it with one of witnesses, a gentleman from Donegal, for quite some time after we concluded the proceedings. I understood the point being made that, on the face of it, in the case of a 120 sq. m home, the State was committing to put redress in place for that figure, so why not allow a homeowner changing to a 90 sq. m. dwelling to avail of the figure relating to 120 sq. m. It was only when I took the issue away and examined it that I came to the conclusion that, although I appreciate the points being made, the difficulty for the State and the Government is that a person who has a 90 sq. m home in the first instance would essentially be getting less to build the home than a person who previously had a home of 120 sq. m. That is where the difficulty arises. It is being done on a square foot basis and that is the challenge. To frame it as there being a penalty is to use the wrong phraseology. What the State is putting in place is a remediation scheme on a square foot basis and, regardless of what a person had previously or decides to build now, he or she is getting the amount of funding required to build a property of that size and get his or her life back on track. While I was happy to engage with the homeowners at the committee, and fully understood the points that were made, the difficulty arises as two householders who, in essence, would be building the same size house would get two different sums in redress. How is that fair?

Senator Eileen Flynn: I urge the Minister to accept this amendment, more so than many others. When the grant does not completely cover the cost of reconstructing people's houses, homeowners should be able to downsize in order to fit the cost of the grant they are awarded. I am thinking in particular of pensioners and others of older age who are not entitled to a loan, as my colleagues pointed out. All present know that once one hits the age of 40, it is very difficult to get a loan from a bank. The last time I mentioned a person by name, I was told I should not do so, but this amendment came to us from the horse's mouth, if you wish. I urge the Minister to accept the amendment.

Deputy Darragh O'Brien: I thank the Senators for their contributions and for the amendment. All present recognise the massive leap forward being made with this scheme. That has been acknowledged by homeowners, as well as by all parties and Independents. It is a scheme that is vastly different from the one in place from January 2020 - unrecognisably so. Fundamentally, it gives 100% redress based on independent rates that are set at up to €161 per square foot. I understand the argument on this matter but we are not penalising anyone. There is no downsizing penalty. If a person has a house of a particular size and wishes to replace that house, he or she will be able to do so at the rates that have been set, which are slightly above those in the SCSi cost report. In the case of a two-bedroom terraced house, the SCSi cost report gave a figure of €149,668. We are allowing €152,000. For a three-bedroom semi-detached house, the SCSi report gave a figure of €165,000, whereas we are allowing €169,000. In the case of a four-bedroom semi-detached house, the report indicated a figure of €193,000. We are allowing €195,000. That goes all the way up to a four-bedroom single rural two-storey house, in which case the grant recommended by the SCSi is €339,150 but we are allowing €341,150. The only exception relates to the €420,000 cap. Up to that, there is the €25,000 in other assistance. That is for a two-storey house with five or more bedrooms. Basically, that is a grant of €420,000. On top of that, as I stated earlier, we are allowing access and are changing the SEAI scheme to allow people to apply for that scheme even if they did so previously. That allows for

further enhancements.

What Senator Cummins stated is true. The amendment would create a two-tier system. If a person gets a grant of €400,000 but then builds a house for €300,000, is the State supposed to step in to say on what the other €100,000 is to be spent? Should it have to go back and check what it is spent on? The amendment would create a series of complications. I understand the point but there is no penalty in the context of this aspect of the scheme. If a person wishes to build a smaller home for economic reasons, such as the future cost of managing the home, he or she will get a grant on a like-for-like basis. The rates are there and the person will get 100% redress. That is what we intend to happen. As was mentioned earlier, we are allowing the ability to track construction inflation with a review every 12 months and, three years after the passing of the Act, a full review of the scheme.

Most people to whom I have spoken wish to replace the house they have. That is the case for the vast bulk of those affected. It is one-for-one on a like-for-like basis. People who decide they want a smaller house will not be penalised but will be paid at €161 per square foot. The original rate last October or November was €145 per square foot. We are allowing that headway.

As regards Senator Blaney's point on planning for smaller homes on the same footprint, we do not intend that there will be planning for them, as long as they are on the same footprint.

Senator Niall Blaney: They will be exempt as well.

Deputy Darragh O'Brien: Yes, that is the intention. There is no downsizing penalty. The scheme is fair and appropriate. Fundamentally, we are doing this because we want to help people to rebuild their homes and get their lives back on track. We need to be honest with people. This scheme will work. It will probably cost at least €2.7 billion of Exchequer funding, and rightly so.

3 o'clock

All of the people affected are taxpayers too. We have to be able to manage a scheme that is workable. All of the replacement costs have been set independently of me and the Department. This would create a series of difficulties. It would create a two-tier system within each category of homes. From my interaction it is a small portion of people who are looking at this option. If someone wants to downsize, of course they can do so. They will not be penalised. Their home will be replaced and they will have a home at the size they want and the State will pay for it. There is no penalty there. I cannot accept the amendment.

Senator Lynn Boylan: The amount per square metre does not provide a pathway to 100% redress and the Minister knows this. The gap is tens of thousands of euro. People are not downsizing to reduce the maintenance. They are downsizing because they cannot rebuild the house with the grant they have and they are trying to cut their cloth to suit their measure by rebuilding the house at a smaller size.

Deputy Darragh O'Brien: I do not want to go back and forth because there has been a pretty constructive debate but that is incorrect. It is totally and utterly incorrect. It might suit to make the charge to create an issue. There is not an issue. The rates have been set independently. Dealing with inflation is built in by way of the review. I have already quoted the specific rates that are there. They are set independently of us to replace homes on a like-for-like basis to

100% redress. This is what we committed to do and it is what we have done. This is why we need to get the legislation passed. We all have a responsibility to be honest with people, not to put out misinformation and not to try to sow discontent.

(Interruptions).

Deputy Darragh O'Brien: Is there an intervention from the Public Gallery?

An Cathaoirleach: I apologise to the Minister for that.

Deputy Darragh O'Brien: Deputy Mac Lochlainn has not been allowed to speak all week for other reasons.

We have a responsibility to people to be very honest with them and get behind the scheme to make it work for them. Anyone who looks at this in a fair and clear way will see the financial commitment behind the scheme is extremely robust. I said to Senators earlier, and I said to Deputies in the other House, that the scheme will evolve further. There is no question of this. I said it in Buncrana when I was there with Senator Blaney and the Minister, Deputy McConalogue. This is a greatly improved scheme that will deliver 100% redress. There is no downsizing penalty.

Senator Lynn Boylan: That is just not true.

Senator John Cummins: Does Sinn Féin think houses can be built for €123 per square foot?

(Interruptions).

An Cathaoirleach: There must be no interventions from the Gallery. Only Senators and the Minister are allowed to speak. Everyone in the room knows this.

Deputy Darragh O'Brien: I have made my point. I have tried to address the amendment tabled. The debate heretofore has been very constructive and respectful. The most recent intervention moved away from that. Our job is to get a new scheme in place that will fix people's homes and get their lives back on track. This is absolutely the basis to do this. I will not accept the amendment.

Amendment put:

The Seanad divided: Tá, 9; Níl, 28.	
Tá	Níl
Black, Frances.	Ahearn, Garret.
Boyhan, Victor.	Blaney, Niall.
Boylan, Lynn.	Buttimer, Jerry.
Gavan, Paul.	Byrne, Malcolm.
Keogan, Sharon.	Byrne, Maria.
Moynihan, Rebecca.	Carrigy, Micheál.
Ó Donnghaile, Niall.	Cassells, Shane.
Ruane, Lynn.	Chambers, Lisa.
Wall, Mark.	Clifford-Lee, Lorraine.

	Conway, Martin.
	Craughwell, Gerard P.
	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Davitt, Aidan.
	Doherty, Regina.
	Dolan, Aisling.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

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

Amendment declared lost.

An Cathaoirleach: I welcome those in the Distinguished Visitors Gallery who are guests of Senator Garret Ahearn. I welcome Mairéad McCormack and service users from the Irish Wheelchair Association, which is, as Members are aware, a nominating body to Seanad Éireann. They are all most welcome.

Amendment No. 42 has been ruled out of order.

Amendment No. 42 not moved.

Senator Rebecca Moynihan: I move amendment No. 43:

In page 23, between lines 12 and 13, to insert the following:

“(6) Within seven weeks of the passing of this Act the Minister shall lay before both Houses of the Oireachtas a report on the implications of *subsection (5)* for relevant owners and whether the subsection ought to be repealed.”.

Amendment put and declared lost.

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An Cathaoirleach: Amendment No. 44 is out of order.

Amendment No. 44 not moved.

Section 17 agreed to.

SECTION 18

An Cathaoirleach: Amendments Nos. 45 and 46 are out of order.

Amendments Nos. 45 and 46 not moved.

Section 18 agreed to.

SECTION 19

An Cathaoirleach: Amendments Nos. 47 to 49, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed. Amendment No. 48 is a physical alternative to amendment No. 47.

Senator Paul Gavan: I move amendment No. 47:

In page 25, line 23, to delete “78 weeks” and substitute “130 weeks”.

This amendment is one that the homeowners have asked us to press. I am also genuinely mystified by this restriction stipulating that homeowners must have work done within 78 weeks. When developers get planning permission to build houses, they have up to five years to do so. There is a good reason therefore for this amendment, in which we are asking that the time allowed be extended to 130 weeks. Sometimes people do not have the money to pay for the work on their house within 78 weeks. They need more flexibility. Despite what the Minister said, we know this is not a 100% redress scheme. There is going to be a shortfall. I pointed out the shortfall in the context of inflation earlier as just one example.

There is no reason why we should not accede to the homeowners’ request. I stress again that they have asked for this amendment, and they are watching, to allow them additional time. In this regard, issues could also be encountered concerning materials and the supply of labour to get the work done on a house. The attempt to box homeowners into a 78-week period to get building work done is unacceptable. I fully understand why homeowners in all the counties involved are so furious about this issue. It is a perfectly reasonable request to extend the time allowed to 130 weeks.

I am getting more concerned about this aspect. To date, the Minister has not accepted even one of our amendments. This is the last opportunity to improve this scheme and to make it better for the people impacted. They are asking us clearly for this extension of the time allowed to 130 weeks. Are the Minister and his Fianna Fáil and Fine Gael colleagues opposite really not going to listen to this reasonable and timely request?

Senator Niall Blaney: I do not agree with this amendment for practical reasons. We have all seen developments being undertaken and jobs being done by developers over the years. When developers are under pressure, they move around jobs. The longer we extend the period for completion and the more flexibility is given in that regard, the more a developer will move around sites. That means more pain for homeowners. The latter need certainty that their job will be done within a specified period. It is in the interest of homeowners to keep the period for

commencement at 78 weeks rather than extending it. There is a massive amount of time within that to build any home, certainly at the magnitude of building in the case of the homes we are discussing. I do not support the amendment.

Senator Sharon Keogan: It is really hard to get a builder at the moment. Anyone who has tried to get someone to do any work will know how difficult it is. I am getting work done on my home and I am waiting more than a year for the builder to visit. I support the amendment.

I am concerned by some of the comments we have heard in regard to the shortfall in funding. I ask the Minister for his attention on this issue. Several speakers have claimed people will be out of pocket by tens of thousands of euro. In the case of elderly homeowners and those with disabilities who avail of the scheme, will they be able to access the housing adaptation grant, Sustainable Energy Authority of Ireland, SEAI, grants and mobility grants to make up the shortfall? I would like the Minister to clarify that on the record of the House. I am sure there are many scared people listening to this debate, including some who are elderly or have a disability and who are afraid they will be unable to rebuild. Will they be able to avail of the grants to which I referred?

Senator John Cummins: Senator Gavan stated that works must be completed within 78 weeks. In fact, the legislation provides that works necessary to carry out the approved remediation option must commence within 78 weeks. That time limit relates to commencement of works, not their completion. There is a big difference between what the Senator has said on the record and what is set out in the legislation. Perhaps he did not read it.

Deputy Darragh O'Brien: There are a lot of dates and so on specified in the legislation but the situation is exactly as Senator Cummins outlined. Once an applicant is approved, he or she has 78 weeks from the date of approval to commence the work. We should not forget these are urgent works. Should an applicant need another 24 weeks on top of that to commence the work, he or she will get it. That basically gives two years just to commence the urgent remediation. From commencement, approved applicants have 65 weeks in which to complete the works. Again, they can seek another 24 weeks, on top of those 65 weeks, if they need them.

I genuinely do not understand this amendment. The Senator may have misread the provisions in the legislation. The limit of 78 weeks is not to complete the works; it is to commence them. If a person is applying to the scheme, he or she wants to get the work done. We are allowing time for the whole preparatory process. As Senator Keogan mentioned, it can take time to get a contractor and so on, but there are another 24 weeks available, on top of the 78 weeks, to get the work started. Most of us want this scheme to progress and to help people to move on. Senator Gavan is talking about allowing a five-year period to get the work done. I genuinely do not get that. To clarify for Senators, there is provision for a period of 78 weeks from when a person gets grant approval to commence the work. If homeowners need another 24 weeks, that is absolutely fine. Then there is provision for a period of 65 weeks, which is well over a year, to complete the work, and a further 24 weeks may be allowed, if required. Those limits will set boundaries on the people who are doing the work, not in order to get them to rush it but to give an appropriate time in which to do it. I genuinely believe there is ample time provided and I certainly will not accept this amendment. Perhaps it was tabled in error.

Senator Keogan made a very good point. As I mentioned earlier, there will not be a shortfall. Some 99% of applicants will be fully covered under the scheme. Bar those applicants whose home will cost way above the €420,000 threshold, who make up a tiny percentage of the

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total, there will be 100% cover for people. In addition, people may apply for an SEAI grant, even if they applied for one before, including on that particular house. We have changed the provisions to allow that to be done. People certainly can apply for housing adaptation grants based on the criteria set down under the relevant scheme. That absolutely is applicable. However, I do not see such grants as making up any shortfall. As I set out, there will be no shortfall in almost all cases.

I hope I have explained the position in regard to timeframes. I genuinely think they are more than reasonable. The provisions give people the time they need, which is what I want to do, without elongating the period for completing the work way out further. Applicants will have 78 weeks to commence the work once their grant has been approved. I am not sure why people would wait. There could be life issues within households, which is fine, but provision for an additional 24 weeks may be availed of in such cases. Once the work commences, there is a period of 65 weeks for completion. That is a good thing because it gives both homeowners and contractors certainty. Again, if another 24 weeks are needed for completion, they will be given.

An Cathaoirleach: Before the debate is adjourned, I welcome to the Distinguished Visitors Gallery Ms Ariana Kelly from the Maryland House of Delegates. She is most welcome to Seanad Éireann.

Progress reported; Committee to sit again.

Cuireadh an Seanad ar fionraí ar 3.26 p.m. agus cuireadh tús leis arís ar 3.33 p.m.

Sitting suspended at 3.26 p.m. and resumed at 3.33 p.m.

Gnó an tSeanaid - Business of Seanad

Senator Barry Ward: I move:

That notwithstanding anything in Standing Orders or the order of the House today, that No. 2a on the Supplementary Order Paper, motion regarding a reasoned opinion of the Joint Committee on Housing, Local Government and Heritage under Standing Order 116 on the proposal for a Council regulation on the election of Members of the European Parliament by direct universal suffrage, be taken now without debate.

Question put and agreed to.

Election of Members of the European Parliament: Motion

Senator Barry Ward: I move:

That Seanad Éireann:

(1) notes the agreed Report of the Joint Committee on Housing, Local Government and

Heritage under Standing Order 116 on the following proposal:

- Proposal for a COUNCIL REGULATION on the election of the Members of the European Parliament by direct universal suffrage, repealing Council Decision 76/787/ECSC, EEC, Euratom and the Act concerning the election of the members of the European Parliament by direct universal suffrage annexed to that Decision:

which was laid before Seanad Éireann on 12th July, 2022 in accordance with Standing Order 116(3)(b);

(2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the proposal does not comply with the principle of subsidiarity for the reasons set out in the Report; and

(3) notes that, pursuant to Standing Order 116(4), a copy of this Resolution together with the Reasoned Opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.”

Question put and agreed to.

Civil Law (Miscellaneous Provisions) Bill 2022: Committee and Remaining Stages

Acting Chairperson (Senator Gerry Horkan): I welcome the Minister of State, Deputy Naughton, back to the House.

Sections 1 to 36, inclusive, agreed to.

Senator Eileen Flynn: Will you slow down, please?

Acting Chairperson (Senator Gerry Horkan): There are no amendments to any of these sections. The Senator is free to speak to any section she wishes. I am keeping an eye out all of the time.

Senator Barry Ward: There is a mart somewhere in Ireland missing an auctioneer.

Acting Chairperson (Senator Gerry Horkan): I thank the Senator. There is always a future somewhere.

Sections 37 to 41, inclusive, agreed to.

SECTION 42

Acting Chairperson (Senator Gerry Horkan): Amendments Nos. 1 to 4, inclusive, are related and may be discussed together by agreement.

Senator Lynn Ruane: I move amendment No. 1:

In page 26, line 6, after “collect” to insert “relevant”

I welcome the Minister of State to the Chamber. Amendment No. 1 seeks to insert the word “relevant”, in respect of personal data which can be collected by relevant persons for relevant immigration and social welfare enactments. The purpose of the amendment is to ensure that not

only data which are relevant to an immigration or social welfare enactment are collected. While I acknowledge that what constitutes relevant data is unclear, in the context of my amendment, it is important that we are explicit about the specific types of data which will be collected under the Bill. Following engagement with Department officials, I know and welcome that no new data will be collected under this Bill. I am seeking clarification that no new data will be collected under this Bill that cannot already be collected under other Acts. I am seeking to clarify that information.

Amendment No. 2 seeks to delete “special categories of personal data”. Amendments Nos. 2 and 3 seek to delete references in Part 5 of the Bill to the collection and processing of special categories of personal data. Following engagement with Department officials on this matter this week, I will not move amendments Nos. 2 and 3, with the leave of the House, considering that special categories of data, for the purposes of this Bill, are provided for in existing legislation.

Amendment No. 4 seeks to insert an explicit reference to the undertaking of a “data protection impact assessment”, prior to the processing and sharing of personal data under the Bill. I thank the Department for engagement ahead of Committee Stage, from which I have learned that a data protection impact assessment will be undertaken prior to the enactment of the review. I would welcome confirmation from the Minister of State, on the record, in this respect.

Acting Chairperson (Senator Gerry Horkan): Senator Currie is here with a group from Dublin West. They are very welcome. The Cathaoirleach of Galway County Council is also here, Councillor Michael “Moegie” Maher. He is very welcome to the Chamber. I hope all of our guests have a lovely day in Leinster House.

Minister of State at the Department of the Environment, Climate and Communications (Deputy Hildegard Naughton): I will take amendments Nos. 1 to 4 together, as the Cathaoirleach Gníomhach has outlined. At the outset, it is important to highlight that this Part does seek to authorise the collection or processing of personal data that is not already authorised for collection or processing elsewhere in statute. It will enable a one-stop shop mechanism that allows the relevant immigration officials to collect information on behalf of social protection officials that can be used for social welfare purposes and *vice versa*.

Senators will note that the power to gather data only relates to relevant immigration and social welfare enactments, which are defined in section 41. Those relevant immigration enactments include section 60 of the International Protection Act 2015, which provides for the data to be gathered in order to grant a person temporary protection, such as those fleeing Ukraine.

“Relevant social welfare enactment” includes section 262 of the Social Welfare Consolidation Act 2005, which relates to the data to be gathered in order to issue a PPS number. Essentially, Part 5 will allow an applicant to give the data required for temporary protection and a PPS to a single officer, once, and have it automatically transmitted for processing. No data can be gathered under this part that is not required by such a relevant enactment. Furthermore, all the provisions of this legislation are subject to the general data protection regulation and the Data Protection Act 2018. Consultation also took place with the Data Protection Commission, DPC, in the drafting of this legislation.

Amendment No. 1 proposes to add the word “relevant” to the term “personal data”. I understand the concern of Senators that only required and relevant data would be collected. How-

ever, I do not intend to accept this amendment because the definition, as drafted, is sufficient. Further expansion would require further definition elsewhere in this part of the Bill. As matters stand, personal data is defined in the new section 41 as having the same meaning as it has in the data protection regulation. It is important to highlight that the personal data being collected must be provided for under the relevant immigration enactment or relevant welfare enactment as prescribed here. Provision in respect of personal data is already made in existing legislation.

Amendments Nos. 2 and 3 propose the deletion of the reference to special categories of personal data. This reference is necessary. Removing it would limit the complete collection of personal data for the purposes of the relevant enactments set out in the Bill, and the objective of facilitating a one-stop shop. There are not multiple special categories of data to be collected here but it may arise in certain instances provided for in the relevant enactments referred to in the Bill. For instance, in the case of the registration process in section 9 of the 2004 Immigration Act, there is provision for biometric data to be collected.

In the context of amendment No. 4, I understand the concern of Senators to the effect that all due care be taken before these systems are commenced, that all appropriate risks are assessed and that all necessary protections are in place. A data protection impact assessment, DPIA, is being undertaken in respect of the processing of data under Part 5 by officials in the Department of Justice, in consultation with the Department of Social Protection. The assessment will be completed before this processing is operationalised. The case that the general data protection regulation, GDPR, outlines the circumstances in which a DPIA is required. As a result, the requirement for specification in the legislation for an assessment to be carried out does not arise. It is also important to note that the processing of data under section 43 is subject to suitable and specific measures, which means measures to safeguard the fundamental rights and freedoms of data subjects in processing personal data of those subjects.

For the reasons I have outlined, the Senator will appreciate I cannot accept these amendments.

Senator Lynn Ruane: I appreciate and acknowledge the Minister of State's contribution. I am happy to withdraw the amendments.

Amendment, by leave, withdrawn.

Amendment Nos. 2 and 3 not moved.

Section 42 agreed to.

Amendment No. 4 not moved.

Section 43 agreed to.

Section 44 agreed to.

NEW SECTION

Acting Chairperson (Senator Gerry Horkan): Amendments Nos. 5 and 6 are related. Amendment No. 6 is a logical alternative to amendments No. 5. As a result, the two may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 5:

5. In page 27, between lines 24 and 25, to insert the following:

“Review (Part 5)

45. The Minister shall, not later than six months following the commencement of this Part and every six months thereafter, oversee a review of the collection and processing of data under this Act, with particular reference to the necessity and proportionality of the continued collection and processing of personal data, including special categories of personal data, for the purposes outlined in section 42.”.

Amendment Nos. 5 and 6 are variations of each other. Their purpose is to insert a review clause into Part 5. Inserting such a clause would ensure that provisions relating to the collection and processing of personal data, including sensitive special categories of data, would be the subject of sufficient post-legislative oversight and scrutiny. Given the types of data that are to be collected, it is important we continually review the necessity and proportionality of the continued collection of this data and we must ensure safeguards that are in place to protect personal data are working effectively. The Bill, like the majority of the legislation passed through these Houses, will be subject to *ad hoc* post-legislative scrutiny by means of a 12-month post-enactment review. However, given the sensitivity of the data to be collected and processed under Part 5, it is important that we are explicit as to the processes that will ensure post-enactment scrutiny and oversight of the provisions in this specific part. The Minister of State and the Department are conscious of the need to provide robust protections in respect of personal data and have included safeguards in the legislation to this effect, but I would welcome an explicit provision that would ensure the post-enactment scrutiny of Part 5 by means of the insertion of a review clause or something similar.

Deputy Hildegard Naughton: Amendment Nos. 5 and 6 both relate to the issue of a review. The Departments of Justice and Social Protection are fully accountable to and subject to oversight and regulation by the DPC for compliance with data protection legislation. The Department of Justice has embedded the principles relating to processing of personal data, as set out in Article 5 of the GDPR, across all its processing activities. In addition, the Department must be able to demonstrate compliance under the principle of accountability. The Department has appointed a data protection officer who conducts regular internal audits and compliance checks across the Department to ensure compliance with data protection obligations. They also ensure privacy notices are in place in respect of all processing activities, including data sharing, and are available to receive and review any queries in relation to such processing activities.

Article 24 of the GDPR sets out the responsibilities of data controllers. It states that the controller shall implement appropriate and technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with the GDPR. It goes on to state those measures shall be reviewed and updated where necessary. Furthermore, section 36 of the Data Protection Act 2018 sets out what suitable and specific measures for data processing should be taken by the controller to safeguard the fundamental rights and freedoms of data subjects. This is also set out here in section 43 in respect of the processing of data in accordance with section 42. Such safeguards include, *inter alia*, limitations on access to the data, time limits for erasure of data, targeted training for those involved in processing, logging mechanisms and encryption. All such measures are being considered and further explored during the process of completing a DPIA in advance of any processing undertaken in accordance with the proposed Part 5.

As a final point, this Bill is subject to the same post-enactment review as all similar legislation. For the reasons outlined about the safeguards and review mechanisms in place, I cannot accept the proposed amendments.

Senator Lynn Ruane: I am happy to withdraw the amendment on the basis of that response.

Amendment, by leave, withdrawn.

Amendment No. 6 not moved.

Sections 45 to 56, inclusive, agreed to.

NEW SECTIONS

Acting Chairperson (Senator Gerry Horkan): Amendment Nos. 7 and 8 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Boylan: I move amendment No. 7:

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

“Challenges without cause shown

57. (1) Each party may challenge without cause shown seven jurors and no more.

(2) Whenever a juror is lawfully challenged without cause shown, they shall not be included in the jury.”.

I acknowledge that the Minister for Justice, Deputy McEntee, has taken on board the concerns of the families about the right to have juries at inquests and that juries be independently selected. I also appreciate the fact that an inquest is inquisitorial and fact-finding and does not involve an adversarial process. Maybe the Minister of State can clarify a matter for me in order that I do not have to press these amendments. The rationale for tabling them relates to challenging jurors if there is a reason any of - I will not call them parties because that is what they are called in court cases - those who are involved in the inquest process want to raise an issue with the coroner if they have concerns about particular jurors.

I am being told that section 59(2) provides for that at any stage prior to the jury being sworn in. Will the Minister of State clarify whether a legal party to the inquest can make an objection to the coroner about a juror under section 59(2)? If so, it is great, but we must ensure that, if such a challenge is made and the inquest gets under way, the process is not appealed to judicial review. Lawyers differ. The legal team that I have spoken to says that the Bill does not provide for the challenging of jurors but the Department is saying that it does. My concern is that, if there can be such differences in opinion, the matter can be challenged in the courts, leading to further delays in the inquest, which no one wants.

Deputy Hildegarde Naughton: I thank the Senator for her ongoing interest in and advocacy on this matter. I wish to express my personal sympathies to those who have been impacted by the Stardust tragedy – the families, the victims and the wider community. The Minister, Deputy McEntee, is keen for this legislation to be enacted in order for the Stardust inquest to progress.

Regarding the amendments, Part 8 of the Bill responds to concerns that the selection of the Stardust inquest jury should be as representative as possible. Thus, the provisions at Part 8 displace, for the Stardust inquest, the current provision whereby, at the coroner's request, the Garda assembles an inquest jury. In providing for this selection process, careful regard was had to certain relevant provisions of the Juries Act 1976 and, in particular, for the county registrar to assist the Dublin coroner to assemble the inquest jury. The jury will be selected in public before the coroner prior to jurors being sworn in for the inquest. The coroner is empowered to discharge a juror if she considers such action necessary.

However, it must be borne in mind that the coroner's inquest is an inquisitorial process and must be conducted according to the provisions of the Coroners Act 1962. There are no "parties" at an inquest. It is not an adversarial process. There are no defendants or plaintiffs, appellants or respondents. The inquest is a fact-finding process. It may not, by law, seek to blame or exonerate any person or assign liability.

I understand the genuine concerns of the Senators in tabling these amendments about seeking to ensure that a jury is appropriately selected and no persons who are ineligible to serve or who have a conflict of interest would serve. These amendments seek to replicate sections 20 and 21 of the Juries Act 1976 regarding parties challenging potential jurors. However, those provisions deal with jury selection in criminal and civil proceedings, at which liability is to be determined between opposing parties. Such provisions are not appropriate to an inquest situation. Indeed, to seek to replicate them could give rise to uncertainty and legal complications. Section 59(2) of the Bill provides for the coroner to direct at any stage that a person shall not serve as a juror for any stated reason if the coroner considers it desirable in the interests of justice that she should give that direction.

Regarding judicial reviews, no one can rule out the inquest being challenged, so I cannot give the Senator that guarantee, but I hope she appreciates that, for the reasons outlined, I cannot accept these amendments.

Senator Lynn Boylan: On the basis of the Minister of State's comments, I am happy to withdraw the amendments.

Amendment, by leave, withdrawn.

Senator Lynn Boylan: I move amendment No. 8:

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

"Challenges with cause shown

57. (1) Each party may challenge for cause shown any number of jurors.

(2) Whenever a juror is challenged for cause shown and such challenge is allowed by the coroner, the juror shall not be included in the jury."

Amendment, by leave, withdrawn.

Section 57 agreed to.

Acting Chairperson (Senator Gerry Horkan): Before moving on to the next amendment, I wish to welcome Deputy Niamh Smyth, who is here with her cousin, Mr. Ruaidhrí

Maguire, and his professional dance partner, Ms Danila Marzilli, who are from the Baltic Opera Ballet in Poland and are performing this week in Dublin. They are welcome to Leinster House and I hope they enjoy their day.

NEW SECTION

Senator Lynn Boylan: I move amendment No. 9:

In page 35, after line 41, to insert the following:

“Inspection of Jury Panels

58. (1) Any party shall be entitled to reasonable facilities to inspect a panel of jurors free of charge and to a copy free of charge on application to the county registrar.

(2) The panel referred to in *subsection (1)* is the panel as prepared for and in advance of the sittings, including any supplemental panel so prepared.

(3) The right to inspect the panel shall, however, include a right to be shown, on request, all alterations to the panel and the names of any persons summoned and, on request, to be told of any excusals.”.

I am seeking an assurance. In the selection of a jury in a court case, people have a reasonable facility to inspect the panel of jurors free of charge. This amendment seeks to ensure that information is available to all of those involved in the inquest. While section 62 may address our concerns, this amendment seeks to ensure that the coroner informs people about what would make them ineligible to sit on the inquest’s jury. Subsection (1) is on the transparency of the selection process and making that information, including jurors’ summonses, available to those involved in the inquest, but if the inquest is going to be held in public, part of that process should involve informing jurors of what the potential conflicts of interest could be so that they can be clear on whether they should excuse themselves.

Deputy Hildegarde Naughton: This amendment is related to the previous amendments and my comments on those are valid in this instance. Amendment No. 9 seeks to replicate the provisions of section 16 of the 1976 Act regarding the inspection of a panel of jurors. However, it is clear that the purpose of the information concerned under that Act is essentially to enable a challenge to a juror in a criminal trial and civil proceedings at which liability is to be determined between opposing parties. Therefore, the inclusion of such a provision is not appropriate to an inquest situation. No disadvantage arises in this respect for any interested person concerned with the inquest. The selection of the inquest jury must remain clearly in the exclusive remit of the coroner, who is independent in the performance of her functions.

Section 57(2) provides:

Before the selection is begun the coroner for the coroner’s district of Dublin shall—

(a) warn the jurors present that they must not serve if they are ineligible or disqualified and as to the penalty under *section 62* for doing so, and

(b) he or she shall invite any person who knows that he or she is not qualified to serve or who is in doubt as to whether he or she is qualified or who may have an interest in or connection with the Stardust inquest concerned to communicate the fact to the coroner

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(either orally or otherwise as the coroner may direct or authorise) if he or she is selected on the ballot.

I hope that Senator can appreciate this situation and that I cannot accept the amendment.

Senator Lynn Boylan: I appreciate that. I also apologise, as I referred to section 62. It is actually section 57(2)(b), which clarifies one of our concerns.

I did not understand the Minister of State's remark that the jury selection was solely the duty of the coroner. Does that mean that the information on summonses will not be available to interested parties in the inquest?

Deputy Hildegarde Naughton: It will not, but their names will be called out in open court.

Amendment, by leave, withdrawn.

Sections 58 to 62, inclusive, agreed to.

4 o'clock

Title agreed to. Bill reported without amendment.

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

Senator Barry Ward: Now.

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

Bill received for final consideration.

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

Senator Barry Ward: Now.

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

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

Senator Barry Ward: A substantial amount of work went into the Bill and it is important legislation. I congratulate the Departments involved, as well as the Minister of State, Deputy Naughton, and the Minister for Justice, Deputy McEntee, on bringing this through. It will do quite a lot of good.

Question put and agreed to.

Civil Law Miscellaneous Provisions Bill 2022: Motion for Earlier Signature

Senator Barry Ward: 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 Civil Law (Miscellaneous Provisions) 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.

Communications (Retention of Data) (Amendment) Bill 2022: Committee and Remaining Stages

Section 1 agreed to.

SECTION 2

Acting Chairperson (Senator Gerry Horkan): I welcome the Minister for Justice, Deputy McEntee, back to the House. Amendments Nos. 1 to 3, inclusive, are related. Amendment No. 3 is a logical alternative to amendment No. 2. Amendments Nos. 1 to 3, inclusive, may be discussed together, by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 1:

In page 4, between lines 38 and 39, to insert the following:

“ ‘security of the State’ means the territorial integrity and independence of the State from subversive activities by hostile states and from hostile groups within the State, and the safe and ongoing functioning of sovereign authority and the constitutional system of the State, and the security of its citizens (including the rights and freedoms of citizens);”.

I welcome the Minister. Amendments Nos. 1 to 3, inclusive, attempt to provide clear definitions for the phrases “security of the State” and “threat to the security of the State”. These definitions are essential to provide a clear legal threshold, which can form the basis of a decision about data retention. One of the core principles we need to follow as legislators is that the provisions we put into law must be clear and unambiguous and easily understood by all. It is not clear that this legislation currently meets that standard.

The Minister is given the responsibility in this Bill to determine whether there is a threat to the security of the State and to make a proposal to an authorising judge in respect of the retention of data in response to that threat. This responsibility is burdensome and a serious one for a Minister, and yet no clear definition is provided on which the Minister can base a decision. No criteria are provided in the legislation to distinguish between ordinary crime, organised crime or potential acts of terrorism. These are essential distinctions we need to make not just because it is good legislative practice but because the Court of Justice of the European Union, CJEU, ruling requires it.

The CJEU ruling has highlighted that in order to meet the data protection principles of necessity and proportionality, this legislation needs to provide clear criteria on which a data retention decision is based. This means we need a clear definition of national security. The CJEU ruling states:

In order to satisfy the requirement of proportionality, the legislation must lay down clear and precise rules governing the scope and application of the measure ... and must indicate in what circumstances and under which conditions a measure providing for the processing of such data may be adopted, thereby ensuring that the interference is limited to what is strictly necessary.

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As it is not clear in the legislation what “security of the State” actually means, we currently do not have “clear and precise rules governing the application” of this law. This emergency legislation may therefore still be in breach of EU law.

Our amendments propose a number of definitions which might help to create the necessary clarity in the Bill. Amendment No. 1 proposes that “security of the State” means safety and security from hostile actors that might threaten the independence or integrity of the State, the ongoing function of our democracy or the rights and security of our citizens. Amendment No. 2 proposes that a threat to that security would be a threat that is “greater than that posed by common criminal behaviour”. This is an attempt to create a clear distinction between ordinary or organised crime and actual terrorism or threats to the State and therefore create a clear basis for a data retention decision. This clarity is essential to vindicate the data protection principles I have discussed.

Amendment No. 3 proposes alternatively that a threat to the security of the State might be defined as “one which cannot be eliminated by ordinary means”. Again, this attempts to create that clear distinction between crime which can be dealt with ordinary powers of the State and those terrorist threats that may require additional powers in respect of data retention.

I hope the Minister will engage on this legislation, given it is an emergency response to a ruling that our current law is illegal. It would be very short-sighted to pass an emergency law open to legal challenge and which would also be ruled illegal if referred to the CJEU again. I am genuinely concerned this Bill would still be illegal under EU law due to its failure to establish clear criteria for data retention.

Senator Alice-Mary Higgins: I will be very brief because Senator Ruane has outlined our concerns in this regard. There are specific amendments and specific approaches outlined but although we make suggestions for specific definitions, the crucial question is one of there being a definition. In an ideal scenario the Government would bring its own definition and make it clear in legislation. In its absence I urge that the Minister considers taking on one of the three definitions. If a different approach is sought, perhaps that definition could in future be amended.

We are really concerned about the Bill progressing with no definition at all. There are three cases of suggested language but I hope the Minister does not reply specifically to those suggestions but the really crucial issue of the absence of a definition, with the consequent absence of the necessary clarity around proportionality in line with the CJEU ruling.

Senator Barry Ward: I have some sympathy with the notion that clarity is required and I agree that CJEU jurisprudence indicates that. There is a difference between saying there must be clear criteria, which is what the court has said, and the requirement for a clear definition. I do not believe there is any ambiguity.

The difficulty is that nowhere in any of our legislation is the term “security of the State” defined. What the Senators suggest is a reasonable expectation of what that would mean, and it has a common meaning for all of us as we speak about this. Amendment No. 1, for example, mentions “subversive activities by hostile states and from hostile groups within the State” but what happens if an individual is the relevant actor? The point I am trying to make is not that there is a problem with this definition but that there is a problem with any definition. As soon as an exact meaning is put down on paper, people like me would try to pick it apart. That is where one creates so-called loopholes that we build into the law, specifically, as protections for

people. The danger is that if one gives a very specific worded definition as to what that means, one is also creating the possibility for somebody to place a given accused person outside that definition. That is why I would be much more comfortable that the courts get to interpret what that term, “security of the State”, means, as they have in the past in different and nuanced cases. I would be much happier to leave that role to the courts than to take it upon ourselves as the Legislature to put in place an all-encompassing term that might leave something out or might have an unforeseen consequence on what might happen in the future. I would have difficulty with these amendments for that reason.

Minister for Justice (Deputy Helen McEntee): I thank Senator Ward. The Senator made many of my responses and clarified them.

From the outset, we have not defined either “security of the State” or “threat to the security of the State” anywhere. If one thinks of the most recent legislation, the Offences against the State (Amendment) Act, which we re-enacted only in the past few weeks, in that there is no clear definition of “security of the State” or “threat to the security of the State”. We have a situation where the courts interpret it. I would be of the view of Senator Ward that if one were to define something, the minute something arises that does not fit within that definition one finds oneself in a difficult situation.

If I could, to be helpful, I will give an indication of the type of issues that I would view as linked to the concepts of “threat to the security of the State”. They may include: the terrorist threat level in the jurisdiction and on the island, bearing in mind the operational focus on preventing or disrupting attacks in Northern Ireland; the terrorist threat level in the wider neighbourhood - Britain and the EU - which is informed by assessments carried out by either the UK agencies or Europol; hostile state activity; cyberthreats to the State; the threat that might be posed by right-wing extremist groups; and the potentially destabilising effect on society of organised crime. These are all the types of potential definitions that one might have or that have been ruled on previously in a court by a judge but, as has been said previously by Senator Ward, to define it one leaves oneself open to excluding something from the overall definition.

Given the fact that we have not defined it in any legislation, I am not sure I would be comfortable with defining “security of the State” in an emergency Bill, particularly when I suppose the intention here is to respond to the court ruling. To assure the Senators, I have been given clear advice from the Attorney General on this. The Attorney General is absolutely satisfied with what we have included and that this replicates how we have not defined it, so to speak, but have referred to it in other legislation. If we were to go beyond that, an emergency Bill is not really the place to do it.

While I fully understand where both Senators are coming from, I will not be able to accept this amendment for those reasons.

Senator Lynn Ruane: To clarify, to be honest, much of that makes sense.

For my own understanding, in terms of the decision-making process, is it accurate to say that the Minister of the day would not be making a decision on what the security threat is? The Minister makes the decision on whether the application goes to court for the court to decide.

Deputy Helen McEntee: It would have to be decided by a judge in order to be able to retain those particular data, namely, the Schedule 2 data. A judge would have to decide on that.

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Senator Lynn Ruane: I am happy with those responses.

Senator Alice-Mary Higgins: I accept the Minister's point in terms of emergency legislation in general. That is why we endeavour to have clarity. It is emergency legislation, but emergency legislation that is responding to that lack of clarity. That is why we were seeking to be constructive in trying to nail down that clarity.

I accept the point in terms of case law. It is important for the Minister to give that clear signal that it should, and I understand will, be in the power of courts to decline a request from the Minister if they do not believe it to be necessary and proportionate. I suppose it is an area where we need to keep watch to ensure that the case law is built in an appropriate way. Given the Minister's point, I am satisfied, as well as my colleague is, in terms of waiting to see how that unfolds.

The Minister might reaffirm for those listening that it is the case that that necessity and proportionality test, which we tried to apply here in the legislation, will be applied by the courts in relation to the Minister's requests.

Deputy Helen McEntee: It will. I stress that what we have proposed here in terms of this emergency legislation reduces the amount of data that can be retained and puts additional safeguards in place that do not exist in the principal Act. There are more safeguards here. Specifically, when it comes to a threat or security, the type of data that now we are able to retain is still on a very restricted basis with that oversight. There is an extra layer that does not exist now.

Of course, my preference is that this would be the base that we work off and that we would be able to ensure An Garda Síochána is able to access the information that it needs, be it for security purposes or in fighting criminal offences, but the purpose of today is to respond to the ruling and to make sure that we are compliant. In anything after that, be it in terms or work at a European level or in terms of a more general wider Bill, which I hope to bring, as I said, by the end of the year where I will engage fully with all colleagues here, we will work on this and see where we can go from here.

Senator Lynn Ruane: I am happy to withdraw amendment No. 1.

Amendment, by leave, withdrawn.

Amendments Nos. 2 and 3 not moved.

Section 2 agreed to.

SECTION 3

Acting Chairperson (Senator Gerry Horkan): Amendments Nos. 4 to 7, inclusive are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 4:

In page 5, line 35, to delete "a period of one year, or".

Amendments Nos. 4 to 7, inclusive, seek to address the retention periods and safeguards in respect of data retention. Currently, the mechanism in the Bill provides for an automatic period of data retention of one year, which may be varied by the Minister or an authorising judge, depending on the type of data.

We need to be clear on this. The European Court of Justice ruling was clear that the duration of each data retention measure must be limited in time to what is strictly necessary and that such measures, while they can be renewed, cannot be systematic in nature. As the Irish Council for Civil Liberties, ICCL and others have highlighted, the current draft of the Bill is not in keeping with the spirit of this ruling, and the legislation may well be deemed illegal on these grounds if it is referred to the Court of Justice of the European Union, CJEU, again.

Each case must be individually assessed and the period of data retention should be prescribed specifically for the necessities of each case. While I acknowledge the Bill goes some way towards acknowledging these requirements, and grants power to the Minister and the judges in respect of varying the period of retention, there is still a question mark over the legality of the automatic period of one year in the absence of other instruction by the Minister or a judge. This implies that the majority of cases would automatically get a period of one-year retention unless otherwise specified, and this goes directly against the CJEU ruling that these periods cannot be systematic in nature. I urge the Minister to engage on this and be cautious about it because it is pointless to pass emergency legislation that would potentially also be illegal. Why replace one illegal Act with another?

Amendments Nos. 4, 6 and 7 all attempt to remove references to the automatic retention period of one year. These three amendments would delete the one-year period, and would require that a specific data retention period must be decided by the Minister or a judge in every case. If accepted, our amendments would remove the automatic one-year retention period, and thus ensure the Bill is in line with the CJEU's ruling. Amendment No. 5 is similar in that it reiterates that a judge must specify the data retention period in every case, not simply assign an automatic one-year period.

These amendments may be the difference between this House passing a legal or an illegal Bill. If the Minister still believes this automatic one-year retention period is legal or necessary, I hope she can clarify why that is.

I am also concerned by the different powers granted in the Bill in respect of "user data" versus "Schedule 2 data". From my reading of the Bill, it seems that these types of data are similar, and that both relate to names, addresses and Internet protocol, IP, addresses of users. Could the Minister clarify how these categories of data are substantively different, and whether we should be concerned about the wider powers granted in respect of "user data"?

Senator Barry Ward: When I first read this amendment, I did not understand where the Senator was coming from. Having heard what the Senator said, I understand much better.

I do not know whether the proposal is that there should be no default period once the law passes, for example, before the Minister had a chance to make regulations. I would have thought there should be provision. The Senator may feel that a year is arbitrary, but a year is one of those terms that exists since Roman civil law. "For a year and a day" is often the term that is used as a default period in law generally. That makes sense to me. When I read the Act, it made sense to me that there would be a default period. I understand what is being said about the CJEU and will be delighted to hear what the Minister has to say about this, but it seems that in the absence of the default period, a much more dangerous lacuna is created. If, for example, the Minister declined to make regulations, would it mean there would be no retention period? Would it mean the retention period would be open-ended? I would have thought the purpose outlined in the Bill would get us around that. I presume that is the intention. I understand where

the Senator is coming from but believe there is probably a basis for it.

Deputy Helen McEntee: Let me get into some of the detail. First, on amendment No. 4, the recent ruling and the 2020 ruling essentially state user data were not classified as serious in that they do not show the traffic or location details. Retention and access to these data can be justified by the objective of dealing with criminal offences in general. There is no requirement for a specific time-limited arrangement in these circumstances, particularly given that there will no longer be scope for the general retention of the Schedule 2 data, which relate to the traffic and location details. I do not believe it is unreasonable or disproportionate to set a period of 12 months for the retention of these types of data, and the Court of Justice of the European Union accepts this given that the information involves somebody's name and information willingly given. Obviously, looking at traffic location and where you are is seen as a much greater invasion of somebody's rights and privacy.

Essentially, the 12 months represents a 50% reduction on the default period of 24 months, which entails the retention of all Schedule 2 data relating to telecommunications, as in the principal Act of a number of years ago. I am future-proofing section 3A of the legislation. This allows for a shorter period up to a maximum of 24 months. It is prescribed by ministerial order. This is proposed given that there are further pending CJEU rulings that may impact on retention periods for user data. It is for that reason specifically that I cannot accept amendment No. 4.

With regard to amendments Nos. 5 and 6, the most significant aspect of the rulings is the requirement on the general retention of Schedule 2 data. This area is seen as more significant in terms of the impeding of individuals' rights, so it is believed the arrangement must be limited to what is strictly necessary. Again, I believe that is what we are doing here. We are proposing a 50% reduction on the default period of 24 months, and this meets the requirement to have what is strictly necessary. When the platforms and providers contacted us after the most recent clarification and crystallising of the rulings over previous years, their concern was that they would immediately have to remove and get rid of all data, which is obviously not what we want to happen. We are trying to put in place a number of provisions, while the intention is obviously to try to work with our colleagues at European level to ensure data, be they Schedule 2 data or more general, can be used by our law enforcement agencies to deal with criminal offences and serious crime, not just security threats.

This has been fully proofed by the Attorney General. We have taken significant legal advice on this. The response is that we have set out what is strictly necessary. The CJEU has accepted this as well.

Senator Lynn Ruane: To facilitate my understanding, the Minister should correct me if I misrepresent what was said. She said the period of 12 months meets the requirement regarding what is necessary. Does what is necessary entail only an amount of time and not the individual reasons for the holding of the data?

Deputy Helen McEntee: Yes. It is in relation to time and not the actual data or case. It is the time itself overall for the data. The provision will apply to all general data irrespective of whether they are for a specific case or reason. It is the timeline we are referring to here.

Senator Lynn Ruane: So the CJEU ruling relates not to specific reasons or the potential crime but to necessity in terms of time?

Deputy Helen McEntee: It depends on which the Senator is referring to. The general data

are not viewed as impeding on somebody's rights in the same way as Schedule 2 data. When talking about what is strictly necessary, we are referring to the time limit, not the potential crime or the reason for it.

Senator Lynn Ruane: I thank the Minister.

Senator Alice-Mary Higgins: While we acknowledge the case for the previous amendments was really strongly made, I still have concerns. I am thinking of amendment No. 4 in particular. It was asked what would happen if the Minister did not make regulations. That would be an issue for the Government, including the Minister, in that it would have failed to make them, but the point is that we are being asked to give the power to make regulations, with the usual caveats attached, and also a blanket provision. The scope of the regulations may be wide, but when we talk about necessity it is not just a matter of the time period but also of proportionality. Proportionality means being proportional in respect of a purpose. The regulations may provide for the retention of a large category of the Schedule 2 data by a certain kind of service provider because there is a relevant purpose but I am concerned about a blanket provision regarding retention. I am specifically concerned about when we move beyond the security of the State and some of the specific criminal provisions. The Minister mentioned potential future uses. It would be absolutely inappropriate to have information retained because of potential future uses. Information being retained needs to be retained because there is a purpose in mind, not because we might be able to think of a future purpose. While I have agreed with the Minister on the points on the security of the State, criminal investigation and so forth, I am concerned about overreach regarding the use of such data.

I am conscious of an equivalent example, which we flagged as a data-protection concern at the time in question. The Minister might recall the issue of the public service card and the fact that data were being retained on the movement across the State of those with free travel. That was an example of a blanket provision and blanket retention, which again was a matter of concern.

The purpose should be clear. Positing a potential future purpose is not adequate in itself without it being named. It is sufficient that the Minister would have the power to regulate in this area, and a blanket provision is too much. We might just disagree on that one.

Senator Lynn Ruane: Could I have a brief clarification? Does the user-data category also include the likes of a person's – the acronym has gone out of my head-----

Acting Chairperson (Senator Gerry Horkan): Geolocation?

Senator Alice-Mary Higgins: Geolocation or GPS?

Senator Lynn Ruane: Internet protocol, IP, addresses. Does it not include a person's IP addresses and international mobile equipment identity, IMEI, which obviously involve much more data than a vehicle registration and location? The data are more related to a person's phone-----

Deputy Helen McEntee: It does, but it does not give where a person is at a particular time or where he or she might have been. As with a given name and address, it does not necessarily tell anything more than one's IP address. It is no different from having knowledge of a person's name. In the case that brought a lot of this about, it was the location data that made the significant difference.

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We should note that the courts themselves have ruled that general data do not really impede on somebody's privacy because the information is voluntarily given in many instances. It is not information that gives away anything about a particular person; it is simply information about him or her. The regulations may allow for a shorter period, of 12 months, or longer; however, considering that the period is half of what would be allowed for the Schedule 2 data and that the courts themselves do not seem to have an issue with putting this type of timeframe in place, this is really why we are putting the measure in place. Again, I stress that even this in itself is less than what we currently have and is more of a safeguard than what we currently have. We are really just trying to respond to the overall ruling and ensure we are fully compliant. I appreciate that there have been several rulings in recent years but it is a question of the most recent one. It is on the basis that we do not expect the Supreme Court to change anything that we are now implementing this measure.

Senator Lynn Ruane: I am sorry for teasing this out on the floor. I am trying to understand stuff as it is happening. In relation to the idea-----

Deputy Helen McEntee: One still has to set out the reason-----

Senator Lynn Ruane: One has to meet that standard or bar.

Deputy Helen McEntee: -----one was looking for it. It is there, but one cannot just access it for no reason. The 12 months is because it is not seen as being as significant as accessing someone's location.

Senator Lynn Ruane: For example, in relation to IP addresses or anything that one associates with one's phone, etc., the idea is that it is given voluntarily to phone companies rather than State bodies such as Revenue or the Garda. Even though it is voluntarily given, where it is voluntarily given is differentiated a little in terms of it just being general user data that the Garda or Revenue would have access to anyway.

Deputy Helen McEntee: The court said that it does not feel this infringes in the same way so it included all user data, which includes what the Senator outlined, as not being as significant in terms of impeding. All of this is about whether retaining this type of data, Schedule 2 data or Internet data would create a greater impediment on someone's privacy or right to privacy. However, the court ruled both in 2020 and more recently in April, and obviously the Supreme Court ruled the same way, that it is not as much of an infringement on somebody's personal privacy rights.

Amendment put and declared lost.

Section 3 agreed to.

Amendments Nos. 5 to 7, inclusive, not moved.

Section 4 agreed to.

SECTION 5

Acting Chairperson (Senator Gerry Horkan): Amendment Nos. 8 and 11 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 8:

In page 8, line 7, to delete “an” and substitute “a serious”.

Amendments Nos. 8 and 11 seek to clarify that data retention powers should only be exercised in respect of serious offences or serious revenue offences. It is important we do not see situations where data privacy rights are being trampled over to tackle minor offences. Once again, powers of data retention are exceptional powers which stand down people’s data privacy rights. I am concerned by the perceived weakness of some of the provisions in respect of user data. It seems that Garda and Revenue officers currently have the scope to use these powers whenever they see fit in respect of user data. Notwithstanding the previous clarification of user data, it seems very similar to the Schedule 2 data that is more protected insofar as they both relate to names, addresses and IP addresses of users. We had that conversation previously in terms of teasing out a little bit around personal data.

The only amendments in this grouping are amendments Nos. 8 and 11. Is that correct?

Acting Chairperson (Senator Gerry Horkan): Yes. Amendments Nos. 9, 10, 12 and 13 are the next grouping. We are not dealing with them just yet.

Senator Lynn Ruane: I apologise. We got the groupings quite late and we pre-empted them.

Acting Chairperson (Senator Gerry Horkan): No problem. The Senators had their own groupings.

Senator Lynn Ruane: We have pre-empted fake groupings here. I will leave it at that, because the rest of what I have to say applies to the next grouping.

Senator Barry Ward: As I understand it, amendment No. 11, which seeks to amend the proposed substituted section 6(3)(a), proposes to replace “committed a revenue offence” with “committed a serious revenue offence”. However, the term “revenue offence” is defined in section 1(1) of the principal Act, which sets out exactly what sections apply. I think adding “serious” in there contradicts that definition in the first instance. In addition, it is unnecessary because section 1(1) of the principal Act defines a “revenue offence” as “an offence under any of the following provisions that is a serious offence”, and it then lists out the various different Acts - various Finance Acts and the Customs Consolidation Act, etc. - under which offences are committed. That is very clear. I certainly think that amendment No. 11 creates more confusion than it solves.

Senator Alice-Mary Higgins: While it is useful to reference the principal Act in respect of amendment No. 11, in terms of a “revenue offence”, I feel quite strongly about amendment No. 8 and, indeed, the principles in amendments Nos. 9 and 10. An offence as constituted in that section is potentially extremely wide. We do not want a situation where there is a suspicion that a minor offence will become a justification or reason for a member of An Garda Síochána to be accessing user data. I will be frank; we know we have had situations in the past where access to data has been abused. Far too often, we see on television programmes the idea that you can just run a number and get some information. Again, that is actually inappropriate and it is not the case.

This comes to the other amendments, which are important to Members. Amendments Nos. 9 and 10-----

Acting Chairperson (Senator Gerry Horkan): We are not dealing with those amendments yet.

Senator Alice-Mary Higgins: Are we not on amendments Nos. 8 to 11?

Acting Chairperson (Senator Gerry Horkan): No, we are on amendments Nos. 8 and 11.

Senator Alice-Mary Higgins: I apologise. I will come to them in a moment.

Acting Chairperson (Senator Gerry Horkan): The Senator will get her chance. For now, it is just amendments Nos. 8 and 11.

Senator Alice-Mary Higgins: I accept the argument that there is a clarification to a degree on what constitutes a “revenue offence” in other legislation. However, in terms of the powers of An Garda Síochána in this section, I think that including the word “serious” as a parameter when describing an offence is an important safeguard in accessing data. I would not want a situation whereby a very generic offence can be used. I will just reference amendments Nos. 9 and 10 again because it comes to that. I am looking at the question of an offence alongside the provision, which is the idea of prevention in detecting in the widest sense. For example, there might be an excuse whereby someone is screening or checking for past traffic offences or some very minor offence, and that becomes a justification for accessing this data. Again, I am worried that it is too wide as a provision. I say that in the context of the need to be very careful about the overuse of surveillance, the targeting of certain communities and an imbalance in how policing is applied in the State. Having just gone through the whistleblower legislation and other Bills, I can say we have had situations in the past where individuals have been, sadly, targeted and intimidated by members of An Garda Síochána. Therefore, it is important to have the parameter of “serious” attached to the word “offence”, as outlined in amendment No. 8. Such a measure, along with amendments Nos. 9 and 10, is important in addressing the question of these provisions being used in a preventative or speculative way.

Deputy Helen McEntee: It is a similar argument to the previous one. It is a question of what the court has ruled and what categories it has deemed general data to fall under. Specifically, the court concluded that the interference entailed by the retention of user data cannot be classified as “serious”. That is what it set out in the ruling. It went on to state that legislative measures concerning the processing of user data are capable of being justified by the objective of preventing, investigating, detecting and prosecuting criminal offences in general and not just serious criminal offences. To stress, it has to be a criminal offence. A road traffic offence is not a criminal offence. It has to be a criminal offence, not just a minor misdemeanour that is not a criminal offence.

Based on the pre-legislative scrutiny that we engaged in, albeit in a short period of time, we changed the requirement for an inspector to be able to seek to access this information to the level of superintendent, which is an acknowledgement that not everybody should be able to access it. It must be someone at the level of superintendent who can actually seek to access this data or information. It cannot be applied retrospectively or used to scan for previous cases. It is specific to a particular case involving a criminal offence rather than any other type of situation. That is clear from the ruling. The retention of user data cannot be classified as serious. There is also the fact that what has been outlined includes preventing, investigating, detecting and prosecuting criminal offences in general; not just serious criminal offences. We have tried to stick to the letter of the law as set down not just in 2020 but also in April.

As regards the second amendment in the grouping, what we are trying to do, insofar as is possible, is to replicate existing powers assigned to the Garda Síochána, the Defence Forces, the Revenue Commissioners and the Competition and Consumer Protection Commission to access user data retained by service providers. As Senator Ward outlined, we are replicating what is there already. It is on this basis that I cannot accept the amendments. We are very much sticking in line with what was set out in the court ruling in terms of what is deemed serious and what is not but we are trying to add in even more safeguards, such as that it must be a superintendent who seeks this information. I reassure Senators that this is not something that can be used to just access a database and generally scan information in order to use that against an individual or, potentially, to look at previous cases. It has to be specific to the criminal offence that is being investigated.

Senator Lynn Ruane: I might be missing something elsewhere in the legislation, but section 5 states:

A member of the Garda Síochána not below the rank of superintendent may require a service provider to disclose to that member user data in the possession or control of the service provider—

(a) where the member believes that the data relate to a person whom the member suspects, on reasonable grounds of—

(i) having committed an offence

It just refers to an offence; not a serious offence.

Deputy Helen McEntee: For general data, it can be just a criminal offence. It does not have to be a serious offence. That is on the basis that the court has ruled that, for the purposes of the detection, prevention or prosecution of crime, general data is not seen in the same way as Schedule 2 data, which is a person's location information. The latter is seen as impinging much more on a person's right to privacy. It is only for security issues that a person can retain or seek access to Schedule 2 data, whereas for a criminal offence or serious criminal offence access to the general data can be sought. In the case of a criminal offence, that is because the court has deemed it does not impinge on a person's privacy as much. Again, the safeguards are that it must be a superintendent who seeks access and it must be specific to what is being investigated; it cannot go beyond that.

Senator Lynn Ruane: It may be down to how I am interpreting it, but I am concerned that there is an element of pre-emption in the powers being granted under the Bill, even in the case of minor offences. The section refers to suspicion. It is not even a court order. It seems pre-emptive and that it could be used in respect of minor offences. My fear is that it dips over into the idea of powers of surveillance in terms of the Revenue Commissioners and the Garda having access to user data on suspicion of an offence having been committed, rather than an offence actually having been committed.

Deputy Helen McEntee: At present, a member of the Garda Síochána, the Revenue Commissioners or others can access this data without going through much of this process. We are reducing the amount of data that will be available in the longer term. It is about how it can be accessed. We have included an additional safeguard by inserting the words "reasonable grounds". It will be necessary to make a case. In the case of a suspicion or view that a person may have committed a crime, the garda or other person investigating will have to provide evi-

dence and show reasonable grounds for the request. It then has to be approved. It is not a matter of saying there is a suspicion that a particular person might have done something, without any proof or evidence. There have to be reasonable grounds for the request. This is an extra layer on top of what we currently have. As I stated, it strips back the type of information that is kept and how it can be accessed. It adds additional layers to what we currently have. In terms of how these data are accessed now, I am not aware of widespread misuse. I do not think this type of data is being accessed by people who should not be accessing it or for unjustified reasons. To the best of our knowledge, it has not been misused to date. The section adds extra safeguards and makes it more difficult for the Revenue Commissioner, An Garda or whoever else to access the information.

Senator Lynn Ruane: It does not have to go before a court, however. Basically, a superintendent can make the decision. There is no court hearing. A superintendent can decide to give access to the data, potentially with reasonable grounds and evidence, but there is no court involved. A superintendent can make that decision.

Deputy Helen McEntee: There is no court hearing required in this instance. The court, in its ruling, did not ask for such a provision because it did not deem general data as being as serious as location data and the other information it specifically singled out. I should not get into it but, obviously, all present area aware that can have a greater impact in terms of cases. The court has deemed that more general data is not really in the same serious category. At the moment, it can be accessed. That is being changed to an extent because it can only be maintained for a certain amount of time when it comes to dealing with criminal offences or serious criminal offences. We are actually raising the bar in terms of who will be able to access that information. It must be at superintendent level and grounds must be given to show why the information is needed. It is a higher bar. Under the Bill, there are more safeguards and less information, or less time for which information will be retained.

Senator Lynn Ruane: I know Senator Higgins is waiting to come in, but it is easier to stay on this thread and jump back to her. I understand the point in respect of Schedule 2 data and the seriousness of the threat in terms of a threat to security or the State and all those things. Obviously, that needs to go before a court as that is where the bar needs to be set in that regard. It seems less harmful when we talk about minor offences or the presumption of minor offence or the general user data and that not being so harmful in terms of an individual, say. My fear is that access to general user data in the context of minor offences or presumed minor offences does not seem harmful in terms of the State, the *status quo* and the threat to the nation as a whole, but it feels like it could be a really big threat to poorer communities or communities where there are higher crime rates. Even though it is only user data that would potentially be used to prosecute minor offences, if that were accumulated in the collective sense of social class, it would feel like a threat. I know that is not the same kind of threat as those relating to the case that brought us here today and those high-profile matters, but, in terms of the potential for surveillance and access to that user data for minor offences, when all those instances are accumulated in the context of particular communities, that could be a threat to those communities specifically.

Senator Alice-Mary Higgins: There is a disjoint. I understand that the Minister is addressing the court ruling, but we are also addressing what we believe to be good and best practice. I still have concerns in respect of this issue. I am especially concerned in the context of surveillance in the State, as was mentioned. There have previously been some very bad ideas floated in terms of what might be done in that regard. I note that the policy intent the Minister is describing and what is written down in the Bill are slightly different. I do not doubt the sin-

cerity of the intent of the Minister but the Bill refers to suspicion, on reasonable grounds, of a person having committed an offence. Amendment No. 8 would insert the word “serious”. That is not specified in the context of it being criminal. Maybe an offence means that it is criminal in that context.

The Minister stated that it is not retrospective but I do not see that safeguard in the Bill either. As I read the Bill, a superintendent who suspects that a person has committed an offence is able to access the data of that person. There is reference in a separate section to detecting or preventing future offences. There is a danger of this becoming a situation. As we said, a superintendent must make a case using reasonable grounds but does not actually have to make that case unless challenged. The only person that he or she makes a case to and, indeed, he or she is not even required to write down that case, is to the service provider whom he or she asks for information. Of course, the onus is on the service provider, and the natural inclination of the service provider, when information is requested by a superintendent who says that the Garda is doing so on reasonable grounds, is to say, “Yes, you can access that data”.

I understand the provision is better than what we had but what we had was really bad and a draconian interpretation of the laws. I recall that some of the provisions, as they were brought in, were queried by a former Minister, and perhaps the then Minister was our Seanad colleague, Senator Michael McDowell. Concerns remain even though the provision is better than what we had and I believe that the provision is just a little too wide in terms of usage.

Deputy Helen McEntee: In response to one of the Senator’s last comments, I wish to say that this is an emergency Bill and we are addressing the courts. That is specifically what we are doing in the provision. Everybody has expressed a view on the really short time that it has taken us to bring this legislation to the committee and bring it to Cabinet. Everything has been done at a much faster pace than I would have liked and I believe that such speed does not give us the time to tease through wider issues. That is why I have given a very clear commitment that we will have a general scheme by the end of the year. We will go through quite a lengthy process with Senators and we will engage with everybody from our different agencies, the communications platforms, the Data Protection Commission and others. We really are focused on what the ruling is here.

In response to the comment made by Senator Ruane, there are greater safeguards in this Bill than currently exist. At the moment this information can be accessed for a criminal offence. As far as I am aware, the technology is not being misused or mistreated. There has not been general access for any individual or targeting of groups of people, particular areas or anything like that. We had an extra layer in the form of reasonable grounds. If one has to show reasonable grounds then that must be reported on yearly so it is not that these cases are never seen by anybody. This has to be reported on and will be reviewed. If somebody has not given reasonable grounds, or has abused their position or their access to this information then that will be shown very clearly in the reports. There are safeguards at another level and this matter must be reported on.

I will now give my personal view and say that I think law enforcement agencies should be able to access information where there is a criminal offence, a serious offence. Where there is a threat or risk to my life, the lives of Senators or anybody’s life then access should be allowed. I regret that I must bring forward some of these elements of the Bill because I think that gardaí should be able to access information if somebody’s life is at risk. I do not think somebody’s personal privacy should overrule a person’s right to feel safe and protected, particularly where

a serious crime has been committed. I appreciate that we are not talking about serious crimes but criminal offences in general, which is slightly different. The very fact that the courts have ruled that general data is not seen in the same way as Schedule 2 data is why we are applying this provision.

On the use of different terminology, there is prevention, detection, prosecution but also investigation. So if a person suspects someone to be guilty of a crime or is investigating that crime then, to me, that scenario fits in the provision. Again, that is part of the ruling and what the court stated when it ruled on this matter.

Senator Alice-Mary Higgins: It is important to be clear that our amendment specifically states that we want to add the word “serious”. Our amendments are not in respect of whether serious offences would be a basis. Our amendment specifies that it would be “serious” offences.

I note that the word “criminal” is not referenced in the Bill but the term “an offence” is. So we think that “a serious” offence is a reasonable piece. I also note that Bill shows section 6(1) (a) or (b). Therefore, (1)(a) is not contingent on (1)(b) and is, in itself, a basis for the information being accessed even without the caveats in (1)(b), which we will discuss later.

Amendment put and declared lost.

Acting Chairperson (Senator John McGahon): Amendments Nos. 9, 10, 12 and 13 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 9:

In page 8, line 13, to delete “preventing,”.

Similar content has been covered in the last group of amendments but I will repeat for clarity. Amendments Nos. 9, 10, 12, and 13 would again limit the scope of Garda and Revenue officer powers in respect of “user data”. The Bill currently states that “user data” can be retained in order to prevent or detect crime, and this does not have to be for national security concerns nor does it have to be for serious crime.

I want to repeat the following for clarity. It seems to us that the Bill states that Garda and Revenue officers can retain user data in order to pre-emptively detect even minor crimes. I do not fully understand and do not accept the justification for this. Where do the Garda derive authority to pre-emptively check people’s data for potential crimes? I ask that question as I think that this legislation, as currently drafted, allows for that. To me, that sounds like surveillance or there is a potential for surveillance, which violates the principles of a democratic society. Innocent until proven guilty is a core principle of the Irish justice system so nobody should be subjected to surveillance or violations of their data privacy rights unless there is reasonable evidence against them, unless they undergo due process, and the crime reaches a higher bar than just a minor offence.

Senator Alice-Mary Higgins: I share the same concerns as my colleague. We have raised our concerns when discussing other matters like the use of CCTV cameras. It is that idea of “preventing, detecting, investigating or prosecuting offences”. We have tabled two amendments regarding “preventing”. Perhaps the Minister might clarify what is meant by “detecting”. Amendment No. 9 seeks to delete the word “preventing,” and amendment No. 10 seeks to delete “preventing, detecting,”. We feel that “investigating” should cover the matter where

there is a specific concern. It is important that the word “detecting” is deleted in terms of fishing for information.

Prevention is a concern as well because using the word “preventing” allows for the idea that, potentially, categories of persons may be identified as persons who might commit a crime, and using this information goes towards the very dangerous idea whereby persons are identified as persons who might commit a crime. I remember the outrageous situation where the name of a baby or a child from a minority community in this country was placed on the PULSE for monitoring purposes. Let us bear in mind the kinds of things that have happened in the past in terms of policing and discriminatory practices. I am not talking hypothetically because, sadly, there are plenty of examples of these cases around the world, and there are cases and examples in Ireland.

I am concerned about the use of certain words, in particular the word “preventing”. For example, the idea of saying we need to have information on these persons without there being reasonable grounds and a proper case. Again, serious offences are not mentioned in the legislation just “offences” in terms of criminal offences.

Senator Barry Ward: It is important to remember that this Bill reacts to the jurisprudential framework that has been put in place. In fact, it puts in place greater safeguards for the citizens. I am very much in favour of a framework that is put in place to prevent the mass surveillance of citizenry. I do not hold with that at all. As I said during our Second Stage debate, this country has a very reasonable approach to data protection albeit it one that comes from Europe but we have taken it on board and I think that we behave very well with it. The notion that we would now turnaround and remove the word “preventing”, in the context of preventing crime, from the legislation, to my mind, is a totally unwarranted tying of Garda hands or at least the tying of one hand behind the back, which is unnecessary. The safeguards the Minister has already spoken about, in terms of applications having to be made, are already in the Bill. I am concerned about the tenor of these amendments and I hope the Senators understand what I mean.

5 o'clock

The starting point is an attitude that we must stop any action by the Garda in respect of data to prevent crime. If it can use data to prevent crime, so be it; that does not necessarily mean that the Garda is offending against the presumption of innocence. If the presumption of innocence was taken to its logical conclusion, the Garda would never robustly question or arrest a suspect or apply to deny that person bail because that offends against the presumption of innocence. There are other areas of law, particularly the Bail Act 1997, which allow the courts or An Garda Síochána in certain circumstances to take a particular view in respect of someone but it must be evidence-based. Even in respect of the proposed substituted section 6(1)(b), it does not mean the Garda can just pick someone, decide it does not like them and therefore anticipate that this person is going to commit a crime and, in a preventative fashion, gather data on that person. In all the circumstances of what is provided for in the Bill, that would be totally illegal. In fairness to An Garda Síochána, it does not have unlimited resources any more than any aspect of the State. It is not going to spend time gathering data in a preventative fashion on somebody when there is no basis to suspect that he or she might be likely to commit an offence.

It is entirely proportionate, in my view, that An Garda Síochána would be empowered to take steps it can take to prevent crime. To do otherwise, would be madness. We would be tying the garda's hands behind his or her back and doing society in general a disservice, all in

the name of potentially cutting off possible breaches of the general data protection regulation, GDPR, when that is already there and built into the Act. I would not want to go too far in suggesting that we should not be trying to prevent crime, for example. We should of course be doing that. Insofar as the Bill can be used in that regard, it should be.

Deputy Helen McEntee: In one sense what we are proposing here, to comply with the European Court of Justice ruling, is tying members of the Garda's hands behind their backs because it limits what they can do. It limits their access in respect of national security grounds and the time for which the data can be kept. It absolutely limits what they can do when it comes to fighting crime, including serious crime.

The terms "preventing" and "preventing or detecting" are already in the principal Act. They are absolutely appropriate in the context of how An Garda Síochána or other agencies carry out their work and what they do. They are all captured together with investigating and prosecuting. I think in paragraph 158 of the 2020 ruling, which has not changed since the April 2022 ruling, the court itself outlines and discusses the four terms, namely, preventing, detecting, investigating or prosecuting. They are specifically used in this. I really would not see a reason for departing from the court's ruling when this specifically is what we are trying to do. We are trying to make sure we are in line with the European Court of Justice ruling. I do not see why we would detract from it, nor how this gives less of a right to people than they currently have. I would really see the opposite, in that there are more safeguards, less data can be retained and there are fewer ways in which they can be accessed.

Senator Alice-Mary Higgins: We have not sought to remove the phrases pertaining to investigating or prosecuting offences. Where an offence is being investigated, of course it is appropriate that the data can be accessed. What we have addressed is the question of prevention and detection. It needs to be seen alongside the wide definition of "offences" that is given here. The Irish Human Rights and Equality Commission has highlighted to the UN the questions and dangers in respect of profiling in policing. That has been raised at UN level. Ireland cannot be complacent about its records in that regard. Despite there being limited resources, we often see that quite a lot of resources tend to be directed towards the prosecution of even very minor crimes in some communities yet there is not the same level of prosecution of equivalent or even more serious crimes in other communities. That has been the experience. It is part of a wider reform of policing culture. I am aware that a process is under way through the Commission on the Future of Policing and other initiatives. However, we certainly cannot be complacent. I will not be comfortable until we start seeing reports about the brilliant changes that have happened in policing, hearing how all of the great things in the Commission on the Future of Policing report have happened and until we have UN committees saying it is all going great. Then I will certainly be a little bit happier about widening the powers.

The proposed provision is narrower than what we have at the moment but what we have at the moment is not good. We are not arguing in favour of what we have at the moment. We are arguing in favour of going a little bit further in clarifying and narrowing the remit. I think we and the Minister will just have to disagree on this one. I am concerned that we will be on a watching brief as to how those powers of prevention of offences are being used.

The Minister mentioned that there is going to be work on legislation in the autumn. We need to start disaggregating data in terms of who uses these powers, where they are used and around what kinds of offences. This is the problem of the superintendent not having to go to anybody to seek this permission. Not now, but perhaps on some of our later amendments, the

Minister might discuss how we track the patterns that are emerging and ensure we do not have inadvertent overuse of these powers in respect of minor offences or particular communities. We will need a watching brief on that.

Amendment put and declared lost.

Amendment No. 10 not moved.

Senator Alice-Mary Higgins: I move amendment No. 11:

In page 8, line 33, after “a” to insert “serious”.

Senator Lynn Ruane: I second the amendment.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 12

In page 8, line 36, to delete “preventing,”.

Senator Lynn Ruane: I second the amendment.

Amendment put and declared lost.

Amendment No. 13 not moved.

Section 5 agreed to.

Section 6 agreed to.

NEW SECTION

Senator Lynn Ruane: I move amendment No. 14:

In page 37, between lines 5 and 6, to insert the following:

“Protection of journalistic sources

7E. (1) Sections 6B, 6D, 6E, 7B, and 7D shall not apply in the case of data belonging to a journalist, and no powers may be exercised in respect of the retention, preservation or disclosure of data of a journalist as a matter of urgency, without relevant authorisation issued by an authorising judge.

(2) All sections of this Act, other than those listed under subsection (1), shall only apply in the case of data belonging to a journalist and orders may only be issued in respect of data belonging to a journalist, where the applicant convincingly establishes that there is an overriding requirement in the public interest that justifies such an order.”.

An Leas-Chathaoirleach: Is there a seconder?

Senator Lynn Ruane: We are on Committee Stage. I do not think we need a seconder, just for efficiency and time.

Senator Gerry Horkan: We are all in favour of that.

Senator Alice-Mary Higgins: I will be delighted to anyway.

Senator Lynn Ruane: Amendment No. 14 seeks to insert a new section into the Bill which would provide additional protection in respect of data journalists. It would provide for the non-application of certain sections of the Bill in respect of journalists' data, specifically the sections which provide for the use of emergency powers in respect of data retention. Certain sections of the Bill, for example, the proposed sections 6B, 6D, 6E, 7B and 7D, provide for emergency powers to retain data in situations of urgency whereby members of the Garda or other relevant persons can bypass judicial approval. They can retain data and then get retrospective approval from a judge later. While I understand the need for these emergency powers in certain cases, such as scenarios where there may be an imminent threat of an act of terror, these powers need to be clearly limited and constrained. They are very serious powers which allow a person's data privacy rights be stood down without judicial approval. It is important that they would not apply, for example, to journalists. This is essential under Article 10 of the European Convention on Human Rights relating to freedom of expression. That convention clearly lays out that the protection of journalistic sources is one of the basic conditions for press freedom. European Court of Human Rights case law has made it clear that the protection of journalistic sources must be given precedence in almost all matters relating to data sharing, disclosure or retention. To quote one piece of case law, "Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest". Thus, the lack of protection for journalistic sources in this Bill is not in line with the requirements of the ECHR. Case law clearly rules that surveillance aimed at identifying journalistic sources should go through a heightened screening process, including prior independent judicial approval. Any form of data retention in respect of a journalist simply cannot bypass judicial approval. Therefore, it is essential that the sections granting emergency powers to bypass judicial approval should not apply to the data of journalists. This is what amendment No. 14 would achieve.

Senator Barry Ward: I am sympathetic to what is being discussed in the amendment. Perhaps I have missed it but the words "journalist" and "journalism" are not defined. Am I correct in this? Does this not leave it wide open to interpretation in a way that was never intended?

Deputy Helen McEntee: I understand the concerns in the amendment. We have to be very sensitive to anything relating to data that journalists have collected. The Murray report published in 2017 made a number of recommendations on data retention issues specifically relating to journalists. There are two elements. One of these is what is being maintained from what was in the principal Act. The intention is to bring forward a general scheme later this year in which we will look at outstanding issues, including some of the issues relating to journalistic data set out in the Murray report. This will include consideration of whether the term "journalist" would need to be defined. As has been pointed out, the scope of people who would claim to be engaging in journalism, particularly online, would be much broader than previously. It is something we would need to look at.

The proposed section 7E(1) states data belonging to a journalist would not be covered by the power to seek disclosure of Schedule 2 data, Internet source data or cell site location data on an urgency basis. It would also be excluded from the application of the temporary preservation order and the temporary protection order. However, they would apply where there is an overriding public interest ground. There must be necessity. There has to be a proportionality test. There are safeguards whereby we must have judicial authorisation for disclosure except for where it is user data. This goes back to the fact that it is not seen as being serious. This is very much where it is in the public interest. There has to be proportionality. There has to be

necessity. It has to go through judicial authorisation. More generally the grounds will apply with regard to Schedule 2 data or data that would look at someone's source data or cell site location data on an urgent basis. This is something we will need to come back to in the general scheme, acknowledging there is a little bit more work to be done. It is very sensitive. We are responding to the court ruling. It is an emergency Bill. We look forward to working with the Senator and getting into more detail when we work through the general Bill.

Senator Lynn Ruane: I thank Senator Ward and the Minister. They have made a valid point on how to define the online space. This is where it stings us as Opposition Senators that we are doing all Stages together. We recognise there is an issue and if there was time in between the Stages we would have been able to work together to ensure that perhaps we could look at and sensitively handle what the definition of journalism would be and how to approach it.

It has been said many times that we are responding to a court ruling and this is emergency legislation. Even though I do not dispute this, it is still legislation that will apply more widely. It is still legislation that will be in existence. What also concerns me is that, unfortunately, an amendment was ruled out of order. It was a funny one to be ruled out of order because all it proposed was introducing a sunset clause. I do not know how a sunset clause in legislation would impose a cost on the State. It is another one for the book of weird rulings by the Seanad.

We would be a lot more comfortable if the sunset clause had been put in. At least then we would know that the arrival of the legislation to which the Minister referred will have urgency. In that Bill we will be able to define journalism and who is a journalist and deal with some of the other issues that have been raised today. I do not underestimate the Minister's ability in any shape or form to get it done but funny things can happen in politics in a year or two. We are a bit nervous about waiting for the legislation to come. It would be great to have a clearer idea from the Minister as to when she sees legislation being tabled to address some of the wider issues that have come from the need to put this legislation through the Houses.

Senator Alice-Mary Higgins: With regard to the question on the definition of "journalist", the Minister is aware that as recently as last year Opposition Members in the other House have proposed legislation on the protection of journalists and clarifying exactly the definition of a journalist in law. They asked whether we should look to the National Union of Journalists for a definition or look at international definitions. These are discussions that Opposition Members have tried to lead. They are increasingly important at a time when we are acting and speaking about the rights of journalists internationally. They are under pressure. We have had statements in the House in respect of journalists who have been persecuted internationally. It is something on which we need to be clear. The fact there is ambiguity is not on us. It is something we can certainly work together to address.

The sunset clause is a serious concern. It is a concern we have noticed in general. When a Minister comes to us to ask for powers it is appropriate the House says we will give the powers but with certain constraints on the reach of such powers and the time and duration of such powers. The Minister has acknowledged that time is a relevant factor in terms of the extent and scope of powers. Sunset clauses are fundamental. I note we have had inconsistency. They should always be allowed. We have been told they can only be allowed in emergency legislation. We have also been told this Bill is emergency legislation but sunset clauses are not being allowed. This is not a point for the Minister but it is a debate we need to have as a House. If we go into a situation where the House is not able to set suitable amendments in our determination of the transfer of power to a Minister it is damaging to the legislative process. We will return to

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this. I know the Minister did not make the ruling but it needs to be noted.

Deputy Helen McEntee: The definition of “journalist” is something we will look at. It is a recommendation in the Murray report. The general scheme will be introduced by the end of this year. There will not be any time limits put on how we will debate it. I regret the timeline in which this Bill has been brought forward. It is based on the timeline of the 2020 ruling, the April ruling and getting clarity that it would not change in the Supreme Court. The legislation was brought to Cabinet the following week and we have moved as quickly as we can. The end of term has not helped us in this instance.

I stress again that what is in the Bill limits the data we can retain more than what already exists and adds additional safeguards. This includes even when we refer to journalists accessing certain information. We have to show it is in the overriding public interest. We have to make sure there is necessity and it is proportional. We must also have judicial authorisation. There are quite a number of safeguards. I appreciate it is something we need to come back to and discuss further with regard to the wider Bill.

I am not sure why the sunset clause was ruled out of order. Perhaps it was a technicality. This amendment was put forward and discussed in the Dáil. Perhaps that may have been the case. I did not accept it in the Dáil. I will not go through the discussion there. I am not sure what happened in this regard. I thank all Senators for their time on this. I appreciate the manner in which it has gone through. I must stress this is really a response to make sure we are compliant and do not find ourselves in a situation over the summer where the Supreme Court makes a ruling and suddenly data companies are potentially deleting data or information that could be retained for very important purposes.

Amendment put and declared lost.

Sections 7 to 10, inclusive, agreed to.

SECTION 11

An Leas-Chathaoirleach: Amendment No. 15 in the names of Senators Higgins and Ruane has been ruled out of order as it is in conflict with the principle of the Bill.

Amendment No. 15 not moved.

Section 11 agreed to.

Title agreed to.

Bill reported without amendment.

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

Senator Gerry Horkan: Now.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Bill received for final consideration.

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

Senator Gerry Horkan: Now.

Seanad Éireann

An Leas-Chathaoirleach: Is that agreed? Agreed.

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

Cuireadh an Seanad ar fionraí ar 5.22 p.m. agus cuireadh tús leis arís ar 6.30 p.m.

Sitting suspended at 5.22 p.m. and resumed at 6.30 p.m.

Teachtaireachtaí ón Dáil - Messages from Dáil

Acting Chairperson (Senator Erin McGreehan): Dáil Éireann has agreed, on this 13th day of July 2022, to the amendments made by Seanad Éireann to the Sick Leave Bill 2022. Dáil Éireann has agreed, on this 13th day of July 2022, to the amendments made by Seanad Éireann to the Protected Disclosures (Amendment) Bill 2022. Dáil Éireann has agreed, on this 13th day of July 2022, to the amendments made by Seanad Éireann to the Circular Economy and Miscellaneous Provisions Bill 2022, changed from the Circular Economy, Waste Management (Amendment) and Minerals Development (Amendment) Bill 2022.

Education (Provision in Respect of Children with Special Educational Needs) Bill 2022: Committee Stage

Sections 1 and 2 agreed to.

1 o'clock

SECTION 3

Acting Chairperson (Senator Erin McGreehan): Amendment No. a1 on the first additional list of amendments, dated today, is in the name of Senator Mullen, but the Senator is not in the House to move the amendment.

Amendment No. a1 not moved.

Section 3 agreed to.

SECTION 4

Acting Chairperson (Senator Erin McGreehan): Amendment No. b1 is in the name of Senator Mullen. He is not here to move it.

Amendment No. b1 not moved.

Section 4 agreed to.

SECTION 5

Acting Chairperson (Senator Erin McGreehan): Amendment No. c1 is in the name of Senator Mullen. He is not present so he cannot move it.

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Amendment No. c1 not moved.

Section 5 agreed to.

Senator Fintan Warfield: You have missed your amendments, Senator Mullen.

Senator Rónán Mullen: Have I?

Acting Chairperson (Senator Erin McGreehan): Yes.

Senator Rónán Mullen: May I speak now?

Acting Chairperson (Senator Erin McGreehan): You may speak to amendment No. 1a to section 7 when it comes up.

SECTION 6

Senator Fintan Warfield: I move amendment No. 1:

In page 7, between lines 35 and 36, to insert the following:

“(10A) (a) The Council shall publish, concurrent with the giving of such a direction referred to in this section a report outlining the adequacy of resources provided by the Department, the NCSE, and the HSE and other relevant organisations to the Schools, and stating whether in the council’s view if the resources meet the needs of the school community and the children in the Special Class or School.

(b) These resources shall include, but not be limited to:

(i) adequate SNA support;

(ii) access to Multi Disciplinary teams including Speech and Language Therapists, Occupational Therapists, Psychiatrists and Nursing Staff;

(iii) mental health supports for pupils in schools and CAHMS fully staffed to meet the needs of all children with emotional and behavioural disorders; and

(iv) adequately qualified special Education Teachers.”.

I missed the Second Stage debate on the Bill. I welcome the Minister of State and apologise for being absent for that debate. I know that my colleague, Senator Gavan, spoke on my behalf and on behalf of Sinn Féin. I welcome this legislation, which will shorten the notice periods for schools being instructed to accommodate pupils with special educational needs. We know that many families are trying to secure appropriate places for their children, as is their human right. I take this opportunity to commend all the families and parents who fight tirelessly, day in, day out, for their children and who are politically active, as they are required to be in some instances, unfortunately. We can all agree that children have the right to a proper education. Sinn Féin has been calling for this measure. We tabled a motion to that effect in the Dáil a number of weeks ago.

As for this amendment, it has been well articulated by schools, parents and campaign groups that a special class is not just four walls and a door but also all the resources that go with it. That goes way beyond the Department of Education and the Minister of State here. It is vital that adequate resources are put in place where this power is used. There are schools that are

reluctant to open special classes. In our experience, any school that opens a special class never regrets it. It enhances the school, and we all know the benefits it brings to diversity and everyone's experience in the school environment. Amendment No. 1 goes to the heart of the issues of adequate support for special needs assistants, SNAs; mental health support for schools; full staffing of and support for child and adolescent mental health services, CAMHS; support for children in the community; an adequate number of qualified special education teachers; and, crucially, access to multidisciplinary teams such as speech and language therapists, psychiatrists, occupational therapists and nursing staff. That access to therapy is vital, and that is what amendment No. 1 goes to the heart of.

Senator Aisling Dolan: I welcome the Minister of State. This is fantastic legislation. The Minister of State has shown the whole time she has had this portfolio the changes she has sought to make. We talk about resources within our schools and special schools. We are looking at bringing children back into the mainstream. That has been a real policy over recent years. Specifically, with this Bill, the Minister of State is looking at working with schools, which is what the Department is doing, to ensure there is capacity there for children, particularly in regional and rural areas. We have heard of parents travelling nearly 50 miles, 100-mile return journeys, to try to access some of these schools. The Minister of State has done an awful lot of work in fighting for budgets, including for SNAs within the Department of Education, and we have seen the increase in that regard. Those resources are crucial for mainstream schools to be able to offer these special classes and to ensure they have the supports in place to do so.

As for this section, it is crucial, as Senator Warfield said, that schools engage at an early stage if there are capacity challenges. What this Bill says is that we are working with our schools. The Government has had a very clear strategy of mainstreaming of children with special needs. That will happen in schools in Ireland, and we will work with schools to achieve that. The Bill puts a strong emphasis on what the Government wants to see achieved here.

Senator Fiona O'Loughlin: As I had an opportunity to speak on this Bill on Second Stage, I will be very brief. As the Minister of State knows and has been fighting for, the amount of resources and funding going into special education is absolutely unprecedented. While the funding is there, it is the outcomes that are important in terms of the young people and, of course, their families. Life is very difficult for a family when their child receives a diagnosis of an intellectual disability, no matter what type of disability it is. It can be difficult because they are trying to find their way as parents anyway, and then they are trying to find their way - there is no direct roadmap - towards getting all the extra supports and help they need to encourage that young person, who they have been entrusted with to reach his or her full potential. That is why it is so important for young people in all families and communities to have the opportunity to go to school with their siblings and peers. The Bill is the very essence of giving that opportunity and making sure every child has that opportunity.

It is very important, and we spoke about this on Second Stage, that it is not just about the room or building, but also about the supports that go with that room or building and about having SNAs. It was good news to see University College Dublin announce that it has brought in the accreditation for SNAs who have taken that extra step. This is very important in terms of professionalising the whole profession. It is about having the extra SNA supports and cross-cutting therapy supports that are under disability as opposed to education. We still have a way to go in ensuring we have all those complementary supports. We are most definitely on the right path in ensuring the Bill is passed and every child will have an opportunity in his or her community.

Senator Mary Seery Kearney: I understand the sentiment of the amendment but I cannot support it. To be fair, the Minister of State has more than adequately articulated prior to now - it was one of her first announcements in the Department - that there will be wrap-around supports in schools and that we will have a child-centred focus with all the attending multidisciplinary supports around that. It is a matter of recruitment and ensuring those multidisciplinary teams are in place.

Elements that are crucial and important in the amendment of section 37A include the length of time and effectiveness of the process, and ensuring the process will deliberately be more effective than it has been heretofore, as a consequence of the Government's amendment to this section of the Act. We should make sure that schools with an infrastructure are prioritised, built upon and are obliged to extend their services in secondary schools, both fee and non-fee paying schools and DEIS and non-DEIS schools, so that we have a universality of ambition to make sure the provision is as local to every child as it possibly can be and that section 37A is effective in making that happen quickly. I believe that is the intention of the Minister of State. Thus, everything around that will not just be the physical place of the child; it will also be everything that is attending to that.

Senator Pauline O'Reilly: I thank the Senator for his amendment. I spoke at length on Second Stage of the Bill on all the resources that have been put in place. I do not suggest that everybody is satisfied with all of the wrap-around services, but there have been 300 extra classes in the last year, there will be more than 315 in the next academic year, and a quarter of the entire education budget will go towards special needs education, which a lot of people probably do not realise.

The reason I have an issue with the amendment is not because I do not believe there should be multidisciplinary teams. I spoke about this on Second Stage. Multidisciplinary teams are needed. Parents and schools have concerns around those teams and the supports. The process under section 37A does not happen very often. All of this should be happening for every school rather than just in relation to the section 37A process. That is why I do not believe this is the place for it, because otherwise the Minister will go through the 37A process with only a handful of two or three schools. It would not be fair if those particular schools which have dug their heels in and said they will not have a special class are the schools we report on whether they have these multidisciplinary teams. All schools should have access to multidisciplinary teams.

We need to get the message out strongly that no school opens special classes and regrets doing so afterwards. Senator Warfield's colleague made this point on Second Stage of the Bill in the Dáil. Part of the reason they do not regret it is that they are provided with the resources that they need. For every class of six students in primary school, there is one teacher and two SNAs. For every class of six pupils at secondary school, there is 1.5 teachers and two SNAs. This is in addition to the multidisciplinary aspect. It should not only be under the remit of the Minister of State, Deputy Madigan; it has to go across Departments as well. Those are my thoughts on it but that is not to say that I do not agree with the multidisciplinary aspect of the amendment. It needs to be for everyone.

Minister of State at the Department of Education (Deputy Josepha Madigan): I want to take a moment to inform the House of some good news on the provision of special classes in Dublin. Senators will be aware that the Department wrote to 14 schools a few weeks ago that had been identified as having space and capacity to open a special class for the coming academic year. I am delighted to announce that out of the 14 schools that were initially contact-

ed, seven more classes have been sanctioned by the National Council For Special Education, NCSE, to open in the coming term. That brings the total number of additional special classes sanctioned in recent weeks to 15. There is ongoing engagement with other schools to deliver more special classes in the foreseeable future. I thank the schools, boards of management and patrons for their co-operation in assisting me, the Department and the NCSE in delivering special education services and facilities for children with additional needs. I also confirm that a new post-primary special class will open in Athlone-----

Senator Aisling Dolan: Fantastic.

Deputy Josepha Madigan: -----in September and I hope that will ease the pressure for parents and children in the area.

Senator Warfield tabled the amendment and I thank him for his indulgence in sharing this good news. I will now deal specifically with his amendment. While I understand the amendment, I have to point out a number of issues around it. As the Senator mentioned, appropriate educational provision for children with additional needs is absolutely critical and is something to which the Government is committed. It is not, unfortunately, the function of the Department or the NCSE to provide resources around speech and language therapists and occupational therapists, as contained in the amendment. Those resources are under the remits of other Departments and State agencies.

The other amendments proposed by Senator Warfield relate to the core functions and role of the NCSE and its staff, in particular special educational needs organisers, SENOs. Most of the amendments relate to the Education for Persons with Special Educational Needs, EPSEN, Act 2004. The Senators will be aware that a review of the Act is ongoing.

Given that the legislation is urgent and needs to be progressed so quickly, I suggest that we need more time and space to consider the Senator's amendment. I also suggest that the current review of the EPSEN Act is the way to input his contribution to that. There simply is not the time to adequately consider the impact and potential consequences of the amendment he has proposed. There are also some phrases used in the text of the amendment that may need to be clarified as well, such as the references to other relevant organisations providing resources to schools and how SNA and adequate special education teacher supports should be generally defined. I regret therefore that I cannot accept this amendment, but I commit to considering the matter, and the other matters raised, further as part of the broader review of the EPSEN Act.

The Senator will be aware that the majority, although not all, of the provisions in EPSEN Act were commenced in 2004. The Act placed the NCSE on a statutory footing. It provides for the education of children under 18 years of age who have special educational needs. It has been in place for the past 18 years and is in need of urgent review. The Senator can, if he wishes, make a submission to the Department outlining his views. Any Member of the Oireachtas can have an input into that process. Obviously, as we have done in the case of the Senator's amendment, we will give serious consideration to all submissions made.

It is important that the legislation reflects current best practice, both nationally and internationally, and that it facilitates the best possible education and outcome for children with special educational needs. The consultation process is wide-ranging. It is due to be completed in the first quarter of 2023, so Members have a bit of time. Depending on the outcome of the review, it is expected that the Act will need to be updated and revised. Any proposed changes will

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need to come before both Houses. It is critically important that we have legislation that we can commence and implement in full. There is no point in only certain provisions being capable of being commenced. In the context of the EPSSEN Act, there were financial reasons as to why certain provisions could not be commenced. We want to ensure that the latter does not happen on this occasion, but I need the width and breadth of stakeholder consultation and submissions in respect of what we are doing.

I thank the Senator for tabling the amendment.

Acting Chairperson (Senator Erin McGreehan): Senator Dolan wishes to come in.

Senator Aisling Dolan: Does Senator Warfield want to come in first?

Senator Fintan Warfield: No, we are under time pressure. I am not going to contribute a second time. If Senator Dolan wants to contribute, then by all means she should do so.

Senator Aisling Dolan: I thank the Minister of State for that excellent news on special classes. It is important. She mentioned she was in contact with over 14 schools located in the Dublin area, but it is crucial that the total number of special classes is being increased. I represent Roscommon and Galway. When take in conjunction with Athlone and Westmeath in general, the overall catchment area is extremely large. Senator Carrigy has often spoken about the challenges of parents who must travel. This is really appreciated. There are so many schools that have special classes. They are going over and above, and their principals are trying to make do with capacity and everything else. They are finding rooms, if needed, for autism spectrum disorder classes. It is crucial that our boards of management, principals and teachers are working together to achieve this for their communities.

I thank Senator Warfield for tabling the amendment because it has allowed us to discuss the issue of capacity. I appreciate that, as the Minister of State mentioned that submissions can be made in respect of the EPSSEN Act. We will all have an opportunity to make such submissions to the Department. The Minister of State mentioned the first quarter of 2023 as the deadline, so it is crucial that we make our submissions and engage proactively in respect of the Act, which needs to be updated and amended as soon as possible.

Acting Chairperson (Senator Erin McGreehan): Is Senator Warfield pressing the amendment?

Senator Fintan Warfield: No. I will withdraw it. The Minister of State has committed to consider the issue as part of the EPSSEN Act review. I am satisfied with that response at this time.

Amendment, by leave, withdrawn.

Section 6 agreed to.

SECTION 7

Senator Rónán Mullen: I move amendment No. 1a:

In page 8, line 43, after “Council” to insert “, pursuant to section 37A of the Act of 1998”.

I begin by thanking the Cathaoirleach for allowing me to present my amendments today. I

found it quite frustrating that the hatch for submission of amendments closed almost as soon as Second Stage was concluded. Were it not for the Cathaoirleach's willingness to allow these amendments to come before the House, I would have been prevented from tabling them. That was on the back of a situation where the only way I could speak on this important piece of legislation on Second Stage was by getting a colleague to allow me two minutes of her time. It cannot be said often enough that this is a very unsatisfactory way to legislate. It is inevitable there will be a lot coming at the end of term but it does not have to be like this. An enormous pressure has been put on the Bills Office because of the management of our legislative affairs in recent weeks and it is just unfair. It is disrespectful of our democracy and of the people we represent. People on all sides of the House should be saying this, and saying it often, until Government gets the message. I am not blaming the Minister of State. She is just a bigger cog in the machine than the rest of us but she is a cog in the machine nonetheless and frankly, the machine is not giving a good account of our democratic processes just now.

Senator Aisling Dolan: On a point of order, the Senator has to speak to the amendment. I understand the frustrations here but-----

Senator Rónán Mullen: Is this a point of order? Has the Senator been-----

Acting Chairperson (Senator Erin McGreehan): Through the Chair.

Senator Aisling Dolan: I am sorry, through the Chair.

Senator Rónán Mullen: Okay. I would prefer to not be obstructing on it. I think everybody in the House agrees with this if you talk to them about it privately, and the public is looking on.

I want to pick up on something the Minister of State and Senator Dolan said in response to Senator Warfield's amendment. They invited him to continue the dialogue, as it were, with the Department of Education and said that consideration will be given to his thoughts and views. However, surely that is true of every citizen. At least I hope it is. What they are saying, therefore, has no relevance. It is to be hoped that in this country we are all still allowed to write to the Government with our points of view but our job in this moment is to legislate and to consider legislation. It is no great response to say that the Senator might have a point but that he should keep talking to the Department of Education and we will see about bringing the matter up in the future. That is what I take what was said to mean. I do not mean to be personal about it, but we must insist on standards for our Legislature.

On my amendment, I apologise that I was not here in the first few minutes but it is the same substantive-----

Acting Chairperson (Senator Erin McGreehan): I apologise to the Senator but there is a vote in the Dáil-----

Senator Rónán Mullen: My apologies.

Acting Chairperson (Senator Erin McGreehan): -----so I must ask permission to suspend for 15 minutes.

Senator Rónán Mullen: We have no choice.

Senator Aisling Dolan: Can I move the suspension of the sitting until the votes in the Dáil

have concluded?

Senator Rónán Mullen: Where does that leave us?

Acting Chairperson (Senator Erin McGreehan): The time will be extended. It has already been agreed on the Order of Business.

Senator Aisling Dolan: I propose that we suspend the sitting until the votes in the Dáil have concluded.

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

Progress reported; Committee to sit again.

Cuireadh an Seanad ar fionraí ar 7.14 p.m. agus cuireadh tús leis arís ar 7.29 p.m.

Sitting suspended at 7.14 p.m. and resumed at 7.29 p.m.

Teachtaireacht ón Dáil - Message from Dáil

Acting Chairperson (Senator Erin McGreehan): Dáil Éireann has agreed to the amendments made by Seanad Éireann to the Electoral Reform Bill 2022.

Education (Provision in Respect of Children with Special Educational Needs) Bill 2022: Committee Stage (Resumed) and Remaining Stages

SECTION 7

Debate resumed on amendment No. 1a:

In page 8, line 43, after “Council” to insert “, pursuant to section 37A of the Act of 1998”.

- (Senator Rónán Mullen).

Senator Rónán Mullen: I welcome the Minister of State to the House. I do not think I did so earlier. The background to this issue is that special classes in mainstream schools combine the benefit of a much-reduced teacher: pupil ratio and special needs assistant, SNA, support with opportunities for children to engage with inclusive learning practices during the school day in mainstream classes with their friends and peers. I acknowledge that if we look at the barometer of progress in this area, the National Council for Special Education, NCSE, list of special classes in mainstream schools for 2022-23, we can see just over 2,500 special classes in 1,266 primary and post-primary schools. More than 14,000 children with additional learning needs are enrolled in these classes. This compares with 511 special classes listed in mainstream schools. I acknowledge that there is significant and welcome State investment in special class provision in mainstream schools. It is much needed and it is happening.

I say this because at the back of this legislation lurks the question of resources. It is all very well to impose obligations on people to co-operate. None of this is possible, however, unless the resources are available. Enhanced funding is required to adapt existing classrooms to meet

the needs of children attending a special class. It cannot be assumed at any stage of this process that any available space is suitable, for example. In passing, I will mention that the initial funding for such adaptation must be easily accessible, substantial and co-ordinated. The current allocation of €6,500 for such initial adaptation is inadequate in many cases.

We cannot have some of our most vulnerable children in unsuitable prefabricated accommodation while delayed tendering, planning and other issues hold up proper provision. We are saying here that special classes require more than buildings. The need for support and training must extend beyond the initial set-up. It is key that there would be multidisciplinary support available for children in these classes, such as speech and language, SLT, support, occupational therapy, OC, and access to educational psychology. All these elements are of paramount importance and they must go beyond tokenism.

Therefore, it would be blinkered to view the amendment of section 37A proposed in this legislation outside those factors. Progress on the concerns I mentioned around resourcing and seeing everything involved in this context would greatly negate the need for such provision. We must build on the spirit of co-operation that is evident in the vast majority of schools. My amendments, then, are, ultimately, all the same, in the sense that they relate to the Department attempting, it seems, to have two processes work in tandem regarding the provision of special classes in schools. The first is the requirement for patrons and boards to co-operate with the NCSE in respect of the provision of special classes. The second is to ensure that patrons and boards comply with a new, shortened version of what is termed a section 37A process, which is the formal process by which a school can be required to open a special class.

I am happy with both processes working in tandem up to a point. This is what will occur in the vast majority of situations that arise. However, what happens if there is apparent confusion? The proposed legislation requires patrons to “ensure cooperation by” a board with the NCSE’s functions in relation to the provision of special education “by the provision and operation of [special] classes when requested to do so by the [NCSE]”. Is this about the section 37A process or is it not? That is now streamlined and that is welcome. It involves a report from the NCSE, a notice in writing from the Minister, a draft direction and then a direction. Therefore, a process is intended. It starts with a report by the NCSE and it ends with a direction by the Minister. Everybody is then required to comply. At the same time, however, if the legislation is envisaging or providing that there shall be co-operation when that is requested by the NCSE, is that saying that if the section 37A process is not involved there is then a legal obligation to comply with something much blunter?

This seems to be introducing confusion and contradiction into the law. There is a process in place. There was worry about how the process was working, so it has been streamlined. At the same time, however, there is this vague legal obligation to ensure co-operation with a request from the NCSE. The only way in which a patron can ensure the co-operation of a board is to dissolve it, pursuant to section 16 of the Education Act 1998. I contend that it would not be appropriate for a patron to require a board to provide a special class when requested by the NCSE to do so unless that request is grounded in a section 37A process. If it is to be grounded at all times in the section 37A process, why does this legislation not say so? My amendments seek, and have sought, because three of them were already dealt with before I came in, three minutes late, the same objective because it is essentially the same amendment across different sections. It is simply stating that what we are talking about here at all times is a section 37A process. If this is what is meant in the legislation, then my amendments need not be controversial.

I must point out to the Minister of State the context here of putting an obligation on a patron to require a board to provide a special class when requested simply by the NCSE to do so and not on foot of a direction from the Minister. We must remember the circumstances involved and that a patron only gets to approve a board when it is put together first. Thereafter, however, the only sanction available to a patron is to dissolve the board, for which the approval of the Minister is needed. Therefore, it should not be the case that the ultimate sanction available to the patron, namely, that of dissolving a board, should be required to be triggered simply because the NCSE does not regard a school as co-operating sufficiently. That would be bypassing the entire process. Where differences of opinion exist between a board and the NCSE, section 37A is the required process to be engaged in. This legislation should not undermine that process in any way.

I do not think the patrons have a problem with the obligation of compliance being put on them. It is already there in section 37A. I would be happy if the Minister of State were willing to confirm on the record that in her view, patrons are co-operating with the process, because that is my understanding. Is it being suggested that they are not? Is being suggested that there is widespread non-compliance with section 37A by patrons or boards? If so, the law is there to ensure compliance. It is obligatory to comply with section 37A. Therefore, it is not understood, and I do not understand, why this kind of parallel obligation is being created to ensure co-operation by boards with the NCSE in a way that seems to suggest that we are not talking about section 37A at all. This is horribly vague. What does “co-operation” mean? This is another question. Are we in the situation here where politics is informing the drafting of legislation and that we are choosing the sloppy over the specific to make a political point or to be seen to be doing something? That is not what legislation is about. Legislation is about placing precise obligations on people, which if not followed, bring a sanction. This is what I thought section 37A was all about.

I repeat my request to the Minister of State to confirm if it is her view that patrons are co-operating with the existing process. I also ask her to give me a direct answer regarding whether this legislation, in her view or as a matter of objective fact, envisages that a patron or board could come under an obligation outside of the section 37A process under what is proposed in these sections? I ask because I do not understand why this is happening, if we have a process that is in the course of being streamlined in this legislation.

On those two questions, is the Minister of State happy to confirm that patrons are co-operating with the process? Does this legislation envisage something outside of the section 37A process under which a patron or board of management could be in non-compliance with the law? If so, how is that reasonable, given that the only possible sanction a patron has is, with the support of the Minister, to seek the dissolution of a board under section 16 of the Education Act?

Co-operation should be required by the patron and the school with the National Council for Special Education, NCSE, in respect of its functions, particularly as regards the provision of special classes, but there is an issue with requiring a patron to ensure that a board will provide a special class simply upon request by the NCSE outside of the section 37A process. First, this bypasses a process that is structured for a particular reason. Second, a patron has no power other than the dissolution of a board.

If the words “pursuant to section 37A of the Act of 1998” are added to the text in the sections as I have suggested in my amendments, patrons and schools will still be required to co-operate with the NCSE on special education, in particular special classes, but the proposed shortened

version of section 37A will be the one that is required to be followed in cases where more serious differences arise between the school and the NCSE on the provision of a special class.

Will the Minister of State confirm that patrons are co-operating? Is there some process outside of section 37A under which patrons and boards of management could find themselves outside of the law? If so, how is it fair, given a patron's absence of power to ensure compliance other than seeking the dissolution of the board? Is what this provision is really meant to do is to give some va-va-voom to the operation of section 37A by being specific about the obligation on patrons to be in compliance under the Education Act? No one has a problem with that, but we should specify that we are discussing section 37A.

Senator Micheál Carrigy: I apologise for being late to the debate.

As Chair of the Oireachtas Joint Committee on Autism, and as a parent, I hope that we never have to invoke section 37A. We should not have to. This country should have an inclusive educational system and we should not need to introduce legislation to ensure that a child is educated in his or her local community with his or her siblings. Unfortunately, that has had to be done in recent months, particularly in Dublin. It is well documented in the media that nearly 100 families do not know where their children, who have needs, will go to school next September. This is 2022 and we are a First World country, so that is unacceptable. We should not need to be here introducing this legislation.

Due to our debate, and given that the issue has been highlighted in the media, I would like to believe that we will never have to invoke this legislation. Where there is a capacity issue in a primary or post-primary school of any denomination in Ireland, the school will immediately make capacity available once consulted by the NCSE or the Department and resources will be put in place by the Department, which it and the Minister of State have committed to doing.

From today, I would like us to never have to invoke this legislation. We should not have to. No primary or post-primary school should do anything to inhibit a child in getting an education in his or her local community. That would be unacceptable in this day and age.

Senator Rónán Mullen: I agree with Senator Carrigy's sentiments. The origin of this debate lies in the unacceptable situation of a lack of school places for nearly 100 children in September, but there is a process that has to happen for everything. If I ring a board of management and tell it that it should provide a special needs class, it will ask me who I am, whether I know a class is needed, whether the resources are in place and whether there is a gap in the area. Processes exist for everything in order to ensure that things are done right and that taxpayers' money is used in the best possible way to secure the best possible outcomes for the people who need them most. That is what I understand section 37A exists to do. The Minister of State has identified problems with section 37A and sought to streamline it, with which I have no problem. I am only asking about why there is what I read to be a bypassing of section 37A. Surely, a phone call or letter from the NCSE is no substitute for an official process. The official process does not need to take long. If section 37A is an unacceptable way of dealing with the matter, then get rid of it. Clearly, the Government intends to proceed logically and it has streamlined the process to shorten the time for the necessary consultations. Before anything is done for anyone, consultation is needed. Does section 37A make sense or not? Is it being asserted that there are situations where section 37A is not appropriate? If so, then an argument is being made that, despite all this process being provided for in legislation, there are cases where it is completely irrelevant. If so, then say it. I have not heard it being said, but maybe I have not been listening

well enough. I am worried about the confusion.

An Cathaoirleach: Before I invite Senator Carrigy to contribute again, I welcome the Minister for Finance, Deputy Donohoe, to the Chamber. I am sure he would like to stay longer in one of these seats, but I am sure he is enjoying where he is at the moment.

Senator Micheál Carrigy: It is a fact that the last two times that section 37A was invoked it took, respectively, four months and up to 18 months of discussions. We have children who need a school in September so discussions cannot take up to 18 months to decide whether we have schools places for 100 children and their families. That is why the process is being streamlined back to eight weeks to prevent a situation where there is a lack of places. The NCSE is charged by the Government and the Department to identify where need exists and, therefore, the NCSE needs to hold discussions with the local school.

I fully support this legislation and the provision to streamline the decision time to eight weeks. I reiterate that I hope that we never have to invoke section 37A again because I believe that no school should put any barrier in the way of making a place available for a special class in the school and I believe that every special class should be at the heart of every school.

Senator Rónán Mullen: I understand that Senator Carrigy has said that section 37A exists but should not have to be used and something quicker should be possible. He may well be right about that. My understanding is that is what the streamlining of section 37A is all about.

If there is a need then let us call it an emergency process, call it section 37B and make it clear that the new section is separate from section 37A. My problem with this legislation is that it is not at all clear that what is being proposed is some kind of bypassing of section 37A. The provision hangs out in the air and there is an ambiguity in the law. On reading the Bill, it could well be that the NCSE issues a direction and it must be co-operated with under this legislation. The implication of that is that section 37A is being bypassed and is to be bypassed in certain situations but if that is the case then say it, call it section 37B and call it an emergency requirement. Nobody is saying legislate the way you want for precision but this is anything but precise because one has a streamlined and cleaned up section 37A, as I understand it. I presume the Minister of State is proud of the new section 37A and would be happy to stand over it, so that is what is there. Without saying it, however, this legislation is leaving a vagueness and it is not entirely clear how this will be interpreted in future, which is not a good idea for legislation.

It seems to be saying at the same time that the patron and the board will have to co-operate with the NCSE anyway and that section 37A need not matter, even in its streamlined form. There is a position where a patron of the board is being asked to ensure co-operation by a board in circumstances where the only power it has to ensure such compliance is to sack the board, with the approval of the Minister. Is that the scenario envisaged?

I revert to my questions. Is the Minister of State happy with the way patrons are currently complying with these procedures in legislation and are they doing their best? Is the situation as I describe it?

Senator Aisling Dolan: In section 37 of the 1998 Act there are subsections (1) to (6), and within subsection (6) there are paragraphs (a) to (f). Is there a section 37A that I am not seeing?

Senator Rónán Mullen: This legislation would amend section 37A of the 1998 Act, as amended.

Senator Aisling Dolan: That is what I am looking at.

Senator Rónán Mullen: This relates to an amendment of section 37A. My point is that surely it is where the action should be taking place. It is not yet clear to me that there is not some other power that cuts across section 37A being given or some other obligation that cuts across section 37A being placed on patrons in circumstances where they do not have the necessary role in order to ensure compliance. I am asking, therefore, that the whole thing be brought into conjunction with the new amended section 37A of the 1998 Act, as amended.

Minister of State at the Department of Education (Deputy Josepha Madigan): It is interesting to hear the different contributions. I thank Senator Mullen for his contribution and I will deal with it momentarily. I thank Senators Dolan, Seery Kearney and Carrigy for their contributions also.

I should be clear that this is a two-step process. Co-operation, by its nature, is not 100% binding. Most people would be aware that the vast majority of schools co-operate, through the patrons mentioned by the Senator, and open special classes. As Senator Carrigy pointed out, not all do, and in those particular circumstances we have no option but to issue a section 37A notice.

I am proud of today's legislation but it is bittersweet because we should not have to bring the legislation before the Houses. I hope we reach a point where every school in Ireland will have special classes. I announced earlier that we will have 15 additional special classes opening next September, and it was agreed in the past number of weeks that they would open.

On the Senator's amendment, this Bill provides additional functions to be assigned to school patrons, schools and boards of management to co-operate with the NCSE when approached by the council to provide additional special classes, as I said. I know one school management authority, the Catholic Primary Schools Management Association, contacted the Department and have had discussions with it around some concerns, which really echo what Senator Mullen has said in this Chamber. There is a misperception that in some way the Department, the NCSE or I could bypass section 37A provisions when compelling schools to open special classes. That is not the intention of the provision; it is and will continue to be a two-step process.

In accordance with the new function being placed on school patrons, schools and boards of management, the NCSE will continue to work and engage with schools to open special classes in line with their functions under the Education Act. As I said, the vast majority of schools co-operate with the NCSE in this way. For those schools that do not co-operate, the section 37A process will be considered and used where necessary. The two-step approach is reflected in the Bill in sections 3 and 5, which provide for a school patron and board to comply with any direction under section 37A as a separate and distinct function from their new obligation to co-operate with the NCSE in opening new special classes in general.

As I said, the Department has been engaging with that school management authority on the matter to allay its concerns. On our previous occasion discussing special education in the context of this Bill, I indicated there has been close consultation and engagement with the Office of the Attorney General. The concerns raised by the Senator do not arise and it is right and proper that we should be adding these functions, so I cannot accept his amendment.

The Bill is not proposing that a patron would have to consider dissolving a board, as the Senator mentioned, other than where a board fails to comply with the section 37A direction.

There is no need for that to occur when there is a request to co-operate with the NCSE.

Senator Rónán Mullen: I thank the Minister of State for her reply. I am very clear about her intentions, which seem very sensible. What I am less clear on is whether the legislation as drafted or presented to us entirely expresses her clearly stated meaning in line with what she has just said. I note the Minister of State said co-operation is not ever 100% binding. She is making it clear to me that whatever way this is interpreted, there is no non-compliance save non-compliance with the section 37A process. She is saying the patron shall co-operate and shall ensure co-operation with the NCSE by the provision and operation of the special class or classes when requested to do so by the council. The Minister of State is clearly talking about something other than the end of a section 37A process, because that is initiated by the Minister. At least the notice and later directions are initiated in this way.

The Minister of State is saying the patron shall ensure co-operation by the board by the provision and operation of a special class or classes when requested to do so by the council. A patron might want to do it or a board might want to do it but for all sorts of reasons, it might not be possible or happening. It make take a section 37A order and that is why the provision is there. If the patron is required by law to ensure co-operation by the board by the provision and operation of a special class or classes on request from the council, how is the patron to ensure such co-operation?

Deputy Josepha Madigan: The Bill also requires schools to reflect this in their admission policy and statement. The Senator can take it that the NCSE is not going to contact or approach a school in circumstances where it is not of the view that it does not have sufficient capacity to open a special class. This is a two-step process and I am correct in what I have said, which the Senator repeated, about co-operation not being 100% binding because it is not. These are additional provisions and functions to comply. If the school does not comply, the section 37A process is the next step.

There is an opportunity for schools to co-operate where the NCSE approaches them. They can comply and open a special class. In circumstances where that does not happen, the section 37A process will kick in. That is the essence of the point. I acknowledge the Senator's comments and I appreciate his acknowledgement of the significant State investment that has gone into special education.

8 o'clock

He referred to the resources and supports we have put in place and the two and a half special classes. The majority of those special classes are delivered through the co-operation of patrons, boards of management and school staff. In Dublin, we have reduced the list of children looking for a special class from 56 to approximately 35 and we hope most of the remainder will be able to get a special class by September. However, we cannot keep doing this year in and year out. It is not fair on the families who suffer enormously and are exhausted from having continually to fight against the State to provide them with the equal right to education to which their children are entitled under the Constitution.

In the first instance, we are asking schools to co-operate if the NCSE approaches them. Obviously, they can always volunteer to open a special class in other circumstances but where the NCSE is of the view there is insufficient capacity, it will approach a school. We hope those schools will co-operate and open a special class or additional special classes. If a school does

not co-operate, the section 37A process will kick in. That is what this Bill is designed to do. As Minister of State with responsibility for special education, I consider it very important legislation because there should be no child with an additional need who does not have an appropriate placement, whether in a special class, a special school or in mainstream provision.

Senator Rónán Mullen: The Minister of State will get no argument from me on that point, nor from most people involved in education, including patrons. This series of amendments are really all the same but they relate to different processes. As she noted, they relate to the provision in another section regarding admission statements.

The provision is not that the patron shall co-operate in regard to the provision of a special class or classes. The legislation does not say the patron of the school shall have an opportunity to engage with the NCSE around the provision of operation. It says the patron of a school shall co-operate “by the provision and operation of a special class or classes”. The law is putting in place an obligation to co-operate in a particular way. In effect, the law is saying that the patron of a school shall ensure the provision and operation of a special class when requested to do so by the council. On any reading of this legislation, that is a contradiction of the section 37A process.

If the obligation were there and there alone, there would be no need for a section 37A process because it would already be a requirement that the patron shall co-operate by the provision and operation of a special class. The wording does not refer to a requirement to co-operate in the provision; it refers to a requirement to co-operate by the provision. There is an obligation on the board of management to co-operate by way of the provision of special classes. The legislation is crystal clear that it is creating an obligation on the patron to ensure the board provides. That is the confusion I see in this. I am with the Minister of State on the desirability that provision would be made in all circumstances, but I am not with her on the confusion I see, which is being caused by decoupling these obligations from the section 37A process.

Senator Aisling Dolan: We all want to see more places for children with special needs. That is the overall intent. The boards of management and patrons of schools are probably reflecting on and discussing this new legislation that is coming on board. Boards of management have an obligation generally to ensure there are classes for children. That is what they do and it is the purpose of schools. They provide classes in which children can learn. We are seeking to ensure that children with special needs are not put into separate special needs schools that are only for certain children with certain abilities. It is about ensuring that our society would, for the most part, seek to have children of all abilities learning together. I recognise that children with severe and profound needs may have to be dealt with in other ways, but the objective is that most children in this country should be able to attend schools and all boards of management should have a responsibility to provide education. That is at the core of what a board of management should be doing. I acknowledge that Senator Mullen is coming at it with the intent of ensuring that we have more places. For me, it is about places for all children.

Senator Mary Seery Kearney: From my reading of them, the purpose of the provision in the 1998 Act and this amending provision is to set out a chain of responsibility and decision-making obligations. By stitching in the provision that the patron shall co-operate, it puts an obligation on the patron to ensure the school is complying. This will ensure there is nowhere in the chain of decision-making in which there can be any abdication of the responsibility to make provision for a special class or special provisions within a mainstream class.

Section 8 of the principal Act, which is amended by this provision, is about the role and obligations of the patron. This proposal strengthens those obligations by specifying there shall be co-operation rather than allowing any opportunity for patrons to sit it out and leave special education provision to the board of the school. There has been evidence of school boards attempting to avoid making that provision. By stitching in an obligation on the patron, requiring that the latter shall co-operate with the NCSE and shall provide special classes, it ensures that everybody who is in a decision-making position is obligated to act.

The section 37A process, even in its truncated form, involves several stages. It is the council that issues a report, and that report is quite detailed. The specifications that shall be required within that include consideration of existing provisions, buildings, capacity and other matters within a school. All of that is taken into account and it is the report on it that is acted on in notice. There is a 14-day engagement period in which representations can be made, then a draft direction and then another 14-day period. The obligation is that schools and patrons shall act to ensure provision of special classes as close as possible to every child's home and community. That obligation is rightly being put in and rightly being strengthened prior to the triggering of the 37A process.

It is right that this process should apply prior to the operation of the 37A provisions. It should not come to it that an additional notice is needed. The process is the issue of a report, the notice period of 14 days, a draft direction and then another 14 days before documents are issued to say action must be taken. It would be shameful for any school to reach that stage. It is the nuclear button, but there is a process that comes before it. The object of the amendment to section 8, as I see it, is to strengthen the obligation on every party in the decision-making process.

Senator Rónán Mullen: I am becoming a little confused. If it is shameful that section 37A would ever be invoked, why is it there at all?

Senator Mary Seery Kearney: It is there because some schools are not meeting their obligations.

Senator Rónán Mullen: Why is it needed? If we are creating an earlier obligation on patrons and boards to provide, then we need simply provide for sanctions. We would just move to the sanction stage if they are in breach of the requirements. The only reason for a 37A process is if it is somehow a rational thing. It would not be there unless it is a legitimate process. If a process such as this is being put into legislation but it is meant to carry some kind of badge of shame if it is ever invoked, I do not know of any precedent in legislation for such a thing. We are either saying that it makes sense that such a process would take place at some stage or, if it is a matter of shame and the implication of there having to be a section 37A process is that somebody is doing something wrong, then it should not come to a section 37A process but, rather, to sanction.

That links back to what Senator Seery Kearney said. She used the word "obligation". If we are talking about putting an obligation on the patron - the patrons want to be involved - then the language should be that patrons shall work to secure or, as far as practicable, ensure compliance or co-operation by the board of management with requests to provide special education. When that does not happen, one then moves to the section 37A process because a person is making an argument, the strength of which may be a matter of debate, against doing what he or she is being asked to do. If we turn legislation into some kind of shaming process, we are missing the point. We need to provide for what ought to happen.

If what is being created is an obligation on the patron of a school to ensure the board moves to provide a special class without a section 37A process, where is the power of the patron to do that, short of dissolving the board if it does provide such a special class? That is the logic. Is the Minister of State saying that if the patron does not co-operate, it has broken the law? We must remember that the patron has to get the result; it is not that it has to ask. It is not that the Bishop of Elphin has to ring up the board. I happen to be the chairperson of such a board. I could receive a phone call to tell me I need to co-operate and take a decision. If I say the board members are the people who have to run the school, what does the patron do then? Does the Minister of State want the patron to move to dissolve the board? She is the one putting in this obligation. I am not asking her to take it out; I am just asking her to link it back with section 37A and to provide that if there is not co-operation, then section 37A shall apply. The problem relates to the language of putting an obligation on a body. It is difficult to think of an analogy. Is it like asking President Higgins, as Commander-in-Chief of the Defence Forces, to ensure compliance by the Defence Forces with an obligation that we are going to put on them in law? It does not make sense as it is phrased and it needs to be linked back to section 37A. I do not think I can put it any further.

Senator Mary Seery Kearney: The distinction is that the obligation is there and the “shall” is there all the way through, from day one, once this becomes law. The difference is that, prior to the section 37A process, there is discretion at school and patron level as to how it fulfils that obligation. It decides how it will meet the need for the places. Once the section 37A process is triggered, the school will be told how to do it. The section sets out the details in terms of the requirements of the report in respect of existing building projects, etc. It sets out exactly how it will be done.

It is a difference between a voluntary process whereby the school, of its own volition, decides it will use a particular room or deploy the assets of the school in a certain way and getting into a section 37A process involving a report being prepared, notice being given and a draft direction being issued, followed by a ministerial direction. In the latter case, how the response is manifest will be taken out of the hands of the board. That is the difference.

At all times, however, the obligation of “shall” is there and needs to be there. I have sat in a room with school boards and heard them put out every excuse under the sun for why they are not providing places for children with special needs. We need to move to a place where it is mandatory to do this and the board can comply with the mandatory obligation in its own way or in the way the Minister will issue. Those will be the choices.

Senator Aisling Dolan: The Department of Education provides support for training of school boards of management. The departmental website states that the five core modules are the board as a corporate entity, employment law, financial management, legal Issues and child protection guidelines. There is the potential to expand the training of school boards of management. The Minister may wish to consider it being expanded to include the elements relating to this issue.

Senator Rónán Mullen: This seeks to make the word of the NCSE law on this matter. Once the NCSE looks for it, it has to happen. What Senator Seery Kearney is basically saying is that section 37A is merely the process by which it will be made to happen if the patron does not comply with the obligation to ensure co-operation by the board of the school in providing the requirement or fails to ensure that co-operation. If the patron fails to ensure co-operation by the board of the school with a request by the NCSE to provide a special needs class, that is a

fairly serious matter. In such a case, will the Minister of State support a request by the patron to dissolve the board of management as a result of its refusal to comply with the patron's attempt to ensure it provides the special class? Is that her position?

If the patron takes a serious view of the refusal of the board of management to comply with the patron's obligation to ensure co-operation, what will be the response of the Minister of State? Once the NCSE looks for the special class or classes, the board has to provide it. That is what we are being told here. If the response of the patron is to seek the dissolution of the board of management because it has failed to co-operate with the patron's efforts to comply with the amended section 8 of the Act, will the Department support the patron in seeking the dissolution of the board on that apparently very serious ground?

Senator Aisling Dolan: I refer again to the website of the Department of Education. It states:

The board of management manages the school on behalf of the patron and is accountable to the patron and the Minister. The board must uphold the characteristic spirit (ethos) of the school and is accountable to the patron for so doing.

We are coming back to the characteristic spirit of the school and the ethos the board has to maintain. If it is not doing so, it is accountable to the patron and the Minister.

Senator Rónán Mullen: I would appreciate the Minister of State responding on that point.

Deputy Josepha Madigan: I think I am just going to be repeating statements I have made to the Senator already.

Senator Rónán Mullen: On the specific question I asked-----

Deputy Josepha Madigan: On the specific question in respect of the board, I have already responded to the Senator. I have-----

Senator Rónán Mullen: I asked the Minister of State about the dissolution-----

Deputy Josepha Madigan: I have already answered that. I stated earlier to the Senator that I am not proposing that a patron should have to dissolve a board only in circumstances where it does not comply with the section 37A order. Other than that, there is no need to do it. I also reiterate that co-operation, by its very nature, is not 100% binding. We are adding new functions to comply. It is important to note the opportunity in the Bill not just to streamline section 37A but also to make the existing legal provisions more child-centred. That is the real focus of these new functions. I do not think I can put it any further than what I have already said. I have stated that the two-step approach is reflected in the Bill. Sections 3 and 5 provide for a school patron and board to comply with any direction under section 37A as a separate and distinct function from their new obligation to co-operate with the NCSE to open new special classes generally. It happens anyway that schools will co-operate. The majority of the 2,500 special classes the Senator mentioned earlier are opened through co-operation with the NCSE. I would not anticipate that many schools would not collaborate to the best of their ability, particularly with the spotlight that special education is under, when they are approached by the NCSE to open a special class. If they need the support there are supports in place from the Department and NCSE, the SNAs and everything that is needed. The Senator mentioned the €6,500 grant. Other grants are available for them to open special classes. They will be assisted

in any way possible.

However, there is a minority of schools that do not comply where there are not legitimate reasons for them not to do so. In those particular circumstances, I will issue a section 37A notice and compel them to comply. I hope I do not have to do that. It is only the third time we have had to use the section 37A process since it was introduced in the first instance. We are simply adding these functions in to copper-fasten what is already there. I thank the patrons that have co-operated. Many patrons, boards of management and schools do co-operate but there are the few that do not. As most Senators will know, we meet families on a daily basis who just cannot understand why they cannot get a place for their child. We have no option but to bring this legislation. It is their right. I know the Senator agrees with that. We have to do everything in our power to provide that education to them. That is why we are bringing this legislation forward.

Senator Rónán Mullen: As the Minister of State rightly says, it is the few. Unfortunately it is the few we have to legislate for. My problem is that the Minister of State is putting the patron under an obligation to ensure something they do not have the power to ensure without dissolving the board. This is prior to the section 37A process. Leaving section 37A aside, if a board of management is not complying with the patron's attempt to ensure co-operation and the patron moves against the board, will the Minister of State support that move? The Minister has to approve of the dissolution of a board. It is a serious matter to put a legal obligation on a patron in this situation. It is all the more serious where they do not have any sanction other than to seek the dissolution of a board of management with the support of the Minister. What the Minister of State is saying to me, in effect, is that the problem will be solved because she will, with a heavy heart, invoke section 37A. She has not solved the patron's problem. She has created a legal obligation on a patron to do something and it has been unable to do it, only because its board of management has refused to co-operate with. The Minister of State is putting the patron in a situation where it will have broken the law by not managing to ensure co-operation. It will have broken the law because it has a board that refuses to co-operate. The thing is covered in stigma, from everything that has been said in this House this evening. I am asking the Minister of State if she would then support the patron if it sought to remove the board as a result of that failure to co-operate. That failure to co-operate is prior to the section 37A process.

I do not understand why it is not provided that the patron and the boards "shall work" to co-operate with the NCSE to provide. Then when they do not, we go for section 37A and it is entirely blameworthy but nobody has broken the law. This is a situation where the patron has broken the law and has not had the power to ensure it does not break the law. Why is it a problem to link this in with section 37A? I think the aim of the Minister of State is to get the patron into the process and I agree with that. I do not know of a patron that does not want special classes. I do not know of a patron that is not active in this area. What is the mischief of taking on my amendment so as to link it with section 37A?

Deputy Josepha Madigan: Once again, I am happy to answer it but this is the third time I am answering the Senator's specific question around the dissolution of a board. I will say again to him that I am not proposing that a board be dissolved, only in circumstances that it does not comply with a section 37A direction. That is my view.

Senator Rónán Mullen: That is not the question I asked.

Deputy Josepha Madigan: That is the question and that is my response to it. What else

did the Senator ask me?

Senator Rónán Mullen: What is the problem with my amendment?

Deputy Josepha Madigan: I have given the Senator my reasons we are not linking it in. That is to allow the co-operation. Compelling schools and forcing them to a certain extent to open special classes is not something that anybody likes doing or wants to do. We want to have a culture and ethos in a school from the outset whereby it will embrace inclusivity and believe in integration of children with special educational needs. That is why we allow schools the opportunity to co-operate and collaborate but if they do not, then we will issue the section 37A notice. That is why we are not doing it. It is something we are reluctant to use but will use where we have no other option. That is why I find myself in this Chamber bringing this legislation to the House. I simply was not getting the co-operation from all schools to open special classes where they are absolutely badly needed. That is the reality of it. That is my response to the Senator's questions.

An Cathaoirleach: The Minister of State has given the answer. I think we need to put the question.

Senator Rónán Mullen: I appreciate the Minister of State's efforts but she has not responded to my specific question. She says she is not seeking for the patron to seek to the dissolution of the board where it fails to comply. That is not my question. Given that she is putting a legal obligation on the patron to ensure something which the board may not comply with and which may, in turn, trigger a section 37A process, would the Department stand in the way of a patron dissolving the board? It is a very different question from the one the Minister of State answered.

Second, the Minister of State says she will not take on my amendment in respect of section 37A because she wants to create something prior. I see the argument, actually. However, I think the wording could have been found, if this had not been so rushed, to express this in a way that would actuate and bring about the Minister of State's aim, namely, to draw the patrons into the process of putting pressure on the boards of management. I think that is what the Minister of State wants here. She wants to create some kind of moral obligation that people would work with the process before ever section 37A would be invoked. However, the way to do that is not to create a legal obligation on somebody to do something when they have no power to do it and no sanction, or at least no sanction the Minister of State will endorse here this evening, when they do not.

Deputy Josepha Madigan: To conclude, from my own perspective there are very few scenarios where a patron has ever considered dissolving a board under the existing obligations. It is not envisaged that patrons would suddenly look to dissolve boards other than where they fail to comply with section 37A.

Amendment put and declared lost.

Question, "That section 7 stand part of the Bill", put and declared carried.

Sections 8 to 10, inclusive, agreed to.

Amendments Nos. 2 and 3 not moved.

Section 11 agreed to.

Seanad Éireann
NEW SECTION

Senator Fintan Warfield: I move amendment No. 4:

In page 10, between lines 15 and 16, to insert the following:

“Amendment of section 20 of Act of 2004

12. The Education for Persons with Special Educational Needs Act 2004 is amended in section 20(1) by the substitution of the following paragraphs for paragraph (b):

“(b) in consultation with the Department, schools, the HSE, Túsla and such other persons as the Council considers appropriate to plan and co-ordinate the provision of education and support services to children with special educational needs and to ensure that such planning and co-ordination is made transparent, and to ensure that such planning and co-ordination is made transparent to the public generally by the annual publication of a report detailing—

(i) relevant statistics and forecasting in relation to demand for school places for children with special educational needs,

(ii) the availability of places in a special class (within the meaning of section 60 of the Education Act 1998) in each school for students with special educational needs,

(iii) the number of students with special educational needs who travel outside of their school planning area in order to attend school, and

(iv) publish a projection and analysis of the number of places in Special Classes and Special Schools that can be reasonably expected to be required in each school planning area, in the subsequent September, and in September two years from that;

(ba) the report referred to in paragraph (b) shall be developed using all data and information available to it, including but not limited to:

(i) children with special educational needs in early years;

(ii) children with special educational needs in Secondary school;

(iii) data from the HSE and Túsla including diagnosis and assessment of needs and other relevant data;

(iv) population level projections;

(v) CSO data; and

(vi) all other sources the Council sees fit.”.”.

We want the NCSE to use all available data, such as CSO data, population projections, HSE and Tusla data, and data on children with special educational needs and early years education, to produce an annual report that would be available to the public in order that we are not here in June, July or August each and every year having this conversation but, rather, that we wrap up the conversation by Christmas. That is what amendment No. 4 seeks to do, from Sinn Féin’s

point of view.

Deputy Josepha Madigan: I thank Senator Warfield for tabling this amendment. As the House will be aware, it relates to the core functions of the NCSE and its staff. As I mentioned to the Senator earlier, when speaking to another amendment he had tabled, perhaps the current review of the EPSSEN Act is the appropriate forum in which to look at what the Senator suggests. I stress to him, though, that I am not opposed at all to the idea of the NCSE preparing an annual report on the forward-planning of special classes and special school places. I do not disagree with that at all. It would be of great value to me, as Minister of State with responsibility for special education, and to the Department. The Senator's amendment, however, is quite detailed. Significant planning would be involved to review the full detail of this. There are also resource implications in respect of staffing and IT and as to whether any data-sharing issues would need to be addressed. It is not possible to consider all these issues at this time, but the Senator makes a valid proposal that is certainly not without merit. As I said, it is a good idea. At least with such a provision we could see where we are, as he said, and would not be scrambling, year in, year out, to get places. I cannot accept the amendment but I think we can look at it in the context of the broader review of the EPSSEN Act.

Senator Alice-Mary Higgins: I echo what has been said. The Minister of State has acknowledged that this is a really important set of suggestions. During the year I spent on the Joint Committee on Disability Matters, this came through again and again. If there are 40 children in an area who need supports at primary school, we should know that, X number of years ahead, we will have the same number of children needing supports going into second level. Yet we see that families often have to restart the whole process of children's needs being identified and recognised. We have often said that the transition points, whether from primary to secondary level or from secondary to third level, are very burdensome on families and individuals. It does not need to be so because we can plan for these things and the information is there. It is good that the Minister of State acknowledges this as a good idea. If it cannot be accepted within this Bill, I know that it is something that Senator Warfield and colleagues on the Joint Committee on Disability Matters have highlighted. It needs to be planned. Senator Warfield did not move amendment No. 3, which relates to the exchange of data, but I imagine that mechanisms could be put in place in respect of appropriate forward-planning and appropriate regulatory measures for the sharing of those data in order that there can be better planning and that we do not leave it to families to restart the process at a new educational level.

Senator Mary Seery Kearney: I concur with the sentiments expressed by Senator Higgins. I am a member of the Joint Committee on Disability Matters. I consider that much of this is more within the province of the Minister of State, Deputy Rabbitte. I raised this with the HSE when HSE representatives were before the Joint Committee on Disability Matters when we had a joint sitting with the Joint Committee on Children, Equality, Disability, Integration and Youth. It was stated at that meeting that the failure of metrics, assessments of need and staffing around the community disability network teams leads directly to the inability to plan for education at local level. It impedes the Minister of State's very good work. I hasten to add that this is no fault of the Minister of State, Deputy Rabbitte, and not for want of trying on her part. There is a need to have quality metrics as to what the anticipated level of need is in order that we can anticipate whether we need special classes or whether we need full special schools.

Senator Fintan Warfield: The NCSE has the resources and scope to gather this information. It has some of the information already. Working with the HSE, the CSO, Tusla, schools and the early years sector, I think it should be possible to make an accurate prediction and to

have a breadth of information available to parents. I will not divide the House on the amendment. The Minister acknowledges that it is a good idea. We should get the Bill over the line. I invite the Government to bring forward such a provision in its own legislation if it will not accept Sinn Féin's amendment.

Amendment, by leave, withdrawn.

Amendment No. 5 not moved.

Section 12 agreed to.

Preamble agreed to.

Title agreed to.

Bill reported without amendment.

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

Senator Aisling Dolan: Now.

An Cathaoirleach: Is that agreed? Agreed.

Bill received for final consideration.

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

Senator Aisling Dolan: Now.

An Cathaoirleach: Is that agreed? Agreed.

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

Night-time Economy: Motion

Senator Fintan Warfield: I move:

That Seanad Éireann:

welcomes:

- the Report of the Night-Time Economy Taskforce published in September 2021;
- the Programme for Government commitment to reform licensing laws, application processes and to conduct a full review of policies governing night-time culture;

commends:

- 'Give Us The Night' and all campaigners advocating for positive changes to nightlife in Ireland;

recognises that:

13 July 2022

- there has been a failure to sufficiently update licensing laws;
- night-life and night-time entertainment in cities and towns is under severe threat;
- property costs, prohibitive insurance premiums, restrictive licensing laws and associated fees have a crippling effect on businesses and cultural activity;
- of the 522 nightclubs in operation in the year 2000, only 85 remain;
- the policy focus relating to nightlife and the night-time economy has revolved solely around alcohol rather than the holistic, community and societal benefits of night-time culture;
- night-life is about communities and culture, for people of all ages, those who consume alcohol and those who don't;
- public transport and taxi services are essential components of the night-time economy;
- since 2019, 2,562 taxis have been lost from the transport system with the resulting shortage of taxis now impacting the night-time economy;

notes that:

- night-life and the night-time economy are vital to the growth and development of the arts and culture sector;
- existing licensing laws prevent not-for-profit arts centres, cultural buildings, theatres and galleries from diversifying their programming and income streams and deny greater employment opportunities to artists and arts workers and valuable cultural offerings to audiences and local communities;

further notes:

- the workers' rights issues that exist in the night-time economy, including unpaid wages, lack of collective bargaining, the denial of legal breaks and an expectation that workers perform duties unpaid, such as cleaning-up after closing;

calls for:

- the update and modernisation of licensing laws and costs;
- the reform of trading hours;
- a new annual nightclub licence;
- an end to early closing on Sundays;
- the abolition of Special Exemption Orders;
- greater access to the night-time market for arts centres, theatres and galleries with an appropriate licence renewed annually;
- the increased use of the National Cultural Institutions Licence;

- a new licence for not-for-profits, including for one-off events;
- greater use of existing State-owned indoor and outdoor spaces, including cultural buildings and heritage sites for entertainment and events;
- new locations and districts to be identified where nightlife can thrive;
- a scheme to support late night entertainment in cafés and more options for alcohol-free events;
- licences to be moved to a new online portal that would connect stakeholders, including the Courts Service, An Garda Síochána, Local Authorities and Fire Officers;
- new models of consultation and innovative measures that mitigate adverse effects of nightlife on local residents;
- the provision of premium pay for staff working beyond 11.30 p.m.;
- the granting and renewal of a licence to be contingent on compliance with employment law and the name of the employer and premises to be published where breaches of employment law occur;
- the increased roll out of 24-hour bus routes in Dublin city, extended operating hours for Luas and DART and an extension of the ten-year rule for taxis;
- increased harm reduction interventions and initiatives in the night-time economy to build on recent HSE campaigns.

I am sharing time with Senator Boylan.

An Cathaoirleach: Is that agreed? Agreed.

Senator Fintan Warfield: I welcome the Minister. I also welcome our guests in the Public Gallery. They have been patiently waiting for this debate to begin and I hope that it lives up to their expectations.

Nightlife and the night-time economy are under a severe threat in our towns and cities. Rising property costs, rip-off insurance, extortionate licensing fees and archaic licensing are crippling business and cultural activity. We acknowledge the work that the Government has done in terms of the night-time economy task force. We also acknowledge the campaigners who put hundreds of hours of work into this issue for decades until it reached the point of the Government taking it seriously enough to set up a task force. All of that said, we call on the Government to reform licensing laws and fees and implement the raft of more than 30 actions that the task force recommended to it as soon as possible.

I would not have the knowledge of this issue that I do without campaigns like Give Us The Night and campaigners like Mr. Robbie Kitt and Mr. Sunil Sharpe, although I do not know if they will thank me for mentioning them. There are hundreds of campaigners. In 2019, a call went out for a public meeting at the Sugar Club and more than 500 people attended that night. Young, middle-aged and old, they came from all backgrounds and were representative of the nightlife industry. They were the people you would meet in a nightclub's queue or smoking area or on the dance floor. They were there to share their ideas about what nightlife in this country should look like and how their country could live up to its reputation for music, song and

dance. I would not have my current level of knowledge about this area without them. Every day is a school day and I am continually learning, with their help. The Minister probably feels the same way, and the night-time economy task force is probably informed by the ideas that were raised at the Sugar Club that night.

The review of the Sale of Alcohol Bill undertaken by the Minister's Department experienced one of the highest levels of submissions of any legislation under the remit of the Department of Justice. I believe there were 5,000 submissions. There is a demand, so we are calling on the Government to publish its legislation. We cannot fall into the same trap that we have fallen into over many years of telling the industry to wait. There were 522 nightclubs in this country in 2000, but only 85 are left now. That is an alarming loss of cultural space, music venues and nightclubs. With them go jobs for musicians, sound engineers, lighting designers, bouncers and hospitality staff. I see young people, including some of my oldest friends, choosing to move away because the type of career they have engaged in from job to job does not support their survival in Dublin. They are going to Berlin or Glasgow to pursue their trade. This country rolls out the red carpet for technology and innovation, but not for young artists and collectives that want to put on nights or events. We need to do better.

In referencing art centres and theatres in the motion, I am making a specific point about this time of the day being important to the arts and culture sector. Existing licensing laws prevent not-for-profit art centres, theatres and galleries from diversifying their programming and income streams, thus denying artists and arts workers greater opportunities and denying audiences and communities valuable cultural experiences.

Many young entrepreneurs are opening cafes and getting into hospitality that way, but no new night-time venues have opened in the past decade. It is no longer sustainable for us to prohibit young business people who want to open such venues. There is a lack of licences, each of which can cost between €40,000 to €60,000 on the open market. It was never intended for licences to be bought and sold on the open market and fluctuate in price. People should get licences from the State at a reasonable cost. Young business people should be allowed access to them.

For years, I have been attending a club in Dublin on Sunday nights. Recently, the operator said that enough was enough and that it was no longer sustainable to pay €400 plus in special exemption orders to open for just two hours each Sunday night until 1 a.m. This is a European city, yet we close everything down at 1 a.m. on a Sunday night. The people who go out on Sunday nights are hospitality workers, barbers and hairdressers, the people we applauded in recent years. That is their night out, but we shut it down at 1 a.m.

The Minister is working on these issues and we are tabling this motion in good faith. I am disappointed by some of the elements of the amendment, for example, the removal of the reference to workers' rights. Our team will deal with some of those issues. I am disappointed the arts references were taken out.

However, I welcome the fact that the Government Senators are calling on the Government to enact a new sale of alcohol Bill as soon as possible to ensure that we have a modern fit for purposes alcohol licensing law. I regret that the policy focus around the issue around night life and the night-time economy can often revolve solely around alcohol and ignores the holistic, community and societal benefits of night-time culture during which we meet people from all backgrounds, like I mentioned. Magic happens in the night and you would talk to people you

would never talk to in the middle of the day. I was at an Iveagh Gardens gig and there was a noticeable difference in the energy as the sun went down. The energy and magic of the night is what this city is lacking.

The city is lacking many things at the moment and it is not working as it should. However, these are simple things that after 20 years we need to now get right. The problems have been called out and the solutions provided by campaigners. The night-time economy task force fleshed those out. It is an important piece of work that we welcome.

We welcome the programme for Government commitment for action. We need to get this over the line now. I know the Minister is up for that. I hope tonight she might be able to give us a timeline of when we will see a general scheme. I know she has made a commitment that we will have legislation this year. I do not want it go past Christmas.

Another thing is that we need interim budgetary measures. It is great that we waived court fees during the pandemic and I think we need to do that again until we implement legislative change. I hope the Minister can give timelines on when the Government hopes to publish the general scheme, when the committee will get through it and when we will have a Bill on the books in this State. I thank the Minister for coming to the House.

Senator Lynn Boylan: I second the motion.

I also commend my colleague, Senator Warfield, who has been a passionate advocate for the Give Us The Night Campaign and the night-time economy. He is right that Dublin is lacking so much. I know this not just about Dublin tonight, but as a proud Dub, I find it very sad to see the direction that Dublin is going in at the moment with, for example, art spaces closing down, murals being painted over and the lack of respect for the Moore Street area.

However, as tonight is about the night-time economy, I will focus on some of the points that were made at the briefing today by the representatives of Give Us The Night, namely, Sunil Sharpe and Robbie Kitt. They spoke passionately about the Doomsday scenario that is before us unless radical action is taken. We are already on course for a wipeout of the cultural spaces. As was highlighted, there were 522 nightclubs in 2000 and only 85 remain. The market circumstances mean that only the most profitable nightclubs can survive. That is not a diverse and healthy night scene. It means an increasingly greater concentration of night venues in bigger, more central locations and the decline of smaller venues in the periphery.

I am from Tallaght and I remember the numerous night clubs that we had, such as The Spawell, Club Sarah and Coco's, apparently where the gang goes. However, today, even with a population of 80,000 people, it does not have a single club. It is just madness that a place the size of Tallaght does not have a club. When we ask why, on the top of the list of reasons is the failure to reform the licensing laws by successive governments from the late 1990s to today. As the economist, Dr. Constantin Gurdgiev, stated clearly, in his economic assessment of the Irish nightclub industry from 2009, the nightclub industry sells approximately 5% of all alcohol retailed in Ireland by value, less by volume, yet it shoulders almost 70% of the total annual licensing costs levied at the on and off-trade combined. His statement came directly after the increase in the price of special exemption orders, SEOs. I think we will agree that the special exemption order system is an embarrassment and a good example of how little the State has respected the industry and the hardworking venues that are trying to keep their doors open. It is €410 per night plus legal fees for any venue, regardless of the size. That price was fixed back

in 2008 by Fianna Fáil and has been continued by Fine Gael.

No other night businesses have to make monthly court appearances to obtain SEOs. I cannot fathom any rationalisation for making operators go through the process every single month. Also, forcing operators to nominate what days they will be open a month in advance is also absurd. As Robbie Kitt from Give Us The Night pointed out at the briefing earlier, there is not a provision to roll over or change the date in the case where the event must be postponed, even for community groups or DIY events.

The other problem we see forcing the closure of cultural spaces in the capital is the encroachment of the soulless hotels. We saw it with the Cobblestone pub and we are seeing it again at Fibber Magees, Murray's and The Living Room. This is a development that must be resisted. It was great to see so many people take to the streets on the back of the Cobblestone to protest against its closure. The hotel issues are also linked to the transport issues because we need 24-hour services for the cities. That is absolutely a given. However, the last train to Waterford on a Saturday night is at 6.35 p.m. The last train to Galway is 7.35 p.m. If anybody wants to go to a gig in Dublin, they have no choice but to stay here or else drive home.

The outlook for nightlife can often be bleak. However, other cities have found themselves in this situation before and with the right leadership have been able to turn the ship around. Give Us The Night has gotten us this far, but, as Senator Warfield said, we have to stop telling people to wait. We have to start enacting. We have to save Dublin from becoming the soulless city that it rapidly is becoming.

Senator Paul Gavan: Well said.

Senator Barry Ward: I move amendment No. 1:

To delete all words after “notes that” and substitute the following:

- the Night-Time Economy is a hugely important sector, contributing to the economy and Ireland's cultural and creative sectors, which can bring vibrancy to city and town centres and that it is important to protect, support and sustain this part of the economy by attracting people into our towns and cities later in the evening and night-time by offering a range of cultural activities, in a variety of venues;

- on foot of a commitment in the Programme for Government, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media established the Night-Time Economy Taskforce in July 2020, brought its report to Government in September 2021 and published it thereafter;

- the Programme for Government and the Justice Plan 2022, commits to modernising licensing laws and application processes and the Minister for Justice has committed to publishing and enacting new laws as part of this modernisation process;

- extensive work is underway in the Department of Justice to prepare the Heads of a General Scheme of a Sale of Alcohol Bill 2022 which will replace existing legislation, including the Licensing Acts 1833 to 2018, the Registration of Clubs Acts 1904 to 2008, and the Public Dance Hall Act 1935, with updated and streamlined provisions more suited to the 21st century;

- any changes in alcohol licensing laws must be balanced with the need for regulation

in the public interest, in particular, public health and public order, and that reforms must be developed with a supportive approach to businesses and the communities in which they operate; codifying alcohol licensing law into a single Act will make it more accessible and user-friendly for the general public, the licensed trade, courts, and An Garda Síochána;

- extensive public consultation has taken place in relation to the modernisation of Ireland's licencing laws and also in relation to the development of the Night-Time Economy, both in relation to activities involving the sale of alcohol and those which do not;

- the Night-time Economy Taskforce Report contains 36 actions which aims to address a broad range of challenges facing the development of a vibrant night-time culture and economy, including regulations, licencing laws, transport, diversity of cultural activities, and to finding practical solutions to help cities, towns and villages, find and develop new opportunities;

- a range of actions have been agreed to ensure that every opportunity to support the sector and remove obstacles to growth is explored and maximised, including facilitating more use of publicly-owned cultural buildings and heritage sites for events and later night activity, including in national cultural institutions;

- a new Scheme was recently launched by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media to support entertainment in off-peak times to increase footfall in our cities and towns later in the evening, and night-time pubs, nightclubs, cafes and other suitable licensed and unlicensed premises may apply;

- arising out of the Taskforce Report, a workshop has been held on planning and development-related actions to support the Night-Time Economy which include discussions on noise management and how best to mitigate adverse effects of night-life on local residents and that a report is being prepared for further consideration;

- the National Transport Authority and the Department of Transport were key members of the Taskforce and are committed to improving the public transport offering in the Night-Time Economy to facilitate both workers and those enjoying a night out in our cities and towns;

- the Government is committed to ensuring that people who are enjoying the Night-Time Economy are doing so safely, with the Taskforce Implementation Group working closely with the HSE National Social Inclusion Office on harm reduction strategies in the Night-time Economy, with the support of the industry, local authorities and An Garda Síochána;

- the Government is committed to improving night-time safety for audiences, venues, performers and staff, creating a safe space in which everyone feels welcome, respected and comfortable while promoting Ireland's culture on the national and international stage; to this end, the Department of Justice is developing a Night-Time Economy Charter which will, inter alia, commit industry to ensure protection for staff, freelancers, volunteers and patrons, staff training and awareness on these issues and protection for the particularly vulnerable;

and calls on the Government:

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- to enact a new Sale of Alcohol Bill as soon as possible to ensure that we have a modern and fit-for-purpose alcohol licensing law.

I will share my time with Senator Dolan. I heard what has been said and I agree. I know just how difficult it can be for people in the entertainment space, be they artists, people who own premises or whatever it might be. We all recognise the huge importance of maintaining the cultural sustainability of the night-time economy, which benefits us all. It does not just benefit us as patrons, but as a community. It obviously benefits the economy as well. That is why I welcome the Minister's commitment to reforming the law here. Of course, when it is recognised that law reform is necessary, it can never come quickly enough. I certainly support the notion that we would modernise our licensing laws.

As long as you treat people like children when it comes to alcohol, they will continue to behave like children. When you tell people they must go home at 11 p.m. or leave at a certain time or whatever it is, what you then have is an outpouring of people from venues onto the street at the same time. That is what leads to difficulties and public order problems and things such as that. I lived in France for a number of years and I always found that the staggered closing of places, when they decided it was the right time for them to close, meant that there was not that sudden outpouring of people onto the street. It meant that people had a much more mature approach to alcohol. Looking at the jurisdictions around Europe that do not appear to have public drunkenness problems we appear to have, particularly in city centres, they are jurisdictions that have a much more – I was going to say permissive but that is not what I mean – relaxed approach to licensing laws. I know that efforts have been made in the past to make changes that have been resisted by different sectors of the industry and I understand that. I think if we tell people that they, as adults and citizens, can make decisions themselves about when it is time to stop drinking and go home, they then are much more likely to behave in a way that we would expect of adults who can make those decisions themselves.

There are so many aspects to this and I will not have time to go through them all. However, I would like to address the issue of transport, because I know that is part of what the task force has recommended and the National Transport Authority, NTA, is a stakeholder in that. Transport has been mentioned by speakers and how it stops at a certain time so people, for example, need to leave the pub at 9 p.m. That is not sustainable; it just means people stay on longer or find themselves in a difficult position.

9 o'clock

That applies whether you are in a rural area and there is no transport link to speak of to bring you to your rural home; in a suburb, as I am in Dún Laoghaire where we need a 24-hour 46A, which I know is coming but not quickly enough; or in a city centre. In all those circumstances you need adequate 24-hour transport services. The Nitelink is great in Dublin but it only operates in one direction. You need a proper to-and-fro so that people can move around, patronise one place and then patronise another on the same night. If we approach this with the idea that people are adults and capable of making these decisions for themselves, I believe these reforms will be much more effective.

Senator Aisling Dolan: I want to see more of the night-time economy so I welcome this motion. I know there was a briefing today. I apologise because I was unable to make it. I take on board Senator Warfield's point that there were hundreds of nightclubs in this country in previous years. In Ballinasloe, we had three nightclubs when I was growing up, which was fantas-

tic. Unfortunately, that is not the case now. There are many reasons for that, such as changes in the population. I must admit it was fantastic to have that, so I very much support the need for the night-time economy. Everyone agrees that the licensing laws are outdated. The Minister will look at the licensing laws in the justice plan that she will be bringing forward. We are part of Europe. We want to be a European nation that stands tall in terms of all the things we do in this country, including our night-time economy. I would be very supportive of that, especially for the arts. Senator Warfield mentioned that musicians, DJs and others make a living in the night-time economy.

When it comes to transport, we have buses back to Galway that would go until about 10 p.m., but it is tough. There were great gigs all over Dublin in the last while. Everything came back to life again after the lockdown of two years. It was great to see. I saw one of the gigs in Trinity College which was brilliant. I missed the one in Malahide. Unfortunately, our times that we spend in the Seanad mean that sometimes we do not get to see the great gigs that are going on. Even here in the Dublin City Council area, there were events in Fairview, Dublin, as well.

The Minister, Deputy Catherine Martin, is also looking at pilots in a number of towns throughout the country. How we do that is going to be important. We need to consider how we can open up the country for our night-time economy, for example by using some of our galleries and State institutions, such as museums. They are there and we can use them. I would be supportive of the amendment. I look forward to the Minister's update on the timeline for this and the aspects of it that relate to the Department of Justice. We need to see this happen. It can only lead to a more vibrant Ireland. Looking at the safety aspects, these are crucial, such as large numbers of people coming onto the streets at the same time.

Senator Malcolm Byrne: Cuirim fáilte roimh an Aire. I commend Senator Warfield on bringing forward this motion. He has been a strong advocate on this issue for quite some time. I also commend the team from Give Us The Night. I was not able to make the briefing this afternoon, although my intern went to it. Certainly, those involved with Give Us The Night have been very active on this issue for a long time. During the Covid period, we missed so many aspects of our lives that we took for granted. Young people, in particular, lost two years out of their lives when the opportunity to go out and enjoy themselves was denied to them. Now is the time when we have to be particularly creative and imaginative. We should be able to guarantee, not just to young people but particularly to young people, that we can ensure that Ireland is the best place in the world to go out late at night, that it is the safest place to go out and that people will be able to get home at the end of the night. As Senator Ward said, that applies as much in an urban environment as in a rural environment. In the case of the Minister, people in east or north Meath need to be able to get home. In my case, it should be the case that people in north Wexford have opportunities. As the motion says, it is not just about being able to go out to nightclubs or late-night dance venues; it is also about cultural and other alternative activities.

I hope that in the discussion on this matter, we are imaginative and there is engagement with those involved in the industry and with artists. The Government's commitment to the arts, particularly in the introduction of the basic income scheme for artists and some of the pilot initiatives to try to support the late-night economy, is very welcome. However, these are only starter steps. We have to look at ways in which we can be far more imaginative. We have to get people talking outside Ireland about how Ireland is the best place to go out late at night and ensure people feel safe when they do so. It is essential that the transport issue - and this applies as much in urban areas as in rural areas - is addressed. Unfortunately, there remains a problem

with regard to transport late at night in the cities and suburbs, as Senator Ward said, and particularly in rural towns where it is as important that there is a vibrant night life. We need a complete overhaul of the licensing system as well. That is essential and I know the Minister is committed to it. I hope that in her response, the Minister will address the issue.

Senator Ollie Crowe: I welcome the Minister back into the House. I thank Senator Warfield for his continued work over the past number of months. The night-time economy is an important part of our economy. It supports tens of thousands of jobs throughout the country. The vast majority of it is made up of SMEs. As we are all aware, SMEs are the backbone of the Irish economy. The industry is coming out of the toughest couple of years it has ever encountered. Many sectors were hit hard by Covid-19 but none more so than the night-time economy which for obvious reasons was devastated by restrictions and closures. The establishment of the night-time economy task force was a vital step by the Government. We must continue to work with stakeholders in the night-time economy. I am well aware from my own background that businesses in this area know how the Government has supported them. It is important to point out that the report delivered by the task force included many actions which will boost the night-time economy. We are starting to see those come into action. As we are aware, the establishment of night-time advisers in six pilot towns and cities will be a significant step towards boosting and securing a vibrant and sustainable night-time culture, of which my colleague Senator Malcolm Byrne also spoke, for all our citizens. The pilot grant scheme, which is allocating €2.6 million to support entertainment in off-peak times to increase footfall later in the evening in our cities, including my own city of Galway, is currently open for applications. That is another important step. We still need to do more, naturally. We need to ramp up the pilot programmes at the earliest possible opportunity and I am confident that the Government will do so. Overall, it is welcome that we are having this discussion. We are all aware of the issue of licensing laws. Continued work needs to be done.

Senator Vincent P. Martin: The night-time economy task force report was published in September 2021. It contained 36 actions across a broad range of issues associated with the night-time economy, all with the aim of increasing the diversity of events, increasing cultural opportunities for families and other age groups into the evening, and looking at new ways of encouraging innovation and creativity in the night-time economy. An implementation group made up of key Departments, agencies and sectoral representation has been established to ensure the recommendations contained in the report are implemented. The Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media has allocated €4 million of her budget towards the implementation of the actions contained in the night-time economy report in areas which her Department is leading or has a supporting role. Significant progress has been made in regard to a number of task force recommendations. For example, the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media supported a new series of late-night events across the country as part of Culture Night last year on foot of a task force recommendation in this area. Further events are planned for this year's Culture Night, including a number of national cultural institutions hosting later night events. The National Museum of Ireland, the National Concert Hall and the Irish Museum of Modern Art are all hosting pilot late-night events this year. A number of national cultural institutions are planning late openings on foot of the recommendations of the night-time economy task force report. I am always worried about reports that gather dust on the shelf but it is clear that there is an intent to implement this one. Crucially, the Department of Justice is progressing the modernisation of licensing laws. This was another recommendation of the task force report. Anyone who has worked in the sector knows how crucial it is. I was a student union leader for one year and I had ultimate responsibility for a pub and nightclub.

There was the expense of lawyers to seek bar extensions. We almost missed rag week. We had to plan it in advance. It was an unnecessary challenge for the students. The licensing laws are archaic and have to be radically reformed.

Progress has been made on the pilot initiative establishing new night-time advisers in six cities and towns to develop new night-time economy opportunities. This initiative will be supported by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media. A valuation committee with membership from the Department, the County and City Management Association, CCMA, and an external independent member will review each application. Towns and cities in two categories will be selected by the evaluation committee. Three towns with populations of between 5,000 and 10,000 will be selected, as will three towns and cities with populations of more than 10,000. Once the selection process has been completed and announced a night-time adviser will be appointed to each of the selected areas.

Most recently the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media announced a new €2.6 million pilot night-time economy support scheme and this has proved very popular. It will support venues such as pubs, cafes and alcohol-free venues to trial new events, activities and initiatives at night, with a particular focus on off-peak times to encourage an increased variety of night-time entertainment offerings, increased footfall in our towns and cities in the evenings and the creation of employment for artists and performers, with a particular focus on new and emerging acts.

The task force report also recognises a need for increased diversification and inclusivity. These are two very important words that should underpin everything. They are essential and should be front and centre of our night-time economy. Having a balance between alcohol and alcohol-free activities is important. I note the pilot night-time economy support scheme will encourage coffee shops to stay open later and encourage licensed premises to go for arts from Monday to Friday. It is all good and very important. It will actively engage a wider demographic in the night-time economy.

To the stakeholders I say that apart from it being their livelihood I know it is their love and passion. Most importantly, the tens of thousands of people who love the night-time life and being patrons should rest assured because while I do not like making predictions, I know for sure that the crucial two Ministers involved, the Minister for Justice and the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, are travelling in the right direction. They have a good, constructive and focused agenda to ensure this happens. I look forward to radical reform of the archaic licensing laws. It behoves the two Ministers to deliver. I have total confidence this will be a seismic moment and a groundbreaking day. I thank and commend Senator Warfield on tabling this for the agenda. It is highly appropriate that it has received centre-stage attention in Seanad Éireann.

Senator Rebecca Moynihan: I acknowledge and welcome the campaigners in the Gallery. In particular I welcome Sunil Sharpe from the Give Us The Night campaign. Since my time on Dublin City Council, he has been highlighting and putting on the agenda the decline in the sector and the challenges that have faced the night-time economy. I also pay tribute to Councillor Claire Byrne of the Green Party. For a long time she has been an advocate for the night-time economy at city level. I also thank Senator Warfield for doing so at national level.

The night-time economy task force was set up to try to help revive the sector, which was decimated over the course of the pandemic. The reality is that many of the issues precede

Covid. The Minister has conducted a public consultation on the reform of the licensing laws. During the two years of the pandemic, however, we could have been preparing for the revival of the night-time economy. Instead, there has been a revert back to the old system. Popular club nights such as Sunday Social have had to close. One of the most innovative club promoters in the city, Buzz O'Neill, has said it is not possible to run a club night for two hours a day. It is a great loss to the city. Twenty years ago we had the POD, the Kitchen and Rí-Rá. There was a vibrant nightclub scene in Dublin. That is not there. They are closing down.

Senator Vincent P. Martin: Lillie's and Renards as well.

Senator Lynn Boylan: And Zoo Bar.

Senator Rebecca Moynihan: I do not mourn them so much. RIP Renards.

An Cathaoirleach: Senator Martin is showing his age.

Senator Rebecca Moynihan: Nightlife in our city is under massive threat and hundreds of nightclubs have closed in the past two decades. This does not just impact our night-time tourist offering but also affects the cultural life we have in the city as a place for young people to go where they feel they belong in a vibrant European city. When people speak about what is on offer in Dublin, they speak about blandness and sameness. There are places people go to pay for overpriced cocktails and put photos on Instagram. We need to bring the vibrancy, rawness and diversity back to the club nights we used to have.

Late licences cost venues more than €400 a night. This can stack up for some venues. This fee is staggering when compared to the UK where it is €2,000 a year for an annual late licence fee. The UK has begun to take steps on this, employing night tsars in big cities such as London, Manchester and Liverpool. It is worth £66 billion per year. Imagine the benefits we could reap, particularly in Dublin, if we focused on rethinking our night-time economy.

One of the areas we need to look at is mentorship of people who want to run club nights. We have mentorship in the Courts Service. Why do we not put it into local authorities? Why do we not have local employment offices mentor people who want to set up pop-up club nights? We need to think outside the box and support young people to bring vibrant and different club nights. It is not only about those that are there. We have to have pop-ups. They could contribute hugely. We must allow the vibrancy of a city that changes its tastes.

Building our night-time economy and diversifying the range of offerings would help to fill our streets with vibrancy and nurture the cultural and creative arts. I would hate to see a situation after we reform our licensing laws whereby we just stop at 2 a.m. or 2.30 a.m. In other European cities, people can find places after this time. There is no reason we cannot have a 24-hour club economy. Different people have different tastes. Not everybody works 9 a.m. to 5 p.m. Not everybody works Monday to Friday. Different people want different offerings. Allowing people to have this vibrancy would be worthwhile. It would also benefit those living in the areas because it would offer employment opportunities for those working in the industry. We do not want our cities to become bland and lifeless.

We also need to allow for the expansion of cultural spaces such as galleries, theatres and exhibition spaces to offer alternatives outside of their core hours. Our urban areas are being dominated by investor-led development. Nightlife culture is being pushed out. We saw the Tivoli Theatre on Francis Street demolished. The people of the Liberties are still grieving the

loss of this cultural hub - though I used to get some complaints about noise from it. There are no plans to fill the space with something cultural. At the moment a planning application is going through for steel gates to be put up at what should, or could, be a great public space in order to limit communal access to it.

The night-time economy task force highlighted that public transport usually stops at 11 p.m. or midnight and in some rural areas stops before 6 p.m. I echo the calls of other people to ensure we have a proper night-time public transport system. We are seeing a crisis in safety at the moment because of a lack of taxis and there needs to be a co-ordinated Government response to that lack of night-time transport to get people home.

Senator Frances Black: The Minister is very welcome to the House. I am delighted to be here to support this motion. I thank Senator Warfield and his colleagues in Sinn Féin for tabling the motion and allowing us to debate a crucial issue.

There is no doubt nightlife is a central part of our cultural life. It brings vibrancy to our cities and towns and provides a much-needed release from the pressures and drudgery of the working week. The importance of nightlife, cultural institutions and socialising with friends and loved ones was emphasised by the pandemic, for sure. Sometimes being deprived of something makes one realise how essential it is. As we return to some semblance of normality it is the perfect time to discuss the challenges now facing the night-time economy and how we can work as legislators to revitalise the sector.

I also appreciate the motion includes reference to the existing alcohol-centred view of night-life and proposes a more holistic view that includes broader cultural events accessible to those who do not consume alcohol, like myself.

There is no doubt the figures are stark. In the year 2000, there were 522 nightclubs and now there are only 85. That is quite shocking. It is an extraordinary loss to our cultural life. It is not only nightclubs we are losing but, as colleagues have said, also theatres like the Tivoli, which was a local of mine also, and other artistic and cultural spaces. There are many reasons for this loss. Chief among them is the extortionate cost of rent and insurance. The second is lopsided and out-of-control development. We are seeing the loss of places like The Globe and The Library Bar to be replaced by yet another hotel. As Dublin demolishes more and more cultural spaces to facilitate tourism, one worries that instead of being a cultural centre it will become a culturally-themed tourist attraction.

The licensing system as it stands is illogical and antiquated. The special exemption orders required to operate late hours are a massive, unwieldy burden placed on operators seeking to extend their hours. It is hard not to perceive them as almost a form of punishment.

I am glad the motion references the importance of developing a viable 24-hour public transportation network. That is fantastic. The roll-out of a 24-hour bus service is welcome but unfortunately progress has been rather slow. I note most of the new BusConnects spines have some 24-hour routes but the NTA should clarify whether it will introduce a 24-hour service on existing routes in the meantime. A 24-hour service has been on the agenda for years and the public deserve a roadmap for when they might be able to avail of it. Public transport that runs 24 hours a day is not only an essential ingredient of a vibrant night-time economy but it is also essential for providing workers and revellers with a safe and affordable way home. Taxis make up an important part of our public transportation ecosystem, especially at night, but unfortu-

nately the shortage of taxis in the capital is evident and people are often left stranded and unable to get home, or are forced to walk long distances feeling unsafe.

One section of the motion that is particularly appealing is the granting and renewal of licences to operate being contingent on operators' adherence to employment law. Workers working in nightlife require real enforcement of their rights in an industry where issues such as precarious work, sexual harassment and illegal unpaid trial shifts are often common. Linking compliance to the ability to operate would give employment law real teeth.

I did not make it to Senator Warfield's briefing on the motion today, though my parliamentary assistant was there, but he noted Senator Higgins made an excellent suggestion that licences also be tied to compliance with anti-discrimination laws. I hope she will talk more about this. This would be really welcome, given the persistent issue with racist refusals of Travellers and other ethnic minorities at licensed premises. In their submission to the review of the equality Acts, the Free Legal Advice Centres and the Irish Human Rights and Equality Commission both highlighted that while the Workplace Relations Commission is supposed to handle anti-discrimination cases in the first instance, these refusals are dealt with in the District Court under the Intoxicating Liquor Act 2003. This makes it more difficult for victims of discrimination of this type to access justice. This disparity needs to be reformed. Conditioning licensing on compliance with non-discrimination law would help reduce discrimination in the first instance.

I welcome that the Government has demonstrated a commitment to supporting artists and creatives. The basic income for artists pilot scheme is evidence of that and is very warmly welcomed but there needs to be a much more ambitious and forward-thinking approach to revitalising Irish nightlife and creating a vibrant, diverse and community-oriented cultural sector. This motion definitely presents a comprehensive and creative intervention into the debate on licensing reform and the revitalisation of nightlife. I say "Well done" again to Senator Warfield and welcome all our guests to the Chamber who have put lots of work into this motion. I have no doubts about it; this motion has my enthusiastic support.

Senator Paul Gavan: The Minister is very welcome. I welcome all the campaigners. It is great to see so many people in the Gallery this evening. A couple of Senators from the Government side were at the meeting today but those who were not missed a hell of a meeting. The message was powerful. It was a very vibrant meeting but there was a very stark message at the same time. It was that people in arts and culture are choosing to leave our country at the moment. They are choosing to leave because there are no venues and no access to dance space. To quote one of the participants, we do not have social infrastructure. That is a pretty stark thing to say. He went on to say we are bound into the pub system and we need to diversify the social infrastructure. It is so right.

The great thing about our motion, which Senator Warfield deserves all credit for, is its broad nature. We are talking about a whole host of measures to try to change and expand our night-time economy and ensure there are protections built in there at the same time. In Limerick city centre we have no late-night cafes. We have no cinema in the city centre. We have very little in the way of nightclubs. When I came home 30 years ago we had all those things, so we have gone backwards in Limerick.

Late-night transport is a massive issue. Right now, to get out to Castleconnell from Limerick costs €25 to €30 in a taxi. That is one way. Going to Newport costs around €25. Therefore, the means of actually coming in to support nightlife in city centres is not there when it comes to

transport. Again, that is why transport features so prominently in this motion.

I express some disappointment to the Minister about the amendment. Perhaps she can expand on why the Government has elected to drop so many of the really good points Senator Warfield makes in the motion. For example, he calls for the increased use of the national cultural institutions licence. He calls for a new licence for not-for-profits, including for one-off events. He calls for new locations in districts to be identified where nightlife can thrive, a scheme to support late-night entertainment in cafes and more options for alcohol-free events.

What is so disappointing about the Government amendment is it only calls for one thing, which is reform of the licensing laws. With the greatest respect, the Government is kind of missing the point. The people in the Gallery are saying the matter is much broader than that. I appeal to the Minister because it is a pity in the last day of term, if one has to divide the House. I cannot see anything in our motion any reasonable person would object to. I am sure the Minister is not going to object to the call for premium pay after 11.30 p.m. Surely, every one of us subscribes to that. I am sure she does not object to the call for compliance with employment law. Every one of us supports that. I am therefore genuinely at a loss. I was actually shocked. I spoke to my counterpart on the whip side in Fianna Fáil this morning. I said I cannot believe the Government tabled this amendment. We are having a very good debate and there is not too much that divides us across the Chamber. Yet the Government has chosen to remove most of the important calls in the motion and I cannot for the life of me see why. In Limerick, we need to look at using our theatres, museums and State institutions and at how we can open them up in the evening, change our nightlife and broaden out how we deal with our economy and change it for the better. I am genuinely at a loss. I appeal to the Minister, genuinely and in all honesty. I presume she does not object to the increased roll-out of 24-hour bus routes in Dublin city, yet this was dropped in the amendment to the motion. What message does it give the people in the Gallery that the only measure she is calling for in the amendment to the motion is the reform of the licensing laws? It just does not make sense to me and I appeal to her. We are not here to have a row with the Minister this evening. We are here to try to build a consensus about how important it is to revive our night-time economy. I appeal to the Minister to join us in a cross-party way, as we often do in the Seanad, and ensure we get the right results for all of us.

It is important to address the issue of workers' rights. The Minister will know that in the food services industry, in 2020, there was a 32% level of breach of employment law and €327,000 in stolen wages in one year. That is before I add the amount on the beverage side of things. Therefore, we have a problem. We also have a problem in that seven out of ten workers in the broader hospitality area get paid less than €12 an hour. Let us use this opportunity, when we re-engage with and rebuild the night-time economy, and make it vibrant and fit for the 21st century, to make sure we do not leave the workers behind. That can be done in the same way the Government is trying to do it in the childcare sector via a joint labour committee. We can use sensible means of engagement with employers, trade unions, and young workers, and ensure we lift standards for all involved, because the night-time economy has to work for everyone, including the workers themselves.

Senator Fintan Warfield: Hear, hear.

Senator Paul Gavan: In a spirit of genuine compromise and conciliation, I ask the Minister to have a good look at Senator Warfield's motion. I have to be honest; I have not heard anything from colleagues across the House with which I disagree. I ask the Minister to agree to the motion so that we can all walk out of the Chamber this evening on the one page with the

one call and in support of the actions she will, hopefully, take to ensure we have a new, vibrant and energetic night-time economy. Please work with us, Minister.

Senator Alice-Mary Higgins: I start by welcoming the Minister to the House and indicating my support for the motion. I add my voice to that call. It was a pity to see a Government amendment to the motion being put forward, given that so much of what we have heard has been in agreement. Senator Warfield's motion opens by directly acknowledging the positive elements in the Government motion. It literally opens by welcoming the report of the night-time economy task force and welcomes the programme for Government commitments around licensing laws and the review of those policies. That is already openly welcomed in the Sinn Féin motion and it was a generous approach to acknowledge these positive elements. It then teases out what that might mean in a very constructive way. It is a real pity that the Government put forward an amendment to the motion that effectively replicates the first two lines of the Sinn Féin motion and then loses some of the other aspects, which I will not focus on because others have spoken so well on them. Other Senators have mentioned the important issues about workers' rights, discrimination and employment law in terms of licensing, and transport. I will pick up on a couple of aspects that are very important.

In terms of the licensing laws, it has been said that special exemption orders are really inappropriate, including the involvement with the court system. The Minister knows how often we talk about the overlaid court system. The idea of having to move through the court system in terms of licensing is a wasteful measure. These exemption licences can cost €400 a night for only a couple of hours. What that means is that the kinds of activities for which licences are extended need to be such that they maximise the financial delivery of a business. The important and constructive suggestion that non-profit spaces could diversify and be able to have club nights and dancing as part of what they do was discussed. It is also important that nightclubs are able to put on events that do not have to maximally squeeze profits. There should be a diversification within nightclubs so that they may have, for example, youth evenings, DIY nights, and nights that represent niche musical interests that are important to people, their identity and their community. There should be an annual nightclub licence that gives nightclubs the flexibility to be imaginative and creative and to respond to the needs and ideas of the communities around them, which is very important. Within that, it is important that recognition is given to the need for space to be given to it being at a sufficiently affordable level whereby there can be night-time activity that is not up against the wire with costs and, as others mentioned, has flexibility in terms of hours so that it works to serve different communities. That is an important part of inclusivity, whereby everyone is included rather than everything pushing towards and only being pitched at the narrowest demographic with the maximum return.

I have spoken to the Minister, Deputy Catherine Martin, in the past and in great length about *l'exception culturelle*, the idea that cultural activity is in fact not solely commercial but is a right and part of participation. This aspect has been recognised by the EU. Nightlife is part of that cultural activity. There is something very particular about dancing because it leads to co-creation of a night. Those who are part of it create the experience together. We talk a lot about sport and its importance for mental and physical health. For me as a young person, dancing was - and still is - my physical activity which was crucial to my mental and physical health. It is important in the context of the body and consent, ownership and enjoyment of one's body and engagement in a community. We have, sadly, moved backwards in that regard. People talk about Coco's nightclub in Tallaght. Now, some 70,000 people are without a nightclub. People talk about The Castle nightclub in Galway and nightclubs in Ballinasloe. A strong point was

made earlier in that we have moved backwards. People in the Chamber talk about how the geography of places that we share and in which we meet one another is an important form of communication that is now gone. It has not just moved backwards since the 1990s. It has moved backwards since the 1950s and 1960s when people could dance until 2 a.m. or 3 a.m. in a small town in Ireland and that was where people met one another. This is a very important issue.

I will conclude on a crucial area of planning, which has not received as much focus. The Government amendment refers to the impact of clubs on residents. Let us also look at the impact of development and planning on nightclubs, dancing and cultural spaces. We need to look at the agent of change laws that have been introduced in other places, so that we do not have a situation in which a hotel goes up near an area that has cultural activity, starts complaining and trying to constrain it. The provisions of soundproofing grants for clubs is a positive measure but there also need to be requirements on those who build in an area with cultural activity so that they plan for, acknowledge and accept that cultural activity is part of the area.

When we think that the number of nightclubs has fallen from 522 to 85 and that nightclubs are no longer local, there is also a safety issue. People should not have to travel into Dublin city to go dancing if they live in Tallaght or north Dublin. They should not have to travel and pay money to an extraordinary degree. They should be able to access nightclubs. I remember walking home from a nightclub in Galway as a young person of 18 years of age. That is the kind of activity that people should be able to do. That is part of safety as well. I urge the Minister to consider not pressing the Government amendment. If not, I hope at least that she will indicate in her response that she wants to take up the concrete, solid and well-thought-out proposals from Senator Warfield, the activists in Give Us The Night and all those across the country.

Senator Niall Ó Donnghaile: Gabhaim buíochas leis an Aire. Cuirim fáilte roimpi agus cuirim fíorfháilte roimh an rún tábhachtach atá os ár gcomhair anocht. Tá an-áthas orm mo thacaíocht a thabhairt don rún seo, a mholtar in ainm an Seanadóir Warfield agus in ainmneacha leath againn féin. I welcome the Minister to this important debate on this motion.

During his remarks, Senator Warfield said something that struck me. It might not be what people would expect it to be. He said that every day is a school day. We had quite the schooling at the briefing this afternoon. It was incredibly informative and beneficial in respect of what was presented to Members and staffers. It was not just in the context of the practical, mechanical and economic importance and benefits of what the night-time economy does, but also in respect of the societal, community and communal benefits, such as the health and well-being and prosperity that come from having vibrant, dynamic, healthy, supported, invested in and cherished cultural, artistic and creative sectors and communities. It does not matter where people happen to reside, whether in a large urban sprawl like Dublin, or in some of our towns and villages. Much of the time we come in here and talk about assets almost like commodities and simply through the prism of the capitalist economic construct, but one of our greatest assets is the breadth, depth and wealth of talent, creativity and cultural expression we have right across all our Thirty-two Counties.

While we have talked, and we will talk further, about the practical, mechanical things we need to get right yet in this regard, we must also understand and appreciate, as I know we do right across this House, that this endeavour is not just about those economic benefits; it is also about our broader collective, societal well-being. Let us, for example, look at the context of Covid-19. Let us look at when we could not go out, even if there had been the availability of the kind of night-time offerings we are advocating. What did people do then? People started

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to organise Zoom quizzes. They yearned for connectivity and not just connectivity through picking up the phone, checking in with other people and asking whether they were all right. People wanted to have a bit of craic and banter and to see their friends. If we could do that in abundance when we were essentially in lockdown, I cannot understand why we would not create the space to do so now. We know the benefits these activities brought all of us. Why would we not now create the space, the facilities and the ability to provide that kind of connectivity in the broadest possible context out there? We must create flexibility in licensing. There is no doubt about this aspect. We must also get the bedrock foundations right in this regard. When we do that, and I say “when” because I am confident there is a willingness across this Chamber to do it, and when we get those bedrock essentials and mechanics right, we must then have some trust and hand this process over to the creatives. This may seem hard, difficult and a bit scary to some people, but we must let things happen organically. We must allow things to grow and flourish.

While I have the time, I wish to try to make my contribution relevant. I will touch on some of my experiences in Belfast, where I was a councillor for several years. I sat on the licensing committee of Belfast City Council, which issued and granted entertainment licences. Until the recent advent of the reforms led by the Communities Minister, Deirdre Hargey, the administration of liquor licences primarily resided with the courts. That was okay because as people have rightly said, much of the time people were just looking for the ability to go somewhere. It did not have to do with drink. It was connected with a space being available beyond a certain set time, whether people wanted to dance, paint or whatever else. One of the big benefits I found when the licensing process resided at local government level was that the local councillors were accountable. They were not faceless or inaccessible. They also knew first-hand the benefits the cultural and artistic sectors brought to their communities. Therefore, they were invested in those sectors. They saw the economic benefits, of course, but they also saw the societal benefits. When Belfast hosted the MTV European Music Awards and brought the cultural and artistic world to the city, the global president and CEO of MTV told me that what had convinced him to come to Belfast over other cities was the fact that we had an edge. He valued that most and we must also value that facet. No matter where we are, whether in cities, towns or villages, it is so often our artists and creatives who give us that edge.

In the time afforded to me, I will speak briefly about Féile an Phobail and what a community, artists and creatives can do when they have drive and commitment. The year 1988 was a difficult one in respect of the conflict. It was a dark year. It was also a year when a community in the west of Belfast was branded as a terrorist community, as gangsters and as savages. That community said “No”. It said it was a community with a wealth of creativity and talent, including sportspeople, musicians, poets, writers, etc. Now, more than 30 years later, we have the largest community arts festival in Ireland in that part of Belfast. This is what communities and people can do. From 4 to 11 August, there will be thousands of events in that part of the city. The Minister will be very welcome to come and pay a visit to the west Belfast féile any time, as are our all colleagues right across the House.

I will finish on this point, because the Cathaoirleach is being very indulgent and I know we are over time. I do not want to get in the way of our visitors. I also do not want to get in the way of the vote in the Dáil for the Minister-----

An Cathaoirleach: Do not worry.

Senator Niall Ó Donnghaile: -----or indeed our visitors enjoying some nightlife. I am

sure they could be doing better things than being here. They have been very good for sitting through this debate so patiently. To the Minister, I say this can be done. In the North, we have proved that steps can be taken. There must be harmonisation right across the country in respect of how we approach this topic. As other colleagues have encouraged the Minister, I ask her not to divide the House on this motion. Let us vote on it and get it through.

Senator Paul Gavan: Well said.

An Cathaoirleach: I ask the Acting Leader to propose the suspension of the House until the Dáil has completed its vote.

Senator Ollie Crowe: I propose the suspension.

An Cathaoirleach: Is that agreed? Agreed.

Cuireadh an Seanad ar fionraí ar 9.47 p.m. agus cuireadh tús leis arís ar 10.08 p.m.

Sitting suspended at 9.47 p.m. and resumed at 10.08 p.m.

10 o'clock

An Leas-Chathaoirleach: It is my pleasure to call the House to order and to welcome the Minister for Justice, Deputy McEntee, to address it on this important topic.

Minister for Justice (Deputy Helen McEntee): I will start by apologising. When I was walking out, somebody said to me that I was “saved by the bell”, but anyone who knows me knows this is a topic I really want to talk about and respond to. In fact, I am really pleased that the last debate to which I will contribute in this term is on the night-time economy. I thank Senator Warfield for putting forward this motion, especially given the very difficult period the night-time economy has gone through, not just over the past number of years but in particular throughout Covid-19. While I am speaking on my own behalf and as Minister for Justice, I also want to stress as a member of this Government that this Government acknowledges the significant contribution the night-time plays in our economy as well as socially and culturally and how it can bring vibrancy to our towns and cities and how important it is to each and every one of us. I particularly acknowledge those in the Visitors Gallery, the Give Us The Night campaign. There are many in this sector who have campaigned tirelessly not just for this sector to survive but to thrive and grow. I support them in ensuring we get to that point.

I will respond to the questions around the countermotion. As Minister for Justice, I can only respond on the work I am doing in my Department and the work that is ongoing in other Departments and the platforms that have been put in place to try to deal with many of the issues Senator Warfield outlined in his motion. It is not that I do not agree with them; there are many that I fully support.

Speaking on behalf of all my colleagues, I cannot commit to each individual action but what I can commit to and what I set out in our countermotion are the mechanisms and the platforms and the ways in which we can achieve so much of what the Senator has set out and much of what I know many in the Visitors Gallery want us to achieve.

I say this as someone who has worked in a family bar, in a family restaurant and in late bars and nightclubs in town, many of which are, unfortunately, closed, including the Bernard Shaw and the Twisted Pepper. I have worked in bars and clubs abroad. A considerable complement

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of my friends work in this sector, own their own businesses, are promoters or DJs, or artists, manage different events, or are otherwise involved. I have also attended many events. Similar to Senator Higgins, my only exercise for approximately ten years was dancing. It is, unfortunately, not the case anymore, but I get it. I get what this sector has been, what it is now and, really, what it could be.

We need to protect and support it. I mentioned the difficult few years through which everybody has gone in this sector. I acknowledge, in particular, Covid-19, because no sector was impacted more or closed for longer. We, as a Government, tried to respond to all businesses and individuals and support in whatever way that we could, through the employment wage subsidy scheme, EWSS; the temporary wage subsidy scheme, TWSS; the Covid restrictions support scheme, CRSS, payments; or direct payments to individuals, businesses and owners.

There was the removal of the sectoral employment orders, SEOs. I get how disappointing it is that they have been reinstated. The reason for that is that every emergency measure that we put in place, except what is now for long-term illness of those with Covid working in the health-care sector, has been revoked and removed because of the situation in which we find ourselves. That is not to say that we will not find ways to support the sector in this upcoming budget, and also in other ways that I will outline.

Our programme for Government includes the establishment of a night-time economy taskforce, something that many colleagues and I fought for but, because of our engagement with Mr. Sunil Sharpe and many who are here who have campaigned for this for many years. The Minister, Deputy Martin, established this in 2020. We also have a commitment in this to modernise our alcohol and licensing laws. I was very pleased to find myself in a situation, in the Department of Justice, where I now have an opportunity to do that. It is a major priority for me and I am absolutely committed to it.

I will respond to one of the comments by the Senators about why we were not ready to go. A considerable amount of work has happened to even get us to this point. I remember, in publishing my justice plan 2021 last year, setting out the work that we were doing in reforming licensing laws to get us to that point. The question I was asked was why I was talking about later licensing when pubs were not even open. Considerable work has been done, even through a difficult period when bars and nightclubs were closed and there were no cultural offerings for anybody.

The general scheme of the new sale of alcohol Bill, which will put in place significant reforms, will be ready for submission to Government in September. The general scheme will be brought forward in one of the first Cabinet meetings when we return in September. The intention is to move it through the various stages as quickly as possible; it can go to the Oireachtas Committee on Justice for pre-legislative scrutiny, we can get that report back as quickly as possible and I can engage, not just with colleagues here, but in the Dáil and with the sector, which has been considerably engaged to date. I look forward to that discussion.

The changes that we are proposing invigorate the night-time economy. I will briefly touch on how we have gotten to this point and will get into some other areas of work that are being done and have been committed to by other Departments. We gave approval on 15 September 2021 for the drafting of the general scheme of the sale of alcohol Bill. I am happy to say that considerable work on consolidating and reforming the licensing laws is at an advanced stage. We hope to have the general scheme in September.

This is an area where there are many different views. There are many different opinions throughout society. Given that this has been attempted a number of times and was introduced almost 15 years ago, we need to make sure that we take different views and perspectives on board. However, this cannot just become a debate about how late some places open, serve alcohol, or other issues around which the debate so often revolves.

Last November, I launched a wide-ranging consultation to seek the views of the public on the modernising of Ireland's licensing laws. This ran until 21 January and looked at how we could update our licensing laws in the best way possible; governing the regulation of the sale of alcohol and, above all, making sure that we provide choice, options and opportunities, not just for those working in the sector, but those who want to avail of what it has to offer.

As Senator Warfield pointed out, this probably received one of the highest numbers of submissions in terms of public consultation or engagement. We received more than 5,000 responses. That points to the fact that this is a really important issue for many people who wanted to have their say. We have taken all of those views on board. We have had to take time to go through those submissions and we have taken them into account in developing the legislation.

In March, I hosted a consultation webinar to look at the reform of licensing laws. It brought together a number of key stakeholders, some of whom are represented in the room. I will not say it was a lively debate. It was a very informative and important discussion which took on board many different views from many different people in various sectors. The discussion is now feeding into the draft legislation that we are working on and which we will have ready coming into the autumn.

There has also been intensive stakeholder engagement - and a process held by the night-time economy taskforce - with interested parties who had a significant role in the night-time economy. Some 100 stakeholders from different community organisations including businesses, industry, civic society, the cultural sector, sporting organisations and residents groups were invited to submit their views. A number of them presented their views to the taskforce in a series of meetings between December and February of this year.

Considerable work has happened to even get us to this point. While Covid was happening and it was a truly awful time for many in the sector, there was work being done to make sure, insofar as possible, that we would be making progress when we came through on the other side and would have structures in place and ideas, plans and reforms ready, or as near ready as possible, to try to support the sector to reinvigorate, re-energise, expand, grow and thrive.

The Minister, Deputy Martin, brought her report to Government in September last year and it was published pretty soon after. It pointed to a significant demand for diversity of offering and flexibility in the operating environment. It has 36 actions which look at quite a broad range of issues. It is not just about licensing. It looks at the challenges that are facing the development of a vibrant night-time culture and economy, including regulations, licensing laws, transport and the diversity of cultural activities. Most important, however, it looks at finding practical ways to try to put in place solutions to help cities, towns, villages and those working in the industry, to help our artists, entrepreneurs and young people, who are already facing multiple challenges to find and develop new opportunities. It is about supporting those in the sector, but opening up new opportunities for many others, as well.

A range of supports and measures from the Department of Tourism, Culture, Arts, Gael-

tacht, Sport and Media and across other the Departments have been rolled out already for sectors which contribute to the night-time economy. The issues raised in this motion were all discussed. They were considered as part of the night-time economy taskforce. Many of these, as Senators and those in the gallery will appreciate, are complex issues. I am not saying that to say that we cannot do them, just because it is difficult - quite the opposite. Government, in working with industry, Departments and agencies, is absolutely committed to trying to deal with those issues, many of which have been outlined in Senator Warfield's motion. Those issues are part of the work of the taskforce and of other agencies, groups and bodies that have been set up to try to deliver on. We are absolutely committed to trying to deal with them.

Access to space and venues for accessing space and cultural activity at night was one of the key issues that was highlighted by the report. A number of actions have already been agreed to try to address this. The Arts Council is committed to facilitating arts and cultural event spaces to work together and to facilitate more use of publicly-owned cultural buildings and heritage sites for events and it will host a forum to encourage new initiatives and partnerships in that space.

Our national cultural institutions, NCIs, have already stepped up to the plate, on foot of the report. There are major new pilot events in the National Concert Hall, the National Museum of Ireland, the Irish Museum of Modern Art, all of which are happening this year, which will open up these spaces to alternative events and later-night activity. There is a series of later openings across a number of the NCIs, which will see them open up their space to other different types of events, into the evening time.

With regard to alcohol-free events, Senators have touched on the fact that it should not be just about venues that serve alcohol. The Minister, Deputy Martin, recently announced, as colleagues have pointed out, a night-time-economy support scheme with a fund of €2.6 million. This is not specific to venues where there is no alcohol. It is about supporting and developing a thriving night-time economy and an environment in our cities and rural towns and in licensed and unlicensed premises. It is about attracting people into our towns and cities later at night and creating a range of cultural activities in various types of venues. Strand B of the scheme includes cafés. Dry bars, local galleries and other non-licensed premises are premises that would fit into that category.

A dedicated workshop was also held on 11 May, to understand and determine the range and practical scope of planning and development-related actions that can support the night-time economy. Again, that speaks to Senator Higgins's point.

One of the issues examined was noise management, and how to mitigate adverse effects on local residents. There were also discussions within the group on the development of clusters or districts of night-time economy activities, and potential changes and opportunities associated with this. A report from that workshop is being prepared and will be submitted to the night-time economy implementation group, and will be considered after that. The National Transport Authority and the Department of Transport were also key members of the task force. In their actions and proposals they have committed to support different types of transport offering, where possible on a 24-hour basis, or expanding where transport is not available and making sure we have it not just in our capital city but in our rural towns and villages. As someone who comes from a rural area, I know that trying to get home from Kells at 2 a.m. is next to impossible. It is really important that this is not only about our major towns and cities but that it is also about our rural towns as well.

We need to improve safety. That is not just about transport, although making sure people can get home safely is a huge part of it. We need to make sure that it is safe for audiences, venues, performers and staff. I refer to creating safe spaces in which people feel welcome first and foremost and where they are respected and comfortable, while also promoting our culture and what Ireland has to offer not just nationally but also on the international stage. This is a personal priority for me and something I have identified and included in a number of actions, having just brought forward the third national strategy on domestic, sexual and gender-based violence. Separate to that, we have a task force implementation group which recently invited the HSE's national social inclusion office to present on its harm reduction strategies in the night-time economy. There are further plans for practical collaboration, including in respect of specific events. Electric Picnic has been identified as one of these, but this is something that would then expand into other events and areas. In addition to this, we have over 380 venues across all sectors of the night-time economy that have registered their staff for vulnerability training this year, which is very welcome. This was supported by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Deputy Catherine Martin, and her Department. It is also supported by industry, local authorities, An Garda Síochána and the Department of Justice.

As I mentioned, we launched the Zero Tolerance strategy, our third national strategy on domestic, sexual and gender-based violence. This is about making safe spaces for people as well as making sure that as a society, we do not tolerate any type of sexual, domestic or gender-based violence in any shape or form, be it at home, in the workplace or on a night out. The strategy commits to the development and resourcing of safety audits and action plans in line with the night-time economy task force. The intention here is to have safety audits embedded in the planning process and rules within our local authorities in the same way age-friendly plans are embedded in local authority plans for developing our towns and cities. This will most likely be done in partnership with the local community safety partnerships which we are developing and piloting. Assessment would be done by local authorities in consultation with industry and local communities to identify the need and implement what is needed. That would be decided locally. In addition, the strategy commits to continue to take steps to increase the availability of public transport, again linking up with the commitment through the night-time economy task force. This means more taxis and making travel at night safer and more accessible to women but also to people who are potentially vulnerable later at night.

The Department of Justice is also developing a night-time economy charter. This is building on work that has already been done in Cork and other areas, committing industry to ensure it protects not just its staff but freelancers, volunteers, artists and patrons, making sure people are aware of the issues and know where to go and how to get help, and ensuring there is support for people who would potentially be vulnerable. This is a snapshot of the work that is being done at the moment. As others have mentioned, we have our night-time advisers. We have work being put in place through the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media to support artists specifically.

One of our Senators mentioned insurance. I have been developing amendments to the civil liability Bill to make sure there is an onus on individuals to take responsibility for anything that may happen to them on a premises so that the burden is not placed solely on the proprietor or business owner. That is very important for hospitality sector businesses. I have been given support by Government to progress that. I hope to have the Bill enacted by the end of the year.

There is a lot more we need to do. This is just the start although it is building on so much work that has happened in collaboration with many individuals in the sector. They do not just

see this as their livelihood but as a way of life. This is a passion for so many people. It is really important that we do everything we can as a Government to make sure the supports and resources are there, and that we create an environment in which this can flourish and grow and we will once again see, whether it is three nightclubs in our rural towns or whatever it is, that the option is there for people to have those type of venues if that is what our entrepreneurs and younger people wish for, and that there are spaces for our artists to play and for people to dance, to offer those various experiences.

I thank those in the Visitors Gallery for their campaigning and the work they have done over many years. I thank those who are not here and those who have committed their lives and livelihoods in providing that option for people. I also thank those who have provided so many memories for so many people. I would be here all night if I was to outline my memories not just from working in the hospitality sector but at the various events and festivals. It is extremely important that we do not just see this from an economic perspective but also from a social and cultural perspective, which is important to so many of us.

Returning to the issue of licensing, I have not outlined the detail of what is in it as some Senators may have expected. It is important, given that we have so many stakeholders involved, that the matter is brought before Government first and published. I absolutely commit to bringing forward this legislation in the autumn and to moving it as quickly as possible through the Houses to make sure the legislation is reforming and that it helps the sector not just to survive but to thrive.

An Leas-Chathaoirleach: I thank the Minister for her comprehensive response and join her in welcoming the representatives from the sector to the Visitors Gallery. I invite Senator Warfield to respond to the debate.

Senator Fintan Warfield: I will not use all my allotted time in making my concluding remarks.

An Leas-Chathaoirleach: Brevity is one of the Senator's hallmarks.

Senator Fintan Warfield: Thank you so much.

Senator Niall Ó Donnghaile: One of many.

Senator Fintan Warfield: I thank the Minister. While I do not support or agree with the amendment, I think there is more we agree on than is evident from it. I thank the campaigners, industry workers and promoters from some of the best venues in the city who run some of the best nights in the city. All of us want not just to protect what we have in our nightlife but to ensure that it thrives as a night-time economy and nightlife culture that live up to our reputation around the world as a country of music, song and dance. All of us can agree on that.

I welcome the Minister's commitment for a general scheme of a new sale of alcohol Bill in September. She says she will bring it to one of the first Cabinet meetings after the recess. It is our job to hold the Minister to account and I welcome the commitment she has made. That Bill will take many months to complete its way through both Houses of the Oireachtas and be signed into law. The industry does need budgetary measures and I ask the Minister to consider the waiving of the special exemption orders in the upcoming budget. That would be transformative for the industry.

So many issues have been raised tonight. I thank all the Senators who have stayed on and contributed to a really healthy debate. On transport, Senator Gavan and I were beating our heads against the wall. We put in a question to the Minister for Transport about 24-hour bus routes in Dublin, for example. We received a reply saying that the Minister's remit does not extend to the National Transport Authority. The National Transport Authority has to be accountable to someone and that is something we need to figure out. I thank the Minister for the commitments she has made tonight. We will hold her to account on them. I hope the amendment will not be pressed.

An Leas-Chathaoirleach: I thank the Senator for putting forward the motion and for his summation and the end. I also acknowledge his strong credentials in this area as a performing artist himself.

Amendment put and declared carried.

Motion, as amended, agreed to.

Deputy Helen McEntee: As I am only one Minister, I cannot commit to all of the others, but I think we agree on everything.

An Leas-Chathaoirleach: It is good that consensus has broken out, on this night, at the end of the term.

Cuireadh an Seanad ar athló ar 10.30 p.m. go dtí 9.30 a.m., Déardaoin, an 14 Iúil 2022.

The Seanad adjourned at 10.30 p.m. until 9.30 a.m. on Thursday, 14 July 2022.