

DÁIL ÉIREANN

AN ROGHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND RE- FORM, AND TAOISEACH

Dé Céadaoin, 23 Feabhra 2022

Wednesday, 23 February 2022

Tháinig an Romhchoiste le chéile ag 1.30 p.m.

The Select Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair / Members present:

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| Teachtaí Dála / Deputies | |
| Mick Barry, | |
| Pearse Doherty, | |
| Bernard J. Durkan, | |
| Mairéad Farrell, | |
| Sean Fleming (Minister of State at the De- partment of Finance), | |
| Jim O'Callaghan, | |
| Neale Richmond. | |

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

**Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill
2021: Committee Stage**

Chairman: Today we are dealing with the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021. I welcome the Minister of State, Deputy Fleming, and Mr. John Fitzpatrick from the Department of Finance to the committee. Does the Minister of State wish to make an opening statement?

Minister of State at the Department of Finance (Deputy Sean Fleming): I thank the Chairman. I welcome the opportunity to appear before the committee with regard to this legislation. There was wide cross-party support for the need for this legislation during the Second Stage debate.

Essentially, the Bill aims to bring under the authorisation of the Central Bank financial products of which most people are very well aware and familiar with. One such product, the personal contract plan, which many people have, is widely used in the motor trade area for financing car purchases.

The second concerns where people perhaps buy household appliances, be they refrigerators, sofas or televisions, in shops that have buy now, pay later schemes with which most people are also familiar. Until now, however, they have not been authorised by the Central Bank. In the interests of consumer protection, we want those types of products and their providers to be authorised by the Central Bank. That is the essence of what we are doing today. There are some amendments to be put through following on from our Second Stage debate.

SECTION 1

Question proposed: "That section 1 stand part of the Bill."

Deputy Pearse Doherty: I will speak to section 1 and to the provisions of the Bill more broadly. As the Minister of State said, this is a Bill I support. We hope the Minister of State will adopt an amendment later in terms of buy now, pay later schemes. I welcome a late amendment from the Department of Finance with regard to bringing those types of products under the regulatory framework, which is really important. I must say at the outset that it is a little bit frustrating that four years have passed. It is four years or more since I called for regulations on personal contract plan products. I engaged with the Central Bank and Competition and Consumer Protection Commission, CCPC, at that point. Indeed, the CCPC had issues and concerns about this for a number of years before that.

We need to find a way to be able to act faster regarding the regulation of financial products. As the Minister of State indicated, there has been a massive increase in personal contract plans over the last number of years. Many customers are not fully aware of what they are fully signing up to in terms of the lack of credit checks but also that they cannot sell their vehicle if they fall into financial difficulties.

We will have an added challenge in terms of personal contract plans with regard to the transition to electric vehicles, EV. This very much needs to be carefully monitored and there

is further work to be done. Four years on, however, we are on Committee Stage and, as the Minister of State said, there is broad support for this Bill.

As I said, I welcome the fact that an amendment is coming in terms of purchase now, pay later schemes. This is another area, particularly with Klarna entering the market here late last year, in which we see from other markets, particularly in Britain and elsewhere, that there has been an explosion of credit in the use of this facility. Again, many people are not familiar with the impact this can have in terms of missing payments. We will discuss that later but I broadly support the provisions of the Bill.

Question put and agreed to.

SECTION 2

Chairman: Amendments Nos. 1 and 2 are related and may be discussed together.

Deputy Sean Fleming: I move amendment No. 1:

In page 9, to delete lines 24 to 26 and substitute the following:“

(c) either—

(i) the originator, sponsor or original lender of the securitisation, or

(ii) in the case of a traditional NPE securitisation, the servicer, where it can demonstrate that it has expertise in servicing exposures of a similar nature to those securitised and that it has well-documented and adequate policies, procedures and risk-management controls in place relating to the servicing of exposures as required by Article 6 of the Securitisation Regulation,

is required to retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 per cent.””.

I will give a short explanatory note if that is satisfactory. Amendments Nos. 1 and 2 amend section 2 of the Bill, which in turn provides for a number of amendments to section 28 of the Central Bank Act 1997. This is an important section of the Act as it sets out the scope of the Central Bank regulated businesses, including the regulated business of retail credit firms and credit servicing firms.

The amendments are necessary because since the Bill was published in June of last year, section 28 of the Central Bank Act 1997 was subsequently amended by SI 561 of 2021, that is, the European Union (General Framework for Securitisation and Specific Framework for Simple, Transparent and Standardised Securitisation) (Amendment) Regulations 2021. That statutory instrument was necessary to give full effect to the amended EU securitisation, that is, EU Regulation No. 2021/557, and the securitisation amendments of the capital markets security package.

If these two amendments are not accepted, it would essentially undo the changes to the Act which, as I already mentioned, were made last year by the statutory instrument. The amendments provide that the passive securitisation vehicles, which falls within the scope of the amended EU securitisation regulation, will fall outside the scope of the requirement to be authorised as a credit servicing firm.

Essentially, a statutory instrument was necessary over the course of the last year since this

Bill was published. We need to include this here otherwise that will fall. It is, therefore, almost a technical amendment.

Amendment agreed to.

Deputy Sean Fleming: I move amendment No. 2:

In page 9, to delete lines 40 to 42 and substitute the following:

“(c) either—

(i) the originator, sponsor or original lender of the securitisation, or

(ii) in the case of a traditional NPE securitisation, the servicer, where it can demonstrate that it has expertise in servicing exposures of a similar nature to those securitised and that it has well-documented and adequate policies, procedures and risk-management controls in place relating to the servicing of exposures as required by Article 6 of the Securitisation Regulation, is required to retain on an ongoing basis a material net economic interest in the securitisation of not less than 5 per cent.”.

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

SECTION 5

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

Deputy Pearse Doherty: Section 5 deals with transitional arrangements. Can the Minister of State clarify when this legislation will come into effect in all of its provisions, including, for example, the regulation of personal contract plans, requirement for credit checks and capping of annual percentage rate, APR, at a rate of 23%? The Minister of State might outline that for us.

Deputy Sean Fleming: Effectively, most of the Bill will have to have commencement orders. We want to do it as soon as possible. As soon as the legislation is passed by the Oireachtas, we will immediately discuss with the Central Bank the timing of the commencement orders. As we speak today, frankly, we do not have a date for the commencement orders of this section other than to say it will be done as quickly as possible, in consultation with the Central Bank, once it passes through the Oireachtas. We do not have the commencement dates today. All I am in a position to say is that it will be as soon as possible.

Deputy Pearse Doherty: Okay.

Deputy Sean Fleming: I understand the Deputy; it was a good question.

Deputy Pearse Doherty: I appreciate what the Minister of State said, in fairness, but “as soon as possible” could potentially mean four or five years away in reality. As I said, we have been calling for this for four years now. Much work has been done and there have been many reports. We had the Tutty and CCPC reports. The Central Bank has been carrying out reports as far back as 2018.

Surely, as we are passing legislation, there is some understanding within the Department of

Finance and Central Bank about when it might possibly come into effect. There must be some understanding somewhere. I appreciate the Minister of State may not have a specific date but does he expect that all provisions in this legislation will be enacted this year as a starting point?

Deputy Sean Fleming: It is a fair question. There have been discussions with the Central Bank and no delays are envisaged. Until it passes through the Oireachtas, however, we cannot tie that down. The Bill passes from here to the Seanad and we hope it will be well cleared through the Oireachtas very soon. The only commitment I can give is that I will be happy to come back and provide information on an exact timetable within six months of the passing of the legislation when the issue may well have already been dealt with. However, I will not let it go for longer than six months from the passing of the legislation without a specific report back on the timetables. Six months is reasonable. I am just giving that commitment to the select committee.

Deputy Pearse Doherty: I appreciate that commitment, but I might come at this from a different point of view. As legislators who are asked to pass legislation that we support, it is reasonable that before this legislation is passed, we have an indicative timeframe as to when various sections will be commenced. It would be quite normal to have that understanding. While there might not be a specific date in the Bill, there would be an indication that it is envisaged that it would be in the third or fourth quarter of the year. If possible, can the Minister of State obtain that information before Report Stage?

Deputy Sean Fleming: I was just about to say that I will give a commitment here that we will address that matter on Report Stage. I do not envisage that that will be too far away in the Oireachtas schedule. It is a point that we will seek to clarify before Report Stage.

Deputy Pearse Doherty: I thank the Minister of State.

Question put and agreed to.

Sections 6 to 8, inclusive, agreed to.

SECTION 9

Deputy Sean Fleming: I move amendment No. 3:

In page 14, line 21, to delete “Minster” and substitute “Minister”.

The purpose of this amendment is to correct a typographical error at line 21 on page 40.

Amendment agreed to.

Question proposed: “That section 9, as amended, stand part of the Bill.”

Deputy Pearse Doherty: This section deals with the publication of information by the Central of Bank as directed by the Minister. Is it envisaged that this will be annual occurrence? What is the intention behind this? This is enabling amendment to the existing legislation, but what is the intention behind it? Is it that there will be an annual report? I ask the Minister of State that while they may include statistics on where we are with personal contract plans, PCPs, and other relevant information, that the Central Bank should be asked to look at this market in the context of transition to electric vehicles as well. As the Minister of State will know, there is a bill of payment that customers have to pay at the end. If the value of the car drops because the market is not there, there could be concerns for providers and individuals who have availed of these contracts. It is important that we have some analysis on it, given that this market is

absolutely huge and is likely to continue to grow. That needs to be looked at, particularly in view of where we need to go in terms of moving away from fossil fuels.

Deputy Sean Fleming: I will read the note that I have on this section, which will deal with the Deputy's point. The section provides that the Minister for Finance may request that the Central Bank, using the powers under the Central Bank Act, to collect and publish information on credit hire purchase agreements, including PCPs and consumer hire agreements, or services provided by retail credit and credit servicing firms. This will facilitate the publication of additional statistical data on the level of financial accommodation that is provided by the regulated businesses where the Minister considers that there is need for such additional data. The Minister will use this power where there is a need to do so in consultation with the Central Bank. The amendment will allow for a collection of publication of data either on a once-off or an ongoing basis, as provided in this section. However, the amendment makes clear that this does not apply to personal data or to firm-specific data that is not otherwise relevant in the context of the provisions of section 33AK of the Central Bank Act 1942, which generally prohibits the disclosure of confidential information, except in specific circumstances.

The Minister has the power under this section either to request information on a once-off basis or on an ongoing basis where he or she feels there is a need to do so. There may not be a need. The Central Bank, separately under the legislation, can, on its own initiative, produce this report without a request from the Minister. This means that the bank has the authority to do it under the legislation and the Minister has the authority to ask for a report if and when the need arises. It could be more often than every six months, or it might not have to happen very often at all. It is only when the Minister deems that a need arises.

Deputy Pearse Doherty: My second point was on how this market is going to operate in the years ahead. Basically, people are not purchasing cars; they are hiring a service. They do not own the cars and they never will own them unless they pay the bill of payment at the end of the contract. There are a number of options at that point. Given the size of this market, it is important to have some analysis. Maybe there are no concerns at all. Because we are trying to encourage more people to move to electric vehicles, however, the second-hand market for diesel and petrol vehicles will shrink. As a result, an analysis of how this will market transition and where we want people to go is going to be important.

Deputy Sean Fleming: I understand what the Deputy is saying. We all know that electric vehicles are substantially more expensive than other vehicles that are currently on the road. Therefore, there will be a dual difficulty here. People are going to want to change sooner in order to go carbon neutral and there is also the high cost of new cars. I have not addressed that particular issue yet. It may be something we can explore further on Report Stage. I have no specific information on the transition to electric cars in the context of this debate. If I were to say anything further, I would only be speculating. We will make a note to address that more in more detail on Report Stage.

Deputy Pearse Doherty: I appreciate that.

Chairman: Would it be possible to get a note regarding PCPs?

Deputy Sean Fleming: Yes.

Chairman: Could we get a profile of someone switching from a petrol or diesel car to an electric vehicle and how that might be the impact on that individual? Many people do not un-

derstand the issues that Deputy Doherty has raised in relation to PCPs. They will come to the fore as this transition happens, and if it is to happen. Could the Minister of State provide some modelling on that in due course?

Deputy Sean Fleming: Yes. What I will say is that the Department of Finance would not have direct answers. Much of that would be available through the motor trade. However, will endeavour to talk to whichever Department and whatever is the relevant agency in the motor trade, perhaps the Society of the Irish Motor Industry. Various organisations which may have information. We will assemble what we can, but it will not be information from the Department.

Chairman: That would be helpful.

Deputy Sean Fleming: The other point is, as everybody knows generally with the PCPs, the cars with the high mileage, such as those outside of the urban areas are the ones that give rise to a big difficulty at the end of the period. This is because some of contracts are based on annual mileage. Some people in urban areas feel that these cars are great. However, people who are doing 40,000 to 50,000 km per annum in their cars have a specific difficulty at the end of their PCP agreements. In addition, the electric vehicle issue is another new element. We will endeavour to see what information we can obtain through Government sources. When we get that we will send it on to the committee.

Chairman: That mileage is also a guesstimate from the very beginning for the purchaser. If the Minister of State would just give us some-----

Deputy Sean Fleming: We will endeavour to get what information we can.

Deputy Bernard J. Durkan: Before proceeding, I have a question on cars and on the availability of electric cars in urban areas as opposed to rural areas. Is there any information about the availability of cars to meet the needs of the person who has to travel more than 40,000 miles per year? How do they fare in the market at present? Are they encouraged to go for electric cars, which, in turn, will reduce their carbon emissions and help us to meet our carbon requirements? Can the Minister of State give some information on that?

Deputy Sean Fleming: All I can say, and I would like everyone in the room to hear this, is that the Department of Finance has no particular knowledge of or is not a fountain of knowledge on this matter. Through the Society of the Motor Industry of Ireland, we will try to obtain what information we can. We try to get information. When some people talk about electric cars, they might be referring to hybrid cars that run diesel and then switch to running on an electric charge. Some hybrid electric cars that can be plugged in at home have a diesel or petrol engine, so it is not a question of all electric or all diesel. The question of whether a vehicle is plug-in hybrid enters this equation. All I can say is that we will try to see what information is available from the motor trade, taking those complexities into account. I cannot give any guarantees as to the quality of the information we will get back from the industry but we will seek it. It is in the industry's interest to give it as this legislation is passing through now.

Deputy Bernard J. Durkan: There is very little information available at all on the degree to which all-electric cars can be relied upon. I am not referring to hybrid cars but to all-electric cars. The information is not available and the motor industry does not have it. If it does, it is selective. The industry will tell you that if you travel more than 40,000 miles per year, an electric car is not the answer to your problems. We have nowhere else to go. We have nowhere to

get information other than the industry. Do we have a plan to have a certain number of electric cars in the country by a certain time? We are supposed to. Do we have the capacity to generate electricity to meet the requirement?

Chairman: I do not think that is part of the Bill.

Deputy Sean Fleming: I do not have that information. There is probably another Oireachtas committee that can deal with the issue of electric cars and transition arrangements. All we are dealing with here is the financing of the PCP products, which can involve any car, be it electric or non-electric. The type and model do not concern the Department of Finance; it is dealing with the regulation of the finance package and benefits for consumers.

With regard to talking about cars, I am well outside the boundaries of the Department of Finance. We will just assemble what information we can. It might be through some other mechanism in the Oireachtas that the information the Deputy seeks will be found.

Chairman: That is fine.

Deputy Bernard J. Durkan: Let me finish off.

Chairman: No, I am finishing off.

Deputy Bernard J. Durkan: I do not normally drag on meetings. The Minister of State's answer is not satisfactory. We do need to have the information available to us because we will be accused of dealing with the issue in a half-hearted way. I am not blaming the Minister of State by any stretch of the imagination but simply saying that if the information is not available, it should be. It should be made available to the committee.

Question put and agreed to.

Section 10 agreed to.

NEW SECTION

Deputy Sean Fleming: I move amendment No. 4:

11. Section 3 of the Act of 1995 is amended, in subsection (2), by the substitution of the following paragraph for paragraph (e):

“(e) credit granted or made available without payment of interest or any other charge, other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit.”.

The purpose of this amendment is to ensure that buy now, pay later, BPL, credit agreements provided to consumers through advertising, including such agreements that do not levy interest or impose any other charge on a consumer, will fall within the scope of the Consumer Credit Act and that the providers of those agreements will fall within the scope of Central Bank regulation.

A seller of goods that advertises interest- and cost-free credit already falls within the scope of the legislation but there is concern that credit providers may not. This amendment will remove any doubt on this matter. Some providers provide credit to the shop but not directly to the customer. A consumer buying a domestic appliance, bed or another product by way of a BPL arrangement deals with the shop, but the shop may not be providing the credit because a credit

provider may be dealing with the shop. It is a question of ensuring the latter is captured within the legislation. That is the purpose of the amendment.

Deputy Pearse Doherty: The amendment changes the original subsection (e), which concerns the sale of a product. It is no longer a matter of the sale of a product — which entails the shop — because the shop is not providing the credit at all. The amendment captures the credit provider that makes credit available by way of advertising to consumers. In some cases, it is the shop that advertises rather than the credit provider.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: The shop is not captured in this measure because it is the credit provider that is captured. Does the Minister of State know what I mean? Consider the example of buying a jacket in Topshop for €100 through a BPL arrangement where that arrangement is advertised by Topshop although Klarna provides the credit. Klarna will not have advertised its services. Since it has not invited customers to avail of credit through advertising, is it still captured under the definition?

Deputy Sean Fleming: Where the seller of the goods, the shop, advertises interest- and cost-free credit, it already falls within the scope of the legislation. The doubt is over whether the provision of credit to the shop by the company the Deputy referred to is covered by the original legislation. We are introducing the amendment just to make sure the provider falls under the authorisation of the Central Bank.

Deputy Pearse Doherty: I understand that but there are two key points. One concerns the conditions under which the credit provider would fall under the scope of Central Bank regulation, whereby it has to invite consumers to avail of credit by way of advertising. My concern is that the credit provider is not offering the invitation or doing the advertising; it is the shop that is doing the advertising.

Deputy Sean Fleming: Correct.

Deputy Pearse Doherty: It is subcontracted so the provider has not done it. In that case, does it fall under the scope of the legislation?

Deputy Sean Fleming: Yes. Ultimately, we want to capture the credit provider who provides credit to the shop. That credit is ultimately passed on to the customer, who may not be aware that there is a credit provider. The amendment is to make sure there is recourse to the credit provider, not just the shop, which-----

Deputy Pearse Doherty: I understand that. Forgive me if I am wrong but I believe that when you enter an agreement to buy the jacket in Topshop, you are entering into a credit agreement not with Topshop but with Klarna. Therefore, the credit provider-----

Deputy Sean Fleming: Could the Deputy say that again?

Deputy Pearse Doherty: When you buy the jacket for €100, as in the example I gave, and pay in instalments over a three-month period, you are not entering into an agreement with Topshop but with the credit provider. The credit provider is not providing credit to the shop. I agree 100% with the proposal but am concerned about the conditions under which the credit arrangement falls under the scope of the Central Bank if there has been an invitation, by way of advertisement, to avail of such credit. I am just wondering whether there is a way by which the

credit provider can say it is not advertising the service and that it is Topshop that is doing so.

Deputy Sean Fleming: I believe we are *ad idem* on this regarding the customer in the shop. The customer who buys something in a shop may be told to pay for it now and at the end of one, two and three months, not aware that credit is being provided to the shop. This is where the arrangement is solely between the customer and the shop. Klarna or any other such company is not involved in any transaction involving the customer. I am referring to where the customer is aware the product he or she is buying has been partly financed by a finance company, through credit to the shop, but where there is no connection between the customer and that actual credit provider. It can work both ways. One can buy something through an arrangement with a credit company through a shop. Now some shops make it much simpler in that they actually arrange the credit themselves. They are in credit and the customer is not part of that credit arrangement. The proposal is to make sure the company providing credit to the shop but not the customer is captured under this legislation. I am referring to where there is no contractual link between the customer and credit provider. Where there is a link between the shop and the credit provider that the customer might not even be aware of, it will now be captured. I hope I am making myself clear on this.

Chairman: Regarding the company that Deputy Doherty is speaking about, the customer is aware because he or she has opted to use its services. It is that company that is offering the individual the credit. Therefore, that person knows the credit terms being offered, whether by Klarna or another such company. The Minister of State is discussing circumstances where there is some form of arrangement with the merchant that the customer is not aware of. I mean that the customer would be made aware of that by the merchant-----

Deputy Sean Fleming: Not necessarily.

Chairman: -----because the customer would have to be told what the credit terms are on the purchase of the item.

Deputy Sean Fleming: The first group that the Chairman mentioned is already captured in the legislation.

Chairman: Yes.

Deputy Sean Fleming: So everything that the Chairman spoke about in the first instance, where there is a credit agreement, is already captured. This is an amendment where there is cost-free credit. So there is no credit charge. One just goes in and if it is €1,000 then one pays €333 today, €333 at the of the month and €333 at the end of month two. There is no credit charge. None. It is actually being financed by a credit company to the shop to give that price. There is no interest being charged to the customer. The price that the shop charges essentially has a built-in cost of credit but the consumer would not be aware of that. This amendment is to make sure that the provider of credit to the shop is captured under this legislation.

Deputy Pearse Doherty: We want to get to the same point. My only concern is the wording so I will go through this slowly. Let us forget about a shop so as not to mix things up. Let us forget about the scenario where the credit provider provides credit to the shop.

Let us look at Klarna, which is the biggest operator here. Klarna provides credit to a customer to purchase an item from a shop. This amendment will capture Klarna because the previous legislation said that it was the sale of a product. Klarna were not selling a product or jacket and only provided credit. This amendment is about the provision of credit so Klarna is captured

so far. The problem is that the amendment states “other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit”. That is my concern. Let us look at what happens in the market and at Asos, for example. It is not Klarna that invites people to take credit with Klarna but Asos. The credit is not being provided “by a person who has invited...”, it is the actual retail outlet. That is what happens in the market here and that is why I am concerned.

I am looking at advertisements. It is the shops which ask people whether they want to pay with Klarna and, if so, they have two options to either pay now or spread payments over a certain period. It is the shop that invites the person and that shop is not the credit provider. So the credit provider can say that is fine but I am not, as is stated in the amendment, “a person who has invited, by way of advertisement, consumers to avail of such credit”.

Deputy Sean Fleming: I can confirm that the legislation captures people who provide credit and the people who advertise the provision of credit. So the provider, Klarna, is captured under this legislation. All of the credit providers are covered.

Deputy Pearse Doherty: Where is the credit provider unconditionally captured under this legislation? I ask because it is conditional in the amendment, which very clearly states “other than where such credit is granted”. Let us say one goes into a corner shop for a loaf of bread and a pint of milk but one asks the shopkeeper to record the amount in a book or put it on tick or says one will pay for the items next week. Those people are not captured in the legislation. The people who are captured are “other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit”. The problem here is that when Topshop invites customers to get this credit it would be captured but Topshop would not because it has not made any credit available and Klarna, potentially, would not be captured here because it made the credit available but did not invite anybody personally to avail of the credit because the shop did so. That is my concern.

Deputy Sean Fleming: I will read the wording of the amendment as I think that will help. It states, “credit granted or made available” so everyone is covered if they make credit available. The amendment continues, “without payment of interest or any other charge, other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit”. So it is one or the other and both are captured.

Deputy Pearse Doherty: No. With respect, the Minister of State must look at the amendment that has been put forward in the context of section 3 of the original Act, and I do not have it in front of me, which specifies those that are captured under the Central Bank regulation and it has a number of exemptions, and exemption (e) refers to those who are exempt from the regulation and states: “(e) credit granted or made available without payment of interest or any other charge”. That is where someone is buying milk and bread from a corner shop but saying to the owner that one will pay next week or ask for the sum to be noted in a book. That scenario is exempt.

What is not exempt is “other than where such credit is granted or made available by a person who has invited, by way of advertisement, consumers to avail of such credit”. So if the corner shop advertised that customers can get interest-free credit on shopping then they would be captured in the same way as Klarna. That is what the intention here is. The problem is that it is connected with the advertisement and it has to be the person who invites it through advertisement that is captured.

If the officials in the Department and the Central Bank are comfortable with the wording, given what we have teased out, then I am happy. However, I wish to take this opportunity to say that I think there could be an issue in terms of who advertised the products. This is common standard. Klarna is not the one that advertises. It is the shops that advertise. There is a window on the shop's website where one can avail of the Klarna credit but Klarna does not advertise the credit.

Deputy Sean Fleming: I understand that. What is excluded from the legislation, which the Deputy has talked about, is what we call the informal credit. I mean where a person buys something in a shop on tick and pays the money at the weekend or at the end of the month. Those types of informal arrangements where there is no interest charged are the types that have been excluded up to now and do not prevent the shop from giving credit. They are the ones in the exemption that has been referred to. We do not want to interfere with that type of business because that is how people operate. Agreeing to buy something now and paying it off at the weekend is excluded.

I can confirm that the officials have said that they have gone through the wording of this provision specifically with the Central Bank and the Department of Finance. They are totally satisfied with the particular wording of the amendment and I can supply further clarification.

Deputy Pearse Doherty: I ask for that in the context of how the market is operating, particularly in Britain; Klarna is only here since November.

Deputy Sean Fleming: Yes.

Deputy Pearse Doherty: I would like to know how this operates in Britain. There are numerous websites which show that it is not Klarna that advertises or invites. Klarna is neither inviting nor advertising and, therefore, it is not included under this section. It is the shop that invites and advertises and the shop websites provide a window or gateway to Klarna but it is not Klarna that advertises its products.

Chairman: Am I correct to say the following? Klarna does its business with the merchant. The person who wants to use Klarna knows of the product and has bought that product, in a sense, from Klarna because they are using the service to pay the merchant plus they do not pay any charges or interest. It is a deal between Klarna and the merchant.

Deputy Pearse Doherty: There is a deal between Klarna and the merchant.

Chairman: If the merchant advertises the fact that the business accepts Klarna then that is not advertising the credit. It is advertising the fact that it accepts the services provided by Klarna.

Deputy Pearse Doherty: It is the business that invites people to access the Klarna service, not Klarna. When one purchases items online in Topshop or whatever, it is Topshop that advertises that people can buy through Klarna. It is not Klarna itself.

Chairman: Yes. My point is that in the context of the legislation what the Deputy has said is captured in the fact that Klarna has already made an arrangement with the client or its customer that they are available.

Deputy Pearse Doherty: No.

Chairman: I mean that they are part of Klarna and are joined up like a credit card.

Deputy Pearse Doherty: No. The text of this amendment states that “a person”, which is Klarna in this case, “has invited, by way of advertisement, consumers to avail of such credit”. I am saying that it is the retail outlets that actually advertise and invite.

Chairman: It is a wording that captures that part of it so that the merchant does not get away with it. Is that correct?

Deputy Pearse Doherty: It is just to make sure that there is no scope for somebody to say that they did not invite or advertise their service.

Deputy Sean Fleming: I will read one note. I am happy to provide further information subsequently. The intention of the entire legislation is to capture the direct and indirect providers of credit. That is the essence of it. Nevertheless, there is a concern that in a slightly different context, interest-free and cost-free buy now pay later, BNPL, credit which is advertised or provided or both by an entity other than the seller of goods to consumers will still fall outside the scope of the 1995 Act, and consequently, also outside the proposed scope of Central Bank regulation. I am referring to companies, such as Klarna, that are not the providers of the goods, and are advertising that they will provide interest-free and cost-free BNPL credit. It is where the finance company is advertising. The amendment is designed to capture those companies that are advertising directly and publically and not the sellers of the goods. We have been discussed the situation where the seller of the goods does the advertising. This refers to the situation where the financing company itself advertises directly. There is a concern that this was not captured previously. For example, some BNPL providers may not charge interest or other costs to a consumer for the credit which is used to purchase a good but instead charge the retailer a commission on the sale of the good. For example, Klarna could have an arrangement that it will not charge interest but gets commission back from the retailer in lieu of interest. We feel that those companies were not captured by this legislation. That is why we have brought in the amendment.

Chairman: Deputy Doherty’s point relates to the situation where the retailer is advertising.

Deputy Pearse Doherty: I know the purpose of the amendment, which is exactly as the Minister of State has set out. My point here that we must ensure that the language and text of the amendment is tight enough to ensure that regardless of which entity - the credit provider or the shop - is inviting or advertising, the credit provider is captured under this amendment. That is the concern.

Deputy Sean Fleming: The real concern here is from the consumer’s point of view. Under the arrangement that I have just mentioned, there is no credit being charged along the line. The shop is going to pay commission back to the credit provider. There is no interest charged anywhere in the system. While such credit may not come at a cost to the consumer, there is nevertheless a concern that the consumer, if not adequately assessed, could overborrow. We do not want consumers going around several shops and doing this and building up unsecured debt. The concern is that some consumers could overborrow and may have difficulties in meeting their financial commitments. This is to help prevent overborrowing. Therefore, it is considered prudent to address this matter and ensure that any person which advertises the provision of BNPL credit to consumers, including interest- and cost-free BNPL credit, will fall within the scope of the Consumer Credit Act and within the scope of Central Bank regulation. Really, we are talking about the practice whereby companies are providing the funding indirectly, no interest is being charged to the consumer, the shop is not charging the consumer any interest or credit, and the finance provider is not being paid by way of interest, but is being paid through

commission from the shop. We are concerned that if that practice escalates, people might overborrow. The best way of preventing that is to ensure that the provider of that credit falls under the scope of the Central Bank regulation and the Consumer Credit Act. There will be the normal credit checks in relation to the credit that people are building up. We cannot do that-----

Chairman: So, is Deputy Doherty buying the jacket?

Deputy Pearse Doherty: With respect to the Minister of State, we know all of that. The problem is that if Klarna does not advertise its services, it does not fall under the scope of the Central Bank regulation, under which the Government and all of us want to bring it. It is conditional on advertising and inviting the person to take up the credit. I am going to leave it at this point. A note would be helpful to ensure that there is tight language. Maybe it is already done. However, from what I see in terms of the way it is written, there probably could be an area where companies such as Klarna could say that they do not advertise, because it is actually the retail website that advertises. In Britain, it is the retail website that advertises the credit. For example, if a customer goes onto the Topshop website, they will be asked if they want to pay by Klarna. It is the Topshop website that advertises it. The customer clicks the button and it takes them to Klarna and a back office that is not advertised. That is the problem. If it is conditional on advertising and inviting the person in, I think it would be worth going back to officials in the Central Bank or whatever to make sure that it should not be contingent on whether it is Klarna or the shop that advertises - it should be captured. That is the intention of the legislation.

Deputy Sean Fleming: I would be happy to do that. We will get the note back to the committee as quickly as possible, well before Report Stage. What we are capturing here is the providers of credit that are invisible in the system. There is no advertising. The companies that advertise are already captured. We talked about the situation where the seller of the goods is advertising. There could be an arrangement between the shop and the finance provider whereby the provider does not charge interest but charges commission and there is no advertisement involved. The purpose of this amendment is to ensure that the credit provider is also captured under this legislation. We will provide a note to the committee.

Chairman: How stands the amendment?

Deputy Pearse Doherty: I agree with the amendment; I just want to make sure it is tight enough. I think it is a very positive amendment.

Chairman: Have you bought the jacket, then?

Deputy Pearse Doherty: I am definitely not doing it through Klarna. I will discuss that later on. It is not just about what the Minister of State said. There are other issues with Klarna, but we will come to that.

Amendment agreed to.

SECTION 11

Question proposed: "That section 11 stand part of the Bill."

Deputy Pearse Doherty: This is related. Section 11 ensures that the APR provisions apply to credit and hire purchase agreements. The Central Bank may make regulations to amend the method of calculation. Later, we will deal with the fact that APR is capped at 23% for these services, which I support. At least it is being brought into line with other services. Going back

to the example of Klarna, it offers interest-free credit up to a point. If you miss a payment, you are penalised. The APR that Klarna charges is way above 23%. Does section 11 include the groups that we have now included in the regulation of the service? What happens is that late payment fees are charged in relation to this. It is not just about bad credit checks or people borrowing too much. People are heavily penalised. Most of the customers are students or people on low income. At a time of high inflation, this makes matters worse. Klarna is just here and is new to people. It is a different way of money lending. It is fine if the customer is making their payments but a study that was done in Britain showed that one third of millennials who have used BNPL credit have been charged late payment fees. The study showed that the customers are 18 to 24-year-olds, over one third were 25 to 34-year-olds and some were even over 65. Many are students trying to get through college, and so on. These late payment fees can be as much as 40% of APR. Where does the APR fit in relation to this? How are these fees regulated under section 11?

Deputy Sean Fleming: On the question raised by the Deputy on late payment penalties, we are dealing with the APR as taking all the costs of credit into account. It is on the basis that the contracts are implemented and honoured. This legislation does not deal with situations where there is a default in those payment arrangements. To my knowledge, it does not give comfort to people who default on their loan or finance agreements. It is strictly based on the APR, which is based on taking the total cost of credit to the consumer expressed as an annual percentage rate into account. It does not cover mechanisms to deal with defaults in the contractual arrangements.

Deputy Pearse Doherty: So, there is no limit on interest that can be charged when a customer misses a payment?

Deputy Sean Fleming: There is on the loan. If a customer defaults on the loan, it would be a commercial arrangement between the company and the person who has taken out the loan. Late penalties do not fall within the scope of the APR that we are dealing with here.

Deputy Pearse Doherty: That takes me to an amendment that I will move later. This is a major issue in terms of how people are going to access credit and the heavy penalties that will not be captured under this legislation, which is consumer protection legislation. It is good that we are regulating them, but there is a big issue on which I have an amendment later that I ask the Minister of State to support. I thank him for the clarification.

Question put and agreed to.

Section 12 agreed to.

SECTION 13

Question proposed: "That section 13 stand part of the Bill."

Deputy Jim O'Callaghan: Section 13 introduces new sections into the 1995 Act - 28A and 28B. It requires that a creditor providing a moneylending or hire purchase agreement cannot do so at a rate above 23%. Could I ask the Minister of State about the remedy that is available to the consumer in this circumstance? In section 28A(3) and 28B(3) there is a novel and interesting proposal which says that a creditor who charges more than 23% cannot enforce the agreement. If somebody charges me 25%, the remedy is that he or she cannot sue me for the money, which is great, but the second paragraph in the subsection states: "Provided that if a court is satisfied in any action that a failure to comply with the aforesaid requirement was not

deliberate". Do we mean here that the remedy will not apply if it is simply a mistake and that if a creditor provides an agreement which has 25% and says he or she never realised there was a 23% prohibition, that he or she will be able to avail of that?

Deputy Sean Fleming: I am advised that those matters are already addressed in the consumer protections Acts. I do not think anybody would accept a finance company did not understand the product it was selling. There are provisions in separate legislation already on consumer protection. As I stated in response to the previous issue where there is default or people do not make the payment, issues like that are already covered in other legislation but not this particular Bill.

Deputy Jim O'Callaghan: Is it the case that it is not an offence then for somebody to deliberately impose a rate of interest above 23%? If it is not an offence, would such a failure by the creditor come within the remit of the Central Bank to impose administrative fines?

Deputy Sean Fleming: I am advised that a breach of this section would be an offence that the Central Bank can deal with in the normal course of events.

Deputy Jim O'Callaghan: By imposing administrative fines.

Deputy Sean Fleming: Yes. The Central Bank has authority if there is a breach of the legislation.

Deputy Jim O'Callaghan: I thank the Minister of State.

Question put and agreed to.

Section 14 agreed to.

NEW SECTION

Deputy Sean Fleming: I move amendment No.5:

In page 17, between lines 18 and 19, to insert the following:

“Amendment of Schedule 5 to

Social Welfare Consolidation Act 2005

15. Schedule 5 to the

Social Welfare Consolidation Act 2005 is amended, in paragraph 1(4), by the insertion, after “an tÚdaras um Ard-Oideachas,”, of the following: “the Central Bank of Ireland, when carrying out its functions in relation to the Central Credit Register,”.”

The purpose of this particular amendment is to include the Central Bank, in the context of its operation of the central credit register, on Schedule 5 of the Social Welfare Consolidation Act 2005. Schedule 5 lists the public bodies which may collect and use a person's PPS number for a public purpose. While such a listing is not a necessary requirement for the processing of PPS numbers by the Central Bank in relation to the central credit register - as the statutory basis for that use of PPS numbers in relation to the CCR is already contained in the Credit Reporting Act 2013 - the Central Bank nevertheless indicates that its inclusion in Schedule 5 would have a number of additional benefits for the operation of the CCR. These include access to PPS number validation tools operated by the Department of Public Expenditure and

Reform, which will help improve the accuracy of the processing of PPS data for CCR purposes, and that it will also provide for increased transparency in relation to the processing of PPS numbers for CCR purposes. It improves efficiency, but all the protections in regard to the PPSN system are not impacted. It is an improvement in the administrative efficiency of the central credit register with the full rigours of protections that people have in respect of data protection. The Central Bank has an agreement, as have all Departments, with the Department of Public Expenditure and Reform and the Department of Social Protection on the use of PPS numbers.

Deputy Pearse Doherty: How will the Central Bank obtain the PPS numbers of individuals who are on the central credit register?

Deputy Sean Fleming: It would be normal for people to provide details of their income on any application for finance, including their PPS number.

Deputy Pearse Doherty: If a person is buying a car, for example, will it now be required for a PPS number to be provided to the Central Bank to go on the central credit register? Is that correct? What about the loans of existing customers? Is this just a provision for future loans or will there be a bulk transfer of PPS numbers to the Central Bank?

Deputy Sean Fleming: It is already a requirement to provide a PPS number when a person is applying for a loan from a regulated body. The proposed change is to include that information on the central credit register that will be operated by the Central Bank.

Deputy Pearse Doherty: The information is provided to the financial institution or credit provider when a person is taking out a loan, but it is not provided to the Central Bank. This is a new system for the provision of the information. Will there be a bulk request for the PPS numbers of all the existing loans or will it just happen going forward?

Deputy Sean Fleming: It is already required that the information would be provided and what this allows is for the Central Bank to verify the information through the Department of Public Expenditure and Reform or the Department of Social Protection. The information is coming in, but it now allows the Central Bank to verify it, if it feels the need to verify it, with the Department that issues the PPS numbers. It is a double check back to where the PPS number originated from that it is a valid number in case somebody put in a false PPS number or there was an error in it. There is now a method for the Central Bank to validate the PPS number through the central credit register. That is essentially what is being done here.

Deputy Pearse Doherty: I appreciate that. It is an amendment. It was not part of the legislation. It was not discussed and it is quite technical. If I go to buy a car through a PCP tomorrow morning and I provide my PPS number to whoever I am buying the car from, that is now going to be provided to the Central Bank. What will the Central Bank do with my PPS number? Will it contact the Department of Social Protection and ask if the number assigned to Pearse Doherty is an accurate, valid number? Is that before or after the credit is provided to me?

Deputy Sean Fleming: While this is not a necessary requirement at the moment for the processing of PPS numbers by the Central Bank or by credit information providers in relation to the CCR, as the statutory basis for that use of PPS numbers in relation to the CCR is contained in the Credit Reporting Act, the Central Bank nevertheless indicates that the inclusion of the CCR on Schedule 5 would have a number of additional benefits for the operation of the CCR as it would offer potential improvements in data accuracy through access to PPSN validation tools maintained by the Department of Public Expenditure and Reform. The belief is that it could

provide a greater level of improvement of data accuracy by including it here.

Deputy Pearse Doherty: Until now the Central Bank cannot get access to PPS numbers because, under law, it is not included in Schedule 5 of the Social Welfare Consolidation Act. That will now change with this amendment. I am curious about what they are going to do. The Minister of State, Deputy Fleming, said that they are going to check the PPS. Is that what is going to happen, for example, if I go to buy a car?

Deputy Sean Fleming: No. The Central Bank has access to that information, but they did not specifically up to now.

Deputy Pearse Doherty: Did they have access to PPS numbers?

Deputy Sean Fleming: Yes, when people had applied for a loan. But they did not specifically list in Schedule 5 the use of it for the central credit register. That is it. They want to make sure that they have the ability to include it on their central credit register also, under section 5. They have the authority but they are being specific. They want to be able to include it here. It is not part of the loan authorisation. It is part of data verification, if the needs arise. If a wrong PPS number comes in they can verify it. The verification method was not part of the loan application process. It will be part of the gathering of information that the Central Bank is doing with the information coming into it, so they have a way of verifying the information. It is not part of the loan agreement.

Deputy Pearse Doherty: I would very much welcome a note on the issue and what the Central Bank will do with the PPS numbers in terms of the central credit register.

Deputy Sean Fleming: I am happy to provide that. It is really so they can verify it back with the issuing Department because there can be mistakes in PPS numbers, and I believe that we all know that.

Deputy Pearse Doherty: That leads me to the question I asked at the start. If I go to buy a car now, does the Central Bank check with the Department of Social Protection for each loan that it is a valid PPS number?

Deputy Sean Fleming: No.

Deputy Pearse Doherty: Well, the Minister of State said it is about verifying the PPS number with the parent Department. It would be helpful to get a note on what the Central Bank will do with the data.

Deputy Sean Fleming: Their gathering of the information is a separate process and is connected to the granting of the credit. It is gathering information they have on the file so they can do the types of reports the Deputy had suggested earlier on, and that they would have valid and accurate information. The information is not needed as part of the regulatory and reporting function, and it is not part of the credit authorisation function. We will send a note as promptly as possible.

Deputy Pearse Doherty: On amendment No. 5, which deals with the central credit register, as I pointed out to the Minister of State, some one third of individuals actually miss their repayments under buy now, pay later financing. The Money Advice and Budgeting Service, MABS, has done a report on this issue in the past and there have been studies across the water in relation to this. How will this affect people now with the central credit register?

Deputy Sean Fleming: They would be captured under existing arrangements in terms the central credit register mechanism, now that these come in under it. Up to now those arrangements would not have been authorised by the Central Bank, and now they will be from here on in once the legislation is commenced.

Deputy Pearse Doherty: So, consider the student who goes to buy that jacket. As far as I know - and correct me if I am wrong - the central credit register has a minimum application anyway, which I believe is €500. It would have to be an expensive jacket. Up until now, if that person missed a payment he or she would not have it appear on central credit register, but from now on it will appear.

Deputy Sean Fleming: Loans below that will continue to be loaned outside of that reporting structure. We are not changing that level. If there is non-payment or default on those smaller loans, they are not captured under the current or this proposed legislation.

Deputy Pearse Doherty: What of multiple loans or purchases where people fall into-----

Deputy Sean Fleming: The Deputy is now giving a good suggestion as to the value of getting the PPS numbers so we can accumulate those loans. That information cannot be collected or verified-----

Deputy Pearse Doherty: It can. Of course it can. The information must be passed over. The central credit register has been operating for a number of years now without PPS numbers. I am not arguing the point, I just want to know what the process is with this amendment. I am, however, very concerned about the facilitation of credit to people who cannot afford it. I am also very concerned that, given what is happening with buy-now, pay-later loans and the level of default that is happening and particularly in the younger age group, they would have a negative credit history that will impact them when they try to go for other loans or a mortgage in future years. That is the problem.

There is a wider issue around these buy now, pay later loans. This is going to come with serious consequences for individuals, and those consequences were not there up onto now because they were not captured in the central credit register. The central credit register will follow them around for a number of years. The majority of those people, and including over 65s, would find it difficult to get a mortgage or other loans later in life. I am teeing up with the amendment later on, but we must deal with the buy now pay later loans.

Deputy Sean Fleming: They are still excluded for figures under €500 with regard to the central credit register. Those loans and defaulted loans under that are not captured currently and it is not planned that this would change either. That concern is there for people with small or multiple loans and it is not addressed in this legislation. As the Deputy has said, it is a broader issue across all credit institutions.

Deputy Bernard J. Durkan: With whom can the purveyor of the information, or those who seek the PPS number, share the information? Is there anyone else they can share it with? If a person is seeking a loan, perfectly legitimately, it may be that the information is already, in effect, in the ether.

Deputy Sean Fleming: The only people who can get that information now is the person can always obtain his or her own information, and the lender when it receives the application for the loan from an individual, or if they are restructuring an existing loan. They can only do it and access it in those circumstances; that is the lender on application or the restructuring of a

loan, or the individual who can always get his or her own information. They are the only two groups who have access.

Deputy Bernard J. Durkan: These are exceptionally extensive powers. Could others benefit if the information is used for another purpose? Given that the information required is the person's PPS number, such information is very much sought after by lending agencies. Is there any control over that?

Deputy Sean Fleming: There is. It is not specific to this. The Credit Reporting Act currently deals with that. Those measures are in place under existing legislation. As I have said, it is very limited, and the lender can only make a request for information when it has a current application for a loan. The lender cannot do it in credit checks for any other purpose, and only at the time when there is an application for finance or to restructure finance. They cannot do it at any time other than when an individual comes to them to seek a loan. They can inquire about that person's credit only at that point.

Amendment agreed to.

Sections 15 and 16 agreed to.

NEW SECTION

Deputy Pearse Doherty: I move amendment No. 6:

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

“Report by Central Bank on Buy Now Pay Later products

17. (1) The Central Bank shall, no later than six months following the date in which this section is commenced, present a report to the Minister for Finance examining Buy Now Pay Later products with particular reference to, but not restricted to -

(a) the current state of the Buy Now Pay Later products market including its component parts and recent changes in size and scale,

(b) possible trends and potential future pressures in the Buy Now Pay Later products market,

(c) to present an assessment of the benefits and harms evident or possible in the Buy Now Pay Later products market and those that may be expected as the Buy Now Pay Later products market develops,

(d) to compare international approaches, including regulatory measures, in response to the issues examined where relevant,

(e) make recommendations, as the Central Bank considers necessary or appropriate, to respond to the issues examined.

(2) The Minister shall, after receiving the report referred to in subsection (1), cause a copy of that report to be laid before each House of the Oireachtas.

(3) If the Minister does not accept any recommendation of the Central Bank in the report referred to in subsection (1), the Minister shall within one month of being presented with it prepare and lay before each House of the Oireachtas a statement of the Minister's reasons for not accepting it."

This amendment follows on from what I said about other concerns around buy now, pay later finance. The amendment calls for the Central Bank, no later than six months following the date on which this section is commenced, to present a report to the Minister for Finance, examining: the buy now, pay later products in the market, with particular reference to but not restricted to the current state of the buy now, pay later products market including its component parts and recent changes in size and scale; the possible trends and future pressures in the buy now, pay later products market; to present an assessment of the benefits and harms evident or possible in the buy now, pay later products market and those that may be expected as the buy now, pay later products market develops; and to compare international approaches, including regulatory measures, in response to the issues examined where relevant; to make recommendations, as the Central Bank considers necessary or appropriate, to respond to the issues examined.

The amendment also calls for the Minister, after receiving a copy of that report to lay the report before each House of the Oireachtas. If the Minister does not accept any recommendations of the Central Bank in the report the Minister shall within one month of being presented with it prepare and lay before each House of the Oireachtas a statement of the Minister's reasons for not accepting it. I tabled this amendment because there has been a huge increase in the buy now, pay later, BNPL, market. Just as we have seen with PCPs, we are seeing a large increase in this type of market. Indeed, it is increasing exponentially. This market is of particular concern at a time of rising prices. When somebody goes into a shop and decides to buy a flat screen television on a BNPL basis, for example, the situation is that up to one third of younger individuals will miss payments and will be penalised. This has an impact on their credit rating. Across the water, an average of one quarter of all adults who use BNPL services have failed to pay on time and that goes up to 35% for those between the ages of 18 and 34. Those figures are truly shocking but that is what is likely to happen in our market too, with significant consequences. We need to be ahead of the curve in relation to this.

As I mentioned earlier, over four years ago I called for regulation in relation to PCPs. PCPs, which account for hundreds of millions of euro of credit, have been unregulated for the last number of years. This legislation, when it passes with the support of the Houses, will deal with that issue. The BNPL market is now being regulated as a result of this legislation and that is to be welcomed. However, there are further issues that need to be looked at in the context of the impact this will have on the provision of credit and on consumers, particularly those on lower incomes as well as those who are not necessarily on a low income but who are younger and are taking the easy option to have the commodity here and now and pay for it over a period of time. The evidence suggests that those payments are not running smoothly, that the penalties are significant and that debts are just handed over to debt collectors. Those debts spiral and people get into a cycle. What this amendment does is task those who are best placed to deal with this issue with looking at this market, at the growth in the market, the opportunities and benefits it presents, as well as the negatives and to respond back if they deem it appropriate. Maybe they will say that everything is fine but if not, they are tasked with making recommendations. Under this amendment the Houses of the Oireachtas is asking the Central Bank to do that work and report within six months. I strongly encourage the Minister of State to support this amendment because there is a boom in the BNPL market which is giving rise to serious concerns relating to rising consumer debt and the consequences that can flow from that.

Deputy Sean Fleming: Deputy Doherty's amendment concerns BNPL credit products and it appears that its primary purpose is to cause a report to be produced by the Central Bank that would, having assembled and analysed the data sought, make recommendations to address the issues examined. Presumably the expectation is that, taking account of regulatory measures adopted elsewhere, there would be a recommendation to regulate BNPL providers.

This amendment is unnecessary and should be opposed because the Bill already provides for the regulation of BNPL credit providers. This is being done by widening the range of financial agreements which will fall within the regulatory scope of retail credit firms, from its current scope of cash loan credit agreements directly provided to customers to one which will also include deferred payment credit agreements directly or indirectly provided to customers. Therefore, this Bill will capture BNPL type credit. Furthermore, the Minister's own amendment No. 4 will also provide that interest and cost-free credit agreements, including interest and cost-free BNPL credit agreements, will also be within scope where such agreements are advertised to consumers.

On the slightly separate point in Deputy Doherty's amendment regarding information and data on the BNPL market, it should be noted that section 9 of the Bill inserts a new section 36EA into the Central Bank 1997 regarding the collection and publication of information on relevant agreements. In particular, it provides that the Minister may request that the Central Bank collect and publish information on credit and-or hiring agreements, which includes BNPL agreements, and such reports can be on a once off or recurring basis.

Furthermore, it should be noted that under existing legislation the Minister can seek reports from the Central Bank, such as under section 6A of the Central Bank Act 1942 and section 81 of the Consumer Credit Act 1995, and therefore there is no need to have sector-specific provisions in law to provide for this. Also, under the bank's supervisory powers the Central Bank can gather information as necessary without these specific provisions. This information can be gathered at the behest of the Central Bank itself, without this provision. The Minister, separately to this provision, can request the Central Bank to provide this information. Therefore, there are two mechanisms already in place to facilitate the collecting of this data and the publication thereof.

In addition, the Central Bank regularly appears before various Oireachtas committees in relation to the performance of its functions, including its consumer protection functions, and members of the Oireachtas can avail of the opportunity to closely question the bank on all aspects of its work. Regarding Oireachtas scrutiny of the Central Bank and the power of the Minister to seek this information, the Central Bank's supervisory powers already give it the authority to seek this information and publish it. Accordingly, it is considered that the specific amendment proposed by Deputy Doherty, while well intentioned, is unnecessary. I will be opposing the amendment on that basis.

Deputy Pearse Doherty: That is very disappointing, if not surprising. The irony is that Deputy Fleming, who is the Minister of State with responsibility for insurance, brought legislation before the House that only asks for a report on dual pricing. He then went on radio and claimed that he was going to ban dual pricing but he had no hand, act or part in that. He knows that it was me who made the complaint to the Central Bank. I sat down with the Governor and convinced him to carry out the study. The Central Bank published its report last year in terms of the way forward but the Minister of State did not even make a submission to the consultation process, unlike Sinn Féin. The Minister of State produced legislation that asks the Central Bank to give the Government a report on how it is going when it is finally implemented in July. This amendment is asking for the same thing. It is asking for a report not just on the specifics

contained in the legislation but also on wider issues in terms of the regulatory impact elsewhere, as regulators are clamping down on BNPL. If the Government wants to deal with this in four years' time, in the same way it has dealt with the PCP issue, that is fine. I am conscious that Fianna Fáil was not in government then but it supported the previous Government. It took over four years, since I began raising these issues, to bring forward legislation but we do not know that this legislation will have an effect this year.

Why would the Minister of State resist having a report of this nature? Indeed, a better response from the Minister of State and one which would be acceptable to me would be not to put this into legislation but to give a commitment to ask the Central Bank to provide a report on the BNPL market, its potentials, pitfalls, the international regulatory framework and any recommendations it sees fit to make. The bank might determine that there is a cause for concern here in terms of consumer protection and higher debt and it might determine that this market is going to grow based on what is happening elsewhere. On that basis, I press the amendment.

Amendment put.

| The Committee divided: Tá, 2; Níl, 5. | |
|---------------------------------------|--------------------|
| Tá; | Níl; |
| Doherty, Pearse. | Durkan, Bernard J. |
| Farrell, Mairéad. | Fleming, Sean. |
| | Matthews, Steven. |
| | McGuinness, John. |
| | O'Callaghan, Jim. |

Amendment declared lost.

Section 17 agreed to.

Title agreed to.

Bill reported with amendments.

Message to Dáil

Chairman: In accordance with Standing Order 101, the following message will be sent to the Dáil:

The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has completed its consideration of the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021 and has made amendments thereto.

The select committee adjourned at 3.01 p.m. until 1.30 p.m. on Wednesday, 9 March 2022.