

# DÁIL ÉIREANN

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AN ROGHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL  
SELECT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

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*Dé Céadaoin, 5 Nollaig 2018*

*Wednesday, 5 December 2018*

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The Select Committee met at 6 p.m.

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## MEMBERS PRESENT:

Deputy Mick Barry,	Deputy Fergus O'Dowd,
Deputy Pat Casey,	Deputy Eoin Ó Broin,
Deputy Darragh O'Brien,	Deputy John Paul Phelan ( <i>Minister of State at the Department of Housing, Planning and Local Government</i> ).

In attendance: Deputies Michael Collins, Catherine Connolly, David Cullinane, Michael Fitzmaurice, Noel Grealish, Danny Healy-Rae, Aindrias Moynihan, Eugene Murphy, Éamon Ó Cuív, Donnchadh Ó Laoghaire and Anne Rabbitte.

DEPUTY MARIA BAILEY IN THE CHAIR.

## Local Government Bill 2018: Committee Stage

**Chairman:** This meeting has been convened for the purposes of consideration by this committee of the Local Government Bill 2018. Before we begin consideration of the Bill, I propose to deal with some minor housekeeping matters. To ensure the smooth running of the meeting, any Member acting in substitution for a member of the committee should formally notify the clerk now if he or she has not done so. I propose that after two hours of consideration of the Bill, we take a short break for approximately ten minutes. At 10 p.m., if the debate is not concluded, I propose that we consider whether to continue with consideration of the Bill. Is that agreed? Agreed.

I welcome the Minister of State at the Department of Housing, Planning and Local Government with special responsibility for local government and electoral reform, Deputy John Paul Phelan, and his officials. I ask members to ensure their mobile phones are switched off or on airplane mode for the duration of the meeting, as they interfere with the broadcasting equipment, even when on silent mode. We will now proceed to consideration of the Bill.

Section 1 agreed to.

### SECTION 2

**Chairman:** Amendments Nos. 1 to 3, inclusive, and 25 to 28, inclusive, are related and will be discussed together.

**Minister of State at the Department of Housing, Planning and Local Government (Deputy John Paul Phelan):** I move amendment No. 1:

In page 6, to delete lines 11 to 16 and substitute the following:

“ “deposited map” means the map—

- (a) deposited on behalf of the Minister at the offices of the Department of Housing, Planning and Local Government situated at the Custom House in the city of Dublin, on 25 July 2018 for the purpose of the Cork boundary alteration,
- (b) described as having been deposited for that purpose, and
- (c) sealed with the official seal of the Minister;”.

Amendment No. 1 is a drafting amendment to the section, to insert an additional reference to the map as having been deposited in the Custom House on 25 July 2018 for the purpose of the Cork boundary alteration, and to reverse the order of the two paragraphs describing the deposited map in the published definition.

Amendment No. 2 provides for the amendment of the reference to section 17 in the definition of “financial settlement” to section 23, which is the appropriate section number based on Government amendments Nos. 69 to 72, inclusive.

Amendment No. 3 provides for the insertion of a new definition of “staff transfer plan” in the interpretation section. This relates to the new section 13, dealing with staff transfers and plans which is proposed for insertion in the Bill by amendment No. 25.

Amendment No. 25 proposes to insert a new section 13 about the staff transfer plan into

the Bill before the existing section 13 dealing with the transfer of staff. The new section deals separately with the staff transfer plan that the two local authorities will need to jointly prepare to facilitate the transfer of staff from the county council to the city council. Section 13(1) requires the two chief executives to jointly prepare a plan referred to as the staff transfer plan in the Bill, which was added as a definition to section 2 by amendment No. 3. It was added as a definition to section 2 by amendment No. 3. It sets out the numbers and grades who prior to the transfer day were assigned to the performance of functions in the relevant area, whether fully or partly. The proposal is to transfer staff to meet the staffing requirements for the relevant area.

There are different subsections relating to amendment No. 25. Subsection (3) requires that any disagreements on the preparation of the plan are to be referred to the oversight committee which will make a recommendation to the chief executives. If the chief executives fail to act in accordance with such a recommendation the Minister may give a direction on the matter under subsection (4), and in doing so, subsection (5) requires the Minister to have regard to the proportion that the population of the transferring area represents of the existing population of Cork County Council.

Subsection (6) requires the chief executives to comply with any such direction given by the Minister. Subsection (7) provides that a staff transfer plan may relate to classes of staff by reference to their grade or the operation of services by the local authority. Subsection (8) requires the two local authorities to notify the oversight committee of the making of the staff transfer plan. Subsection (9) provides that the chief executives can make more than one staff transfer plan.

Arising from the new section 13 inserted into the Bill by amendments Nos. 25 and 26, which replaces subsections (1), (2) and (3) and the published section 13 dealing with the transfer of staff with a single subsection which provides that the chief executive of the county council shall, after consulting with the city council chief executive, designate for employment by the city council the members of staff required to implement the staff transfer plan prepared under the previous section but for the purpose of meeting the staffing requirements in relation to the relevant area. Once the staff transfer plan is in place, indicating the numbers and grades required to transfer, the designation of the individuals concerned will be by way of volunteers initially and then on a last-in, first-out basis to make up any shortfall.

Amendment No. 27 reduces the notice period in the published section 13 (4) from five months to three months, or any shorter period agreed with the staff member concerned, and this reduction is being proposed at the request of both local authorities. Amendment No. 28 amends the published section 13 (5) because it is a county council chief executive function to make staff transfer designation.

**Deputy Donnchadh Ó Laoghaire:** Some of the next few groupings do not have that much in them and there is a lot to get through here so I do not intend to hold up proceedings. This is a small change although not a radical one from what was initially outlined, but it inverts the process to some extent in that both local authorities come up with the plan together, whereas in the original Bill there was an expectation that the city council would outline what it required. That said, the proposed method could work just as well. I am conscious that amendment No. 26 seems to indicate that once the process is completed, provided there is agreement between them, the obligation rests entirely on the county council to designate the staff who are to transfer. The potential for the Minister to interfere comes before that. Could we have a situation where generally it looks as if there is agreement but at the last stage of the process things are slowed down, although probably not permanently? This mechanism seems to vest more control

in the county council for the transfer of staff across to the city council than was previously the case.

I appreciate both local authorities probably feel the three-month notice period is necessary given that the timeframe is tight but is it absolutely necessary as three months is tight enough for an employee to change his or her responsibilities or, potentially, place of work, which might be the case especially for outdoor staff.

**Deputy Mick Barry:** I seek clarification on amendment No. 25, which relates to planning for the transfer of staff. That is a key, sensitive and important part of the changes and it is important that it would be done right. I could support amendment No. 25 provided that section 13 (7) and (8) in the original document are not replaced or deleted. I think that is the case but I am seeking confirmation from the Minister of State.

**Deputy John Paul Phelan:** I will answer the last question first. Section 13 (7) and (8) are still retained. They are not being deleted. The numbering may be different because of what we are inserting but they are not being taken out.

**Deputy Mick Barry:** Are they being replaced?

**Deputy John Paul Phelan:** No, they are not being replaced. In response to the question from Deputy Ó Laoghaire, what we are talking about is the transfer of staff from the county council to the city council. Originally, most of the emphasis was placed on the county council being the authority that was giving up staff and the city council was going to examine its staffing requirements to deal with the transfer of population. It has become apparent at various stages in this process that if we can get agreement between the local authorities themselves it is probably the best way to approach it. The purpose of the amendments is to place more emphasis on the fact that we are allowing them to come to their own decisions. What we have found in this process now that the discussions are getting into the nitty-gritty is that there is a lot more agreement than might have originally been expected given some of the comments that were made when the boundary maps were produced. We want to place the greatest possible emphasis in the legislation on allowing the Cork authorities to come to their own agreement, but we still retain various measures that I have discussed such that the Minister can ultimately become involved if there is not agreement.

**Chairman:** I am conscious that a vote has been called. Does that conclude the Minister of State's response to Deputy Ó Laoghaire?

**Deputy John Paul Phelan:** It does.

**Chairman:** I propose that after we make a decision on the amendment we will suspend the meeting to allow us to vote and we will return in approximately ten minutes. Is that agreed? Agreed.

Amendment agreed to.

*Sitting suspended at 6.20 p.m. and resumed at 6.40 p.m.*

**Deputy John Paul Phelan:** I move amendment No. 2:

In page 6, line 17, to delete "section 17" and substitute "section 23".

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 3:

In page 6, between lines 26 and 27, to insert the following:

“ “staff transfer plan” has the meaning assigned to it by *section 13;*”

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

## SECTION 5

**Chairman:** Amendments Nos. 4, 16, 17, 19, 21 to 23, inclusive, 64, 66, 73, 75, 76, 80, 84 to 86, inclusive, 90, 95 to 99, inclusive, and 101 are related and will be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 4:

In page 8, to delete lines 1 to 4 and substitute the following:

“(2) The Minister may give the chief executive of the city council or the chief executive of the county council such directions, in relation to—

(a) the performance of his or her functions under, or for the purposes of, this Act, the implementation of the Cork boundary alteration, as the Minister considers appropriate.”.

(b) the implementation of the Cork boundary alteration, as the Minister considers appropriate.”.

These are drafting amendments rather than substantive changes to the provisions. Amendment No. 4 replaces section 5(2) relating to directions of the Minister with a new subsection that spreads the content over two paragraphs.

Amendments Nos. 16, 17 and 19 are minor drafting amendments to remove superfluous commas in section 11.

Amendments Nos. 21 to 23, inclusive, to section 12 are technical drafting changes. Amendment No. 21 replaces section 12(2) with revised text that replaces “document” with “other instrument”, clarifies that the provision applies to instruments made by the county council and divides some of the content into two paragraphs. Amendments Nos. 22 and 23 move some of the content of the existing section 12(3) into a new section 12(4).

Amendment No. 64 is a drafting change to make the word “purpose” in section 19(2) plural and amendment No. 66 is a drafting change to insert the word “the” before “effective” in section 19(3)(c).

Amendment No. 73 replaces the words “in respect of” with the word “for” before the first occurrence of “municipal districts” in section 21(3). Amendment No. 76 has the effect of making the published section 23(3) applicable to interim polling district arrangements made by the county council only. Amendment No. 75 inserts an additional subsection (2) into the section that is essentially a repeat of the published subsection (3), except applicable to interim polling district arrangements made by Cork City Council only.

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Amendment No. 80 amends section 25(2)(b) by changing “after the transfer day” to “from the transfer day”.

Amendments Nos. 84 to 86, inclusive, reword the provisions in section 26. The effect of the first two of these amendments is to move the position of the words “in so far only as it is not inconsistent with this Act” in subsection (1). The third amendment rewords subsection (4) without changing the meaning or effect of the provision.

Amendment No. 90 is a technical drafting change to update the collective citation of the Housing Acts in the published section 28(3)(b) to include the most recent collective citation contained in the Residential Tenancies (Amendment) Act 2015.

Amendments Nos. 95 and 96 are two technical drafting amendments to section 29, the first of which changes the place within section 10(5) of the Local Government Act 2001 where the new paragraph referencing Part 2 of the Bill will be inserted and the second of which changes the order of the words in the first line of subsection 29(c).

Amendment No. 97 changes the reference to “Local Government Act 1991” at the start of the section 30 provision to use instead the abbreviation defined in section 2 of the Bill. Amendment No. 98 adds two commas to the provision being substituted for section 31(2) the 1991 Act. Amendment No. 99 adds the word “and” to the provision being substituted for section 33(4)(b) of the 1991 Act.

Amendment No. 101 to the published section 31 replaces “material change” with “material change of circumstances”, which is the full definition used in the Valuation Act section 3 provision in question.

Amendment agreed to.

Section 5, as amended, agreed to.

Sections 6 to 8, inclusive, agreed to.

SECTION 9

**Chairman:** Amendments Nos. 5 to 15, inclusive, 18, 20 and 24 are related and will be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 5:

In page 8, to delete lines 33 and 34, and in page 9, to delete lines 1 to 5 and substitute the following:

“9. (1) On the transfer day and subject to *sections 10 and 11*, all lands situated in the relevant area that, immediately before the transfer day, were vested in the county council and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the city council for all the estate or interest therein that, immediately before the transfer day, was vested in the county council, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.”.

Amendment No. 5 substitutes section 9(1) with a provision that is to the same effect, but which is subject to two new sections proposed for insertion by amendments Nos. 8 and 9,

rather than subject to subsection (5), the content of which will now be in a separate section if amendment No. 9 is accepted. Amendment No. 7 deletes sections 9(5) and 9(6), the content of which will be in the second new section.

Amendment No. 6 is a drafting change that amends section 9(4) to provide that the functions connected with the transferring land shall after the transfer day be “performable by or on behalf of the city council only” whereas the published version provides that the functions are “performable by the city council”.

Amendments Nos. 8 and 9 create two additional sections, the first of which deals with the delayed transfer of land. Its purpose is to allow the Cork local authorities to agree that the transfer of certain land should not occur on the transfer day, which is the default position under section 9, but instead should happen at a later specified date. For drafting reasons, it was not possible to include the provision as an additional subsection due to associated performance of functions and vesting of related chose-in-action provisions needing to apply from the deferred dates rather than the transfer day. Accordingly, the content of the new section is very similar to section 9 as proposed for amendment. This provision to enable the authorities to agree the deferral of some land transfers is proposed for inclusion in the Bill at the suggestion of the implementation oversight group. The associated amendment No. 24 inserts into the published section 12(5) an additional reference to the new section 10 that is proposed for insertion into the Bill by amendment No. 8.

The second new section created by amendment No. 9 deals with other agreements regarding land situated in the relevant area, subsection (1) of which restates the content of the published section 9(5), but also allows for the authorities to agree to share the use of land transferred to the city council under section 9(1). Subsection (2) restates the content of the published section 9(6). This material is being moved to a separate section for drafting reasons to facilitate the changes to the references in section 9(1) that will be made by amendment No. 5 if accepted.

Amendment No. 10 replaces section 10(1)(a) with two new paragraphs, the effect of which is to impose an earlier date than the transfer day of 30 April 2019 by which to make a designation and to require the local authorities to have regard to the implementation plan in so doing. This and the other changes contained in amendments Nos. 12 and 13 arose from discussions with the implementation group on how section 10 should best operate in practice.

Amendment No. 11 is a drafting change to the wording of section 10(1)(d) that provides that the functions connected with the transferring property shall, after the transfer day and in relation to such property, be “performable by or on behalf of the city council only” whereas the published version provides that the functions are “performable by the city council”.

Amendment No. 12 inserts two new subsections (2) and (3), the first of which provides that the oversight committee may make a recommendation to the two local authorities that they should jointly make a designation on such property or property of such a class as may be specified in the recommendation. The second new subsection requires the two authorities to notify the oversight committee of the making of a designation under section 10. The non-receipt of a notification will trigger the oversight committee deciding whether to issue a recommendation under subsection (2) and, if a recommendation has issued, will indicate that the recommendation has not resulted in a designation being made. This is relevant to what would become subsection (4)(b) if amendment No. 13, proposing the insertion of a new subsection, is accepted.

Amendment No. 13 replaces the existing subsection (2)(a) with two new paragraphs. The first of these empowers the Minister to also make designations of property by order for the pur-

poses of the Act and the second provides that where the local authorities have failed to make a designation within one month of the oversight committee making a recommendation referred to in the preceding amendment, the Minister shall make the designation within the following two months. Amendment No. 14 is a consequential amendment inserting into the published paragraph (b) of subsection (2) a reference to the additional new preceding paragraph.

Amendment No. 15 is a drafting change to the wording of subsection (2)(d) to the same effect as amendment No. 11 and also inserts a further subsection clarifying that multiple designations may be made under the section and may be made in respect of different property and different classes of property.

In section 11, amendment No. 18 inserts a new subsection before the current subsection (2) in section 11. Similarly to the current subsection (2) provision in respect of property, which will become subsection (3) if this amendment is accepted, this subsection is essentially repeating the subsection (1) paragraphs to apply in circumstances where land is transferred on a date or dates specified in an agreement for the delayed transfer of land. Amendment No. 20 inserts a new subsection to clarify that the transfer of rights and liabilities arising by virtue of contracts or commitments includes those arising from development bonds that arise under the planning and development legislation.

**Deputy Donnchadh Ó Laoghaire:** I have an issue that may be relevant here in respect of amendment No. 20 but may be just as relevant to the next grouping. I am seeking clarification as there is a large number of amendments in this group. My understanding of the position in respect of transfer of assets from the county council to the city council is that, generally speaking, it was not always the case that any associated liabilities transferred across to the city. For example, I think the county council was of the view that housing rent arrears might not necessarily follow. It would be useful to clarify this across a number of headings. Where assets are transferring across, particularly rent arrears, is the liability transferring with the asset to the city council? There are a few other examples, including housing loans, but I have tabled a specific amendment on that issue so we can deal with it separately.

**Deputy John Paul Phelan:** What we are allowing for in pretty much all of the transfers is that if the two councils reach agreement that for some reason an asset might transfer but the liability would not, that can be done under the legislation. Generally, provisions are such that if assets are transferring, liabilities are moving too. I think there is an amendment to that effect, possibly in the Deputy's name, in respect of the housing stock issue and housing loans. The view is that if the housing loans are transferring and income will accrue to the city from that, the liability should transfer also. I was looking at the Deputy's amendment before I came in, although I cannot remember which one it is. If the councils agree between themselves that the liability should not transfer when an asset is moving, we are allowing them to do so. Generally speaking, when assets are moving, the liabilities will move with them.

**Deputy Donnchadh Ó Laoghaire:** That is useful. Both local authorities, perhaps unsurprisingly, put forward the position at various stages that they should be indemnified against unexpected liabilities. It is hard to indemnify both of them against that. Where there are unexpected liabilities, will the issue be addressed by agreement or in what way will they be split?

**Deputy John Paul Phelan:** On indemnification against an unexpected liability, the Department cannot produce a blank cheque for any local authority. There are provisions that if a claim is submitted after the transfer day by a person who, say, had a fall before the date on land owned by the county council, the claim will be made against the city council. It also means the city



council will substitute for the county council in any contracts or services made by the county council before the transfer day that have not yet expired and relate exclusively to functions in the relevant area. If such a contract applies to functions performable in both the relevant area and part of the county council remaining within that authority’s administrative area, the city council will become another party to the contract and payments arising under the contract will have to be apportioned between the two authorities based on population. Essentially, in the case of an individual who is making a claim against the county council for a fall that occurred in the area that is transferring, the claim will subsequently arise against the city council because the land is being transferred to the city council. However, this also means the city council will substitute for the county council in any contracts for services that are made by the council before transfer day but have not been executed before that day.

**Deputy Donnchadh Ó Laoghaire:** Does that relate to the transition area?

**Deputy John Paul Phelan:** Yes. The transfer area is what we are calling it. Some people are calling it the grey area.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 6:

In page 9, lines 15 and 16, to delete all words from and including “day” in line 15 down to and including line 16 and substitute “day and in relation to such land, be performable by or on behalf of the city council only.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 7:

In page 9, to delete lines 17 to 29.

Amendment agreed to.

Section 9, as amended, agreed to.

#### NEW SECTIONS

**Deputy John Paul Phelan:** I move amendment No. 8:

In page 9, between lines 29 and 30, to insert the following:

#### **“Delayed transfer of land**

**10.** (1) The city council and the county council may, before the transfer day, make an agreement providing for the continued vesting, for such period commencing on the transfer day as may be specified in the agreement, in the county council of any land situated in the relevant area that, upon the making of the agreement, vested in the county council.

(2) On the day immediately following the expiration of the period referred to in *subsection (1)*—

(a) all lands to which an agreement under that subsection applies and all rights, powers and privileges relating to or connected with such lands shall, without any

conveyance or assignment, stand vested in the city council for all the estate or interest therein that, immediately before that day, was vested in the county council, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed,

(b) all choses-in-action relating to land vested in the city council under *paragraph (a)*, that immediately before that day, were vested in the county council shall stand vested in the city council without any assignment.

(3) Every chose-in-action vested in the city council by virtue of *paragraph (b) of subsection (2)* may, on and after the day referred to in that subsection, be sued on, recovered or enforced by the city council in its own name, and it shall not be necessary for the city council or the county council to give notice to any person bound by the chose-in-action of the vesting effected by that paragraph.

(4) All functions of the county council connected with any land standing vested in the city council under *paragraph (a) of subsection (2)* shall, from the day referred to in that subsection and in relation to such land, be performable by or on behalf of the city council only.

(5) An agreement under this section may contain such incidental, supplementary and consequential provisions as the city council and the county council reasonably consider necessary for the purposes of the agreement.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 9:

In page 9, between lines 29 and 30, to insert the following:

**“Other agreements in relation to land situated in relevant area**

**11.** (1) The city council and the county council may, before the transfer day, make an agreement providing for—

(a) the continued vesting in the county council on and after the transfer day of any land situated in the relevant area that, upon the making of the agreement, vested in the county council,

(b) the joint ownership by the city council and the county council on and after the transfer day of any such land, or

(c) the use by the city council and the county council of any such land or any land standing vested in the city council by virtue of *section 9*.

(2) An agreement under this section may contain such incidental, supplementary and consequential provisions as the city council and the county council reasonably consider necessary for the purposes of the agreement.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 10:

In page 9, to delete lines 31 to 33 and substitute the following:

“10. (1) (a) For the purposes of this Act, the city council and the county council may, not later than 30 April 2019, jointly designate in writing such property (other than land), including choses-in-action, of the county council as they may determine.

(b) The city council and the county council shall have regard to the implementation plan when making a designation under *paragraph (a)*.”.

Amendment agreed to.

## SECTION 10

**Deputy John Paul Phelan:** I move amendment No. 11:

In page 9, to delete lines 41 and 42, and in page 10 to delete line 1 and substitute the following:

“(d) All functions of the county council connected with any property standing vested in the city council by virtue of this subsection shall, from the transfer day and in relation to such property, be performable by or on behalf of the city council only.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 12:

In page 10, between lines 1 and 2, to insert the following:

“(2) The oversight committee may make a recommendation to the city council and the county council that the city council and the county council jointly make a designation under *paragraph (a) of subsection (1)* in relation to—

- (a) such property as may be specified in the recommendation, or
- (b) property of such a class as may be so specified.

(3) The Cork local authorities shall jointly notify the oversight committee in writing of the making of a designation by them under this section.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 13:

In page 10, to delete lines 2 to 6 and substitute the following:

“(2)(a) For the purposes of this Act, the Minister may make an order designating such property (other than land), including choses-in-action, of the county council as he or she may determine.

(b) If the Cork local authorities fail to make a designation of a type to which a recommendation under *subsection (2)* applies before the expiration of one month from the date of the making of that recommendation, the Minister shall, for the purposes of this Act and not later than 2 months after the end of that month, make an order designating the property in respect of which the recommendation was made.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 14:

In page 10, line 7, to delete “*paragraph (a)*” and substitute “*paragraph (a) or (b)*”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 15:

In page 10, lines 17 and 18, to delete all words from and including “day” on line 17 down to and including line 18 and substitute the following:

“day concerned and in relation to such property, be performable by or on behalf of the city council only.

(3) More than one designation may be made under this section and different designations may be made in respect of different property or different classes of property.”

Amendment agreed to.

Section 10, as amended, agreed to.

## SECTION 11

**Deputy John Paul Phelan:** I move amendment No. 16:

In page 10, line 31, to delete “council, or” and substitute “council or”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 17:

In page 10, line 32, to delete “council, to” and substitute “council to”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 18:

In page 10, between lines 39 and 40, to insert the following:

“(2) (a) Subject to *section 28*, all rights and liabilities of the county council subsisting immediately before the expiration of the period referred to in *subsection (1)* of *section 10* and arising by virtue of any contract or commitment (expressed or implied) shall, on the day referred to in *subsection (2)* of that section, stand transferred to the city council in so far only as they relate to land vested in the city council under the said *subsection (2)*.

(b) Every right and liability transferred by *paragraph (a)* to the city council may, on and after the day referred to in *subsection (2)* of *section 10*, be sued on, recovered or enforced by or against the city council in its own name, and it shall not be necessary for the city council, or the county council, to give notice to the person whose right or liability is transferred by that paragraph of such transfer.

(c) Every lease, licence, wayleave or permission granted by the county council in relation to land vested in the city council under *subsection (2)* of *section 10* and in force immediately before the expiration of the period referred to in *subsection (1)* of that sec-

tion, shall continue in force as if granted by the city council.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 19:

In page 11, line 8, to delete “city council, or the county council, to” and substitute “city council or the county council to”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 20:

In page 11, between lines 13 and 14, to insert the following:

“(3) In this section ‘commitment’ includes security given in accordance with a condition to which paragraph (g) of subsection (4) of section 34 of the Act of 2000 applies.”.

Amendment agreed to.

Section 11, as amended, agreed to.

## SECTION 12

**Deputy John Paul Phelan:** I move amendment No. 21:

In page 11, to delete lines 18 to 21 and substitute the following:

“(2) Every instrument made under an enactment, and every other instrument (including any certificate) made or granted, by the county council shall, if and in so far as it—

(a) relates to the relevant area, and

(b) was operative immediately before the transfer day, have effect on and after that day as if it had been made or granted, as may be appropriate, by the city council.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 22:

In page 11, lines 26 to 28, to delete all words from and including “of” in line 26 down to and including line 28 and substitute the following:

“of the making of a request in writing in that behalf to the company by the city council.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 23:

In page 11, between lines 28 and 29, to insert the following:

“(4) The city council shall not make a request referred to in *subsection (3)* without the consent of the county council.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 24:

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In page 11, line 34, to delete “*section 9*” and substitute “*section 9, 10*”.

Amendment agreed to.

Section 12, as amended, agreed to.

NEW SECTION

**Deputy John Paul Phelan:** I move amendment No. 25:

In page 11, between lines 36 and 37, to insert the following:

**“Staff transfer plan**

**13.** (1) The chief executives of the Cork local authorities shall jointly prepare a plan (in this Act referred to as a ‘staff transfer plan’) setting out—

(a) the number and grades of members of staff of the county council (and the classes to which such members of staff belong) who, before the transfer day, stood assigned to perform functions (whether or not exclusively) in relation to the relevant area, and

(b) the proposals with regard to the transfer of members of staff from the county council to the city council for the purpose of meeting the staffing requirements in relation to the relevant area.

(2) The chief executives of the Cork local authorities shall, in the preparation of a staff transfer plan, have regard to the implementation plan and any recommendations made by the oversight committee under this Act.

(3) Where the chief executives of the Cork local authorities are unable to reach agreement in relation to the preparation of a staff transfer plan, they shall refer the matter or matters that are the subject of the disagreement to the oversight committee who shall make a recommendation to those chief executives in relation thereto.

(4) If the chief executives of the Cork local authorities fail to act in accordance with a recommendation under *subsection (3)*, the Minister may give them a direction as respects the matter or matters that occasioned the making of the recommendation.

(5) The Minister shall, in the giving of a direction under *subsection (4)*, have regard to the size of the population of the relevant area and the proportion that it bore to the population of the administrative area of the county council immediately before the transfer day.

(6) The chief executives of the Cork local authorities shall comply with a direction under *subsection (4)*.

(7) A staff transfer plan may relate to a particular class or classes of members of staff of the Cork local authority concerned determined by reference to—

(a) grade, or

(b) class of operation of, or service provided by, that Cork local authority.

(8) The city council and the county council shall notify the oversight committee in

writing of the making of a staff transfer plan under this section.

(9) More than one staff transfer plan may be prepared by the chief executives of the Cork local authorities.”.

Amendment agreed to.

### SECTION 13

**Deputy John Paul Phelan:** I move amendment No. 26:

In page 11, to delete lines 38 to 40, and in page 12, to delete lines 1 to 11 and substitute the following:

“13.(1) The chief executive of the county council shall, after consultation with the chief executive of the city council, designate for employment by the city council such and so many members of staff of the county council as are required to ensure the full implementation of the proposals in the staff transfer plan with regard to the transfer of members of staff from the county council to the city council for the purpose of meeting the staffing requirements in respect of the relevant area.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 27:

In page 12, line 12, to delete “5 months” and substitute the following:

“3 months (or such shorter period as may be agreed by the county council with the member of staff concerned)”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 28:

In page 12, line 19, to delete “The county council” and substitute “The chief executive of the county council”.

Amendment agreed to.

Section 13, as amended, agreed to.

### SECTION 14

**Chairman:** Amendments Nos. 29 to 35, inclusive, are related and may be discussed together.

**Deputy Michael Collins:** I move amendment No. 29:

In page 13, lines 5 and 6, to delete “prepare 4 copies” and substitute “prepare copies”.

**Deputy John Paul Phelan:** I do not propose to accept amendments Nos. 29 to 32, inclusive, to section 14, which deals with maps. The amendments would impose a statutory requirement on the surveyor to deposit at “the principal office of all elected members of the council”, a copy of each of the maps that is to be prepared under subsection (1). However, as “the principal office of all elected members of the council” is not defined or readily identifiable, it would place

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an unnecessary burden on the surveyor to ascertain where maps should be sent. The maps will be available in the city council and county council offices and on their websites. I understand what the Deputy is proposing, which is that the local authority members should have access to the maps of the area that they represent. However, sufficient access will be provided in the local authority offices and on their websites.

Amendment, by leave, withdrawn.

Amendments Nos. 30 to 32, inclusive, not moved.

**Deputy John Paul Phelan:** I move amendment No. 33:

In page 13, line 30, to delete “doing,” and substitute “doing”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 34:

In page 13, line 32, to delete “website a” and substitute “website each”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 35:

In page 13, line 35, to delete “a copy” and substitute “each copy”.

Amendment agreed to.

Section 14, as amended, agreed to.

SECTION 15

**Chairman:** Amendment No. 36 in the names of Deputies Mattie McGrath and Michael Collins has been ruled out of order as it potentially creates a charge on the Exchequer.

Amendment No. 36 not moved.

**Chairman:** Amendments Nos. 37 and 58 to 63, inclusive, are related and may be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 37:

In page 14, to delete lines 7 to 9 and substitute the following:

“(3) The Schedule shall apply in relation to the oversight committee.

(4) The oversight committee shall stand dissolved on such day as the Minister may, by order, appoint.

(5) Upon and from the dissolution of the oversight committee in accordance with *subsection (4)*, the functions of the oversight committee under this Act (other than *subsection (8) of section 19*) shall be performable by the Minister and, accordingly, references in this Act (other than this section, *subsection (8) of section 19* and the Schedule) to oversight committee shall, from the date of such dissolution, be construed as references to the Minister.”.



This amendment reverses the order of subsections (3) and (4) of section 15 and inserts a new subsection (5) to provide that the Minister may perform any oversight committee function specified under the Act after the oversight committee has been dissolved. The exception to this is the provision in section 18 dealing with compliance with the Act, whereby the oversight committee may report to the Minister on measures that it considers should be adopted to achieve compliance with the Act.

The purpose of amendment No. 58 is to make the section 18 provision dealing with the making of arrangements by the two local authorities for the performance of functions optional rather than mandatory. It has been put forward at the request of the implementation group which does not consider that a mandatory provision is necessary.

Other amendments I am proposing to section 18 are consequential to this change. These are the deletion by amendment No. 60 of subsection (6) requiring the Minister to make an arrangement if the local authorities fail to do so; the replacement of subsection (7), dealing with the amendment of arrangements made by the local authorities and made by the Minister, with a new subsection that simply provides that the Cork local authorities, after consulting with the oversight group, may amend or revoke an arrangement made under the section; and the deletion by amendment No. 62 of subsection (10) providing that an agreement may not be revoked without the Minister's consent. The latter subsection is now superfluous.

Amendment No. 59 is a technical drafting change to remove superfluous text in subsection (3)(a). Amendment No. 63 is a drafting change to the order of the wording of subsection (11).

Amendment agreed to.

Section 15, as amended, agreed to.

## SECTION 16

**Chairman:** Amendments Nos. 38 to 44, inclusive, 46 to 50, inclusive, 52 to 57, inclusive, and 69 to 72, inclusive, are related and may be discussed together. Amendment No. 49 is a physical alternative to amendment No. 48. Amendment No. 53 is a logical alternative to amendment No. 52. Amendment No. 55 is consequential on amendment No. 54.

**Deputy Michael Collins:** I move amendment No. 38:

In page 14, line 17, to delete "may" and substitute "shall".

**Deputy John Paul Phelan:** There is a broad list of topics in section 16(2) that might be covered in the implementation plan and it would be inappropriate to make the specification of all of them mandatory and remove discretion from the oversight committee as to what should be included. The plan will be significantly influenced by the ongoing work between the Cork implementation group - the precursor to the statutory oversight committee - and the two local authorities, so I oppose the removal of the committee's discretion which is implicit in the amendment's substitution of the word "may" for the word "shall".

**Deputy Donnchadh Ó Laoghaire:** Should I speak to my amendments in this grouping now?

**Chairman:** Before we move to the next amendment, yes.

**Deputy Donnchadh Ó Laoghaire:** On the amendments to section 17, the difficulty is that the Minister proposes the deletion of section 17 and its replacement by other sections which

deal with many of those issues elsewhere. If it is to be deleted, there is not much point in amending it.

My amendments Nos. 46, 47 and 49 are related and 49 and 48 are quite similar in some respects. In all of my contributions on the Bill, I have been conscious to ensure that both local authorities are as financially sustainable as possible. There is a strong belief in Cork County Council that there needs to be a commitment to an ongoing settlement which should not disappear after ten or 15 years. The position after that period need not be as rigid as was the case up to that point but it is fair that there be an ongoing commitment subject to review and negotiation. A deadline should not be set in that regard.

There is a view that the base amount - the component of the financial settlement that is outside the transfer of assets, offsetting of liabilities, development contributions and so on - that is being paid from the city to the council should be index linked up and down. The Bill allows for a level of flexibility in that regard, so not being able to rely on a base amount could make life difficult for the county council.

There is also a view that some degree of certainty is required around the frequency of payments, which is the basis for amendment No. 49 and Deputy Michael Collins's amendment No. 48. The financial settlement should be paid on an advance monthly scheduled basis so that the county council can account for it on a frequent basis.

My amendment No. 53 is a compromise proposal. Currently, the Bill provides for a review "not later than 3 years" after the first making of a financial settlement. The county council fears that the review might start much earlier than the three-year mark, so I have proposed that it should start exactly three years after the transition and be completed within six months. There has been some suggestion that the second review should be pushed out beyond ten years, but that is not right, as ten years is a reasonable interval. Amendment No. 53 is a fair compromise.

Amendment No. 56 addresses a similar point to one I have already made. There should be some level of reliance on revising and renegotiating.

The amendments I am tabling in this grouping all relate to section 17. The Minister of State is proposing to do things differently. I can probably live with that and return to these matters on Report Stage, but I would like some assurances on the general points that I have made before I consider what position to take.

A point has been made about subsection (6) of amendment No. 69. This provision appears in a few places. I understand that there may be a concern about two local authorities ending up on opposite sides in court to settle their financial differences. In many of the amendments, there seems to be an effort to address that concern by way of ministerial intervention, reference to the oversight group and so on. However, a number of the Bill's provisions, including the end of subsection (6), retain that option. It reads: "that contribution or that part of the contribution that remains unpaid shall be recoverable by the city council in any court of competent jurisdiction as a simple contract debt." Ministerial intervention has been provided for, but is it necessary to include a provision that still anticipates both local authorities being against each other in a courtroom? One would hope that they would not end up in that situation.

My apologies, Chairman, but I will only make two further points, the first of which is on the proposed section 20(1) in amendment No. 69. I am concerned by the fact that the county council will have until April 2020 to make a payment in respect of 2019. If the city council is

thin on finance at the end of 2019 for the areas that are being transitioned, will it have to wait until April 2020 to receive payment in respect of them? Obviously, we hope that the county council would pay before then, but it is still being given that latitude. I have a concern in that regard, as I am not sure it is wise.

I wish to clarify something regarding amendment No. 72. The new section 23(4) relates in part to development contributions. Is it still the case that development contributions that relate to developments in the transition areas will go to the city council?

**Deputy John Paul Phelan:** Yes.

**Deputy Donnchadh Ó Laoghaire:** Okay. Then we can get on with the other issues.

**Deputy John Paul Phelan:** I have a 17-page explanation, so I will try to distil some of the points. We are changing the numbering and ordering because we are inserting a new Part 3 dealing with financial arrangements consequential on the boundary alteration. This involves replacing section 17. There is a provision - I will try to find the exact reference to it - for indexation, or the time value of money, which is how I learned it. I will provide it to the Deputy when I find it.

We have made an effort to remove any potential route for litigation, but the contract debt provision remains as a precaution. It is a legal thing, as there must be some bottom line. We have tried to minimise its number of mentions. It is like a backstop, to use the hackneyed phrase. There has to be a final means by which that contribution can be recovered.

The measure on a review after three years has been removed in direct response to contributions on Second Stage, which many of the Deputies present made. They spoke about the potential impact of a review after three years. In our current proposal, the city council can effectively communicate with the Minister of the day the reasons it believes that the compensation should either be removed or, after an examination, reduced. It will be up to the Minister of the day to make that call. Galway City Council was established as a separate authority in 1985 and is still making payments to Galway County Council on a compensatory basis 33 years later. Like Deputy Ó Laoghaire, we felt that a mechanism at the ten-year mark whereby an application could be made to vary or drop the compensatory package was probably a fair balance between the original three-year provision and the suggestion of stretching the review period out further.

The reason Cork City Council is being allowed the flexibility to make the 2019 payments up to April 2020 is because a great deal of change will happen in the council in the next six or eight months and it will need a larger window than the normal calendar year to calculate and make the payments. It is an attempt by officials in the Custom House to recognise the difficulties that local officials will face in reaching that calculation.

In terms of indexation-----

**Deputy Donnchadh Ó Laoghaire:** If I understand it correctly, that specific payment relates to the county council's expenditure in the area currently. It will actually be a payment from the county to the city.

**Deputy John Paul Phelan:** I got my city and county got mixed up. I will be doing that a lot, I expect.

Regarding indexation, the proposed section 22(12) in amendment No. 71 outlines the defini-

tion of “annual contribution”. In connection with amendment No. 40, this allows for an indexation value to be placed on the compensation.

I believe I have dealt with many of the Deputy’s questions.

**Deputy Donnchadh Ó Laoghaire:** The Minister has dealt with most of them, but not all. He did not explain the 2020 deadline. He visualised it the other way around but I am not sure the county council needs that flexibility. I am not sure I agree with getting rid of the three-year deadline so I proposed a reasonable balance. If the calculation is drastically wrong or disadvantageous to the city council, it is reasonable to wait three years for a first review. To leave it ten years without reconsidering it is too much if it turns out to be wrong. I am not sure it is fair. There should be an ongoing commitment beyond the ten years. Does the Minister believe that exists within this legislation? The county council has to have some sense that it will continue beyond that.

**Deputy John Paul Phelan:** It will be at the discretion of the city council to make the application to change or to vary it, but the Minister and the Department will make the ultimate call as to the extent of any variation and on what they deem to be fair at the ten-year point. The amendments to this section propose a much more detailed line-by-line description of expenditure heads. It is believed, and hoped for, by the Department that it will not allow any unforeseen costs or expenses emerging. The issue relating to the extra window for the county council is the same but in reverse. There is certainty in that the city council will know that funding is coming and it can go to the courts to get the funding fully paid. To have it all included in the calendar year could place too much of a restriction but it is not envisaged that it be allowed to drag on indefinitely. It just places a looser timeline on the payment of that particular contribution.

**Deputy Mick Barry:** I am not sure if the Cork City boundary agreement has a backstop. Perhaps it should.

Amendment put and declared lost.

**Deputy John Paul Phelan:** I move amendment No. 39:

In page 14, to delete line 26 and substitute the following:

“(i) financial matters or matters concerning other resources,”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 40:

In page 14, between lines 37 and 38, to insert the following:

“(3) The implementation plan shall specify the manner in which—

(a) the annual contribution within the meaning of *section 22\** shall be calculated, and

(b) the sum of which the annual contribution consists shall be adjusted each year for the purpose of taking account of the changes in the value of money since the end of the local financial year 2017.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 41:

In page 14, to delete line 38, and in page 15, to delete lines 1 to 7 and substitute the following:

“(3) The implementation plan shall specify the principles and methods that shall apply for the purpose of the making of any calculation referred to in *section 23\**.”.

Amendment agreed to.

**Deputy Michael Collins:** I move amendment No. 42:

In page 15, line 8, to delete “may” and substitute “shall”.

Amendment put and declared lost.

**Deputy John Paul Phelan:** I move amendment No. 43:

In page 15, line 12, to delete “the recommendation” and substitute “those guidelines or recommendations”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 44:

In page 15, line 17, to delete “an implementation plan” and substitute “that implementation plan”.

Amendment agreed to.

Section 16, as amended, agreed to.

## SECTION 17

**Chairman:** Amendment No. 45 has been ruled out of order as there is a potential charge on the revenue.

Amendment No. 45 not moved.

Amendments Nos. 46 and 47 not moved.

**Chairman:** If amendment No. 48 is passed, amendment no. 49 cannot be moved.

**Deputy Michael Collins:** I move amendment No. 48:

In page 17, to delete lines 6 to 11 and substitute the following:

“(6) The contribution required to be paid by a Cork local authority (i.e. Cork City Council) to the other Cork local authority (i.e. Cork County Council) in accordance with a financial settlement, the first mentioned Cork local authority shall be required to make financial provision – as a primary charge – for the said contribution in its statutory budget for the year in question, in accordance with the provisions of Part 12 Chapter 1 of the Local Government Act 2001 and any other relevant statutory instruments.”.

Amendment put and declared lost.

**Deputy Donnchadh Ó Laoghaire:** Amendment No. 49 is the same as amendment No. 48 so we will not move it. I did not get a response to my suggestion of advance monthly scheduled payments. I ask the Minister to take it into account for Report Stage.

Amendment No. 49 not moved.

**Deputy Michael Collins:** I move amendment No. 50:

In page 17, between lines 11 and 12, to insert the following:

“(7) The Chief Executive of the first mentioned Cork local authority shall be required to discharge payment of the contribution referred to in this subsection on a scheduled monthly basis, by instalment in advance, payment being discharged no later than 5 working days after the commencement of a month.”.

Amendment put and declared lost.

**Chairman:** Amendment No. 51, in the name of Deputy Michael Collins, has been ruled out of order as it is in conflict with the Bill as read a second time.

Amendment No. 51 not moved.

**Chairman:** If amendment No. 52 is agreed, amendment No. 53 cannot be moved.

**Deputy Michael Collins:** I move amendment No. 52:

In page 17, line 33, to delete “not later than 3 years” and substitute “not earlier than 3 years but not later than 15 years,”.

Amendment put and declared lost

Amendment No. 53 not moved.

**Chairman:** If the question on amendment No. 54 is negatived, amendment No. 55 cannot be moved.

**Deputy Michael Collins:** I move amendment No. 54:

In page 17, line 35, to delete “10 years” and substitute “15 years”.

Amendment put and declared lost.

Amendment Nos. 55 and 56 not moved.

**Deputy Michael Collins:** I move amendment No. 57:

In page 18, line 11, after “committee” to insert “and within a period of no later than 3 months”.

Amendment put and declared lost.

Question, “That section 17 be deleted.”, put and agreed to.

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**Deputy John Paul Phelan:** I move amendment No. 58:

In page 18, line 20, to delete “shall” and substitute “may”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 59:

In page 18, line 33, to delete “subject to *subsection (5)*,”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 60:

In page 19, to delete lines 4 to 6.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 61:

In page 19, to delete lines 7 to 10 and substitute the following:

“(7) The Cork local authorities may, after consultation with the oversight committee, amend or revoke an arrangement under this section.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 62:

In page 19, to delete lines 16 and 17.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 63:

In page 19, lines 19 to 21, to delete all words from and including “council” in line 19 down to and including line 21 and substitute the following:

“council, be performable by the county council, or by the city council and the county council jointly, in accordance with an arrangement under this section.”.

Amendment agreed to.

Section 18, as amended, agreed to.

## SECTION 19

**Deputy John Paul Phelan:** I move amendment No. 64:

In page 19, line 26, to delete “purpose” and substitute “purposes”.

Amendment agreed to.

**Chairman:** Amendments Nos. 65, 67 and 68 are related and may be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 65:

In page 19, between lines 30 and 31, to insert the following:

“(a) cooperating with one another to ensure compliance by the Cork local authorities with the implementation plan,”.

This amendment will amend section 19 by inserting an additional item to the actions in subsection (3) that chief executives are required to carry out for the effective and orderly operation of the Bill, namely, to co-operate with one another and ensure compliance with the implementation plan. I propose the amendment in response to a suggestion made by the oversight group in Cork.

Amendment No. 67 will delete the published subsection (9) which requires the two chief executives to provide the Minister with any requested information and replace it with a new subsection containing two paragraphs that separately require the chief executives of the city and county councils to provide the Minister with any requested information within the period specified in the request and that the Minister seeks for the purposes of his or her functions under the Bill.

The new subsection (10), proposed by the insertion of amendment No. 68, similarly provides for the provision of information requested by the oversight committee from the chief executives of the city and county councils.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 66:

In page 19, line 35, to delete “effective” and substitute “the effective”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 67:

In page 20, to delete lines 15 to 18 and substitute the following:

“(9) (a) The chief executive of the city council shall, within such period as is specified in a request under this paragraph, provide the Minister with such information as the Minister may, from time to time request, for the purposes of the performance by the Minister of his or her functions under this Act.

(b) The chief executive of the county council shall, within such period as is specified in a request under this paragraph, provide the Minister with such information as the Minister may, from time to time request, for the purposes of the performance by the Minister of his or her functions under this Act.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 68:

In page 20, between lines 18 and 19, to insert the following:

“(10)(a) The chief executive of the city council shall, within such period as is specified in a request under this paragraph, provide the oversight committee with such information as the oversight committee may, from time to time request, for the purposes of the performance by the oversight committee of their functions under this Act.



(b) The chief executive of the county council shall, within such period as is specified in a request under this paragraph, provide the oversight committee with such information as the oversight committee may, from time to time request, for the purposes of the performance by the oversight committee of their functions under this Act.”.

Amendment agreed to.

Section 19, as amended, agreed to.

#### NEW SECTIONS

**Deputy John Paul Phelan:** I move amendment No. 69:

In page 20, between lines 18 and 19, to insert the following:

#### “PART 3 FINANCIAL ARRANGEMENTS CONSEQUENT UPON CORK BOUNDARY ALTER- ATION

##### **Payment of contribution by county council to city council in 2019**

**20.** (1) The county council shall, not later than 30 April 2020, pay to the city council a contribution equal to the expenditure incurred by the city council in the provision of services in, or in respect of, the relevant area during the local financial year 2019.

(2) If the chief executives of the Cork local authorities disagree with one another as respects the amount of the contribution required to be paid by the county council to the city council in accordance with this section, either of them may refer the matter to the oversight committee for a recommendation with regard to the matter.

(3) The oversight committee shall, upon receipt of a referral under *subsection (2)*, make a recommendation to the Cork local authorities as respects the calculation of the amount of the contribution required to be paid by the county council to the city council in accordance with this section.

(4) If, before the expiration of one month from the making of a recommendation under *subsection (3)*, the chief executives of the Cork local authorities fail to agree the amount of the contribution required to be paid by the county council to the city council in accordance with this section, the Minister shall give them a direction specifying that amount and requiring that it be paid by such date as is specified in the direction.

(5) The chief executives of the Cork local authorities shall comply with a direction under *subsection (4)*.

(6) Where any contribution required to be paid by the county council to the city council in accordance with this section remains unpaid (in whole or in part) by the date specified in *subsection (1)*, that contribution or that part of the contribution that remains unpaid shall be recoverable by the city council in any court of competent jurisdiction as a simple contract debt.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 70:

In page 20, between lines 18 and 19, to insert the following:

**“Relevant sums for purposes of *section 22***

**21.** For the purposes of *section 22*, each of the following is a relevant sum:

(a) the county rate payable in respect of land situated in the relevant area;

(b) rents or charges payable in respect of tenancies of dwellings situated in the relevant area provided under the Housing Acts 1966 to 2015;

(c) repayments payable in respect of housing loans within the meaning of the Housing (Miscellaneous Provisions) Act 1992 relating to properties situated in the relevant area;

(d) fees or charges payable in accordance with bye-laws under section 199 of the Principal Act that would not have been payable had such bye-laws not applied to the relevant area;

(e) fees payable—

(i) in accordance with Part 12, and Schedules 9 and 10, of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), in respect of —

(I) development (within the meaning of the Act of 2000) in the relevant area,  
or

(II) proposed development (within such meaning) in the relevant area,

(ii) in accordance with regulations under section 4, 6, 7, 7A or 18 of the Building Control Act 1990, in respect of any matter relating to —

(I) buildings (within the meaning of that Act) situated in the relevant area, or

(II) works (within such meaning) carried out in the relevant area,

(iii) in respect of an application for a grant or renewal of a licence under the Road Traffic (Public Service Vehicles) (Amendment) Regulations 1995 (S.I. No. 136 of 1995) where the address provided for inclusion on the licence by the applicant for the licence is of a place situated in the relevant area,

(iv) in respect of applications for dog licences or general dog licences under the Control of Dogs Act 1986, where —

(I) in the case of an application for a dog licence, the applicant resides in the relevant area, and

(II) in the case of an application for a general dog licence, the premises to which the application relates is situated in the relevant area,

(v) in accordance with regulations under the Air Pollution Act 1987, in relation to applications for licences or reviews of licences under that Act in respect of industrial plant carried on or proposed to be carried on in the relevant area,

(vi) in respect of applications for licences relating to stores situated in the rel-

evant area to which section 21 of the Dangerous Substances Act 1972 applies,

(vii) by the holder of an abattoir licence pursuant to regulation 5 of the European Communities (Fees for Health Inspections and Controls of Fresh Meat) Regulations 2004 (S.I. No. 74 of 2004) where the abattoir to which that licence relates is situated in the relevant area, or

(viii) in respect of the parking of vehicles in any place in the relevant area pursuant to bye-laws under section 36 of the Road Traffic Act 1994;

(f) charges—

(i) payable under subsection (10) of section 66 of the Principal Act where the amenities, facilities, services or other thing is or are provided in the relevant area,

(ii) imposed in accordance with section 2 of the Local Government (Financial Provisions) (No. 2) Act 1983 in respect of the provision of a service in the relevant area,

(iii) payable pursuant to subsection (3) of section 35 of the Fire Services Act 1981 by beneficiaries of a fire service for services provided in the relevant area, or

(iv) payable in accordance with bye-laws under section 101 of the Road Traffic Act 1961 in respect of the use of car parks situated in the relevant area;

(g) sums payable in accordance with section 28 of the Litter Pollution Act 1997 in respect of offences alleged to have been committed in the relevant area;

(h) levies imposed under section 211B of the Principal Act in respect of relevant property (within the meaning of Part 19A of that Act) situated in the relevant area; and

(i) such other fees, charges, levies or sums imposed by, or payable to, a local authority under any enactment in respect of lands situated, or services provided, in the relevant area, as may be agreed by the Cork local authorities.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 71:

In page 20, between lines 18 and 19, to insert the following:

**“Annual contribution by city council to county council**

**22.** (1) The city council shall, each year during—

(a) the period commencing on 1 January 2020 and ending on 31 December 2029, or

(b) such longer period as may be prescribed by order of the Minister, pay to the county council the annual contribution.

(2) The Cork local authorities shall make an arrangement providing for—

(a) the manner of payment by the city council of the annual contribution,

(b) the payment of the annual contribution by instalment or otherwise, and

- (c) the date or dates by which the annual contribution shall be paid each year.
- (3) If the chief executives of the Cork local authorities disagree with one another as respects the amount of the annual contribution in respect of any year, either of them may refer the matter to the oversight committee for a recommendation with regard to the matter.
- (4) The oversight committee shall, upon receipt of a referral under *subsection (3)*, make a recommendation to the Cork local authorities as respects the calculation of the annual contribution in respect of the year to which the referral relates.
- (5) If the chief executives of the Cork local authorities fail to agree the annual contribution in respect of any year before the expiration of one month from the making of a recommendation under *subsection (4)*, the Minister shall give them a direction specifying the annual contribution payable and requiring that it be paid by such date as is specified in the direction.
- (6) The chief executives of the Cork local authorities shall comply with a direction under *subsection (5)*.
- (7) The county council may, at any time before the expiration of the period referred to in *paragraph (a)* of *subsection (1)*, request the Minister to make an order referred to in *paragraph (b)* of that section.
- (8) The county council shall, when making a request under *subsection (7)*, provide the Minister with a statement of reasons for the request.
- (9) Upon receiving a request under *subsection (7)*, the Minister shall provide —
- (a) a copy of that request, and
  - (b) the statement of reasons provided under *subsection (8)* in relation to the request, to the city council, and shall invite the city council to make representations to him or her in relation to the request.
- (10) The Minister shall not make an order referred to in *paragraph (b)* of *subsection (1)* unless he or she—
- (a) receives a request under *subsection (7)*, and
  - (b) has considered any representations made by the city council in relation to the request.
- (11) Where the annual contribution remains unpaid (in whole or in part) upon the expiration of the year in which it is payable, that contribution or that part of the contribution that remains unpaid shall be recoverable by the county council in any court of competent jurisdiction as a simple contract debt.
- (12) In this section—
- “annual contribution” means, in relation to any year comprised in the period referred to in *subsection (1)*, a sum equal to the aggregate of all relevant sums received minus the aggregate of all expenditure incurred, adjusted (in such manner as is specified in the implementation plan) for the purpose of taking account of changes in the value of money during the period ending on 1 January of that year;

“expenditure” means expenditure (other than expenditure funded by moneys paid to the county council from the Local Government Fund, the Central Fund or moneys voted by the Oireachtas) by the county council in the provision of services in the relevant area during the local financial year 2017;

“relevant sums” shall be construed in accordance with *section 21* ;

“relevant sums received” means relevant sums received by the county council during the local financial year 2017 (whether or not the liability on the part of any person to pay any such sums was incurred during that year).”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 72:

In page 20, between lines 18 and 19, to insert the following:

**“Other financial arrangements**

**23.** (1) The Cork local authorities shall, as soon as practicable after the commencement of this section and after consultation with the oversight committee, make an arrangement (in this section referred to as a “financial settlement”) in accordance with this section.

(2) The Minister may, after consultation with the oversight committee, give a direction to the Cork local authorities to make a financial arrangement in such terms, and by such date, as may be specified in the direction.

(3) The Cork local authorities shall comply with a direction under *subsection (2)* .

(4) A financial settlement shall make provision for—

(a) the calculation of—

(i) the cost to the city council of its becoming liable for the payment of superannuation benefits to, or in respect of, persons who become members of its staff under *section 13*,

(ii) the cost to the county council of its being liable for expenditure in relation to—

(I) any public infrastructure and facilities referred to in section 48 of the Act of 2001—

(A) benefiting in whole or in part development in the relevant area, and

(B) that it had intended to pay for from contributions made under that section,

or

(II) any public infrastructure service or project referred to in section 49 of that Act in the relevant area that it had intended to pay for from contributions under that section,

(iii) the cost to either Cork local authority of its becoming liable for any other

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payment or expenditure by virtue of the Cork boundary alteration,

(b) the payment by a Cork local authority of a contribution to the other Cork local authority in respect of the cost to the latter of its becoming liable for any payment or expenditure referred to in *paragraph (a)*,

(c) the payment of such contribution by instalment or otherwise,

(d) the date or dates by which such contribution or such instalments shall be paid.

(5) A financial settlement shall take account of the annual contribution payable by the city council to the county council under *section 22*.

(6) A financial settlement shall be carried out by the Cork local authorities in accordance with its terms.

(7) (a) The contribution payable in respect of a year to which a financial settlement applies by a Cork local authority to the other Cork local authority in accordance with a financial settlement shall be such amount as is calculated under the financial settlement before 31 August in the year immediately preceding the year in respect of which the contribution is payable, and different amounts may be so determined in respect of different years.

(b) A contribution referred to in this subsection shall be paid by such date (in this section referred to as the “due date for payment”) in the year in respect of which the contribution is payable as is specified in a financial settlement.

(8) Where any contribution required to be paid by a Cork local authority to the other Cork local authority in accordance with a financial settlement remains unpaid (in whole or in part) by the due date for payment in relation to that contribution, that contribution or that part of the contribution that remains unpaid shall be recoverable by the second-mentioned Cork local authority in any court of competent jurisdiction as a simple contract debt.

(9) If any dispute arises as to the claim of either the city council or the county council to, or the amount of, any payment due in accordance with a financial settlement, such dispute shall be submitted to the oversight committee whose decision in relation thereto shall be final.

(10) (a) The Cork local authorities shall have regard to the implementation plan and any recommendations of the oversight committee when making a financial settlement.

(b) The Minister shall have regard to the implementation plan and any recommendations of the oversight committee when giving a direction under *subsection (2)* .

(11) A financial settlement may make provision in relation to such consequential, incidental or supplementary matters as are necessary or expedient for its effective implementation.

(12) (a) The Cork local authorities may, after consultation with the oversight committee, make an arrangement (in this section also referred to as a “financial settlement”) amending a financial settlement made under *subsection (1)*.

(b) The Cork local authorities may, with the consent of the Minister, make an arrangement (in this section also referred to as a “financial settlement”) amending a finan-

cial settlement made in compliance with a direction under *subsection (2)*.”

Amendment agreed to.

Section 20 agreed to.

#### SECTION 21

**Deputy John Paul Phelan:** I move amendment No. 73:

In page 20, line 34, to delete “in respect of” where it secondly occurs and substitute “for”.

Amendment agreed to.

Section 21, as amended, agreed to.

#### SECTION 22

**Deputy John Paul Phelan:** I move amendment No. 74:

In page 21, between lines 26 and 27, to insert the following:

“(3) For the purposes of the performance by the Minister of his or her functions under Part 4 of the Principal Act before the transfer day, the relevant area shall be deemed to be part of the city of Cork.”.

This amendment will insert an additional subsection (3) in section 22 to provide that the relevant area is to be deemed part of the administrative area of Cork City Council for the purposes of the performance by the Minister of his or her functions under Part 4 of the Local Government Act 2001 when making the orders to divide Cork city and Cork county into local electoral areas for the 2019 local elections.

Amendment agreed to.

Question proposed: “That section 22, as amended, stand part of the Bill.”

**Deputy John Paul Phelan:** The objective is for both Houses of the Oireachtas to pass the legislation before the Christmas recess, but that will require many things to happen in unison in the next few weeks. If that does not happen, I may need to table an amendment on Report Stage, to which I must refer on Committee Stage, to change the necessary time allocated and the published Part 3 or Part 4 to provide for later dates for the publication and enforcement of the register of electors for the two Cork local authorities than those specified for all local authorities under the Electoral Act 1992. There may need to be a specific extension of the time period. It is a technical matter. The amendment will seek to allow the Cork local authorities more time if we do not get our work done in time.

**Deputy Eoin Ó Broin:** Is the extension dependent on when the Bill completes all Stages?

**Deputy John Paul Phelan:** Yes, it is.

**Deputy Eoin Ó Broin:** It would, therefore, be a matter of days or weeks.

**Deputy John Paul Phelan:** Approximately one month or six weeks.

Question put and agreed to.

SECTION 23

**Deputy John Paul Phelan:** I move amendment No. 75:

In page 21, between lines 37 and 38, to insert the following:

“(2) An interim polling district arrangement shall cease to have effect upon the coming into operation of the first scheme under section 28 of the Act of 1992 made by the city council after the commencement of this section.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 76:

In page 22, line 12, after “Act of 1992” to insert “made by the county council”.

Amendment agreed to.

Section 23, as amended, agreed to.

NEW SECTION

**Chairman:** Acceptance of the following amendment involves the deletion of section 24. Amendments Nos. 77 to 79, inclusive, 81 to 83, inclusive, 100 and 103 are related and may be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 77:

In page 22, between lines 13 and 14, to insert the following:

**“Development plans, etc. relating to relevant area**

**24.** (1) The development plan in force immediately before the transfer day in respect of the functional area of the county council shall, on and after that day, continue to apply in respect of the relevant area until the next making of a development plan by the city council in respect of the functional area of the city council in accordance with section 9 of the Act of 2000.

(2) Subject to paragraph (b) of subsection (4) of section 18 of the Act of 2000, any local area plan in force immediately before the transfer day in respect of an area within the relevant area shall, on and after that day, continue to apply to the first-mentioned area until the next making of a local area plan by the city council in respect of the first-mentioned area in accordance with the said section 18.

(3) The Cork County Council Local Economic and Community Plan in force immediately before the transfer day in respect of the functional area of the county council shall, on and after that day, continue to apply in respect of the relevant area until the next making of a local economic and community plan by the city council in respect of the functional area of the city council in accordance with section 66B of the Principal Act.

(4) For the avoidance of doubt, the city council may—

(a) in accordance with section 13 of the Act of 2000, make a variation of the development plan first-mentioned in *subsection (1)* in so far only as that plan applies to the relevant area,



(b) in accordance with *subsection (5)* of section 18 of the Act of 2000, amend or revoke a local area plan first-mentioned in *subsection (2)* in so far only as that plan applies to the relevant area, and

(c) perform functions under section 66F or 66G in relation to the Cork County Council Local Economic and Community Plan referred to in *subsection (3)* in so far only as that plan applies to the relevant area.

(5) In this section—

“development plan” has the meaning assigned to it by the Act of 2000;

“local area plan” has the meaning assigned to it by the Act of 2000.”.

The amendments relate to development plans and local area plans. Amendment No. 77 provides for the replacement of section 24 with a new section, now to be headed “Development plans, etc. relating to the relevant area”, which is a restatement of the published section 24 but expanded to include the local economic community plans, LECPs, as mentioned on Second Stage by a number of speakers. Subsection (1) provides that the Cork County Council development plan applicable to the relevant area before transfer day will remain in force in that area until Cork City Council makes a new development plan after transfer day. Subsection (2) provides that any local area plan in force before transfer day, in respect of an area within the relevant area, will continue to apply until Cork City Council next makes a local area plan for that area. Subsection (3) provides that the Cork County Council LECP enforced before transfer day will continue to apply for the relevant area until Cork City Council next makes its own LECP. Subsection (4) is an avoidance of doubt provision which clarifies that Cork City Council may vary the development plan or amend or revoke the local area plan that continued to be in operation under the previous subsections but only insofar as the plan applies to the relevant area. The city council may also perform functions such as monitoring and reviewing economic elements of the Cork county LECP and reporting on that assessment but only insofar as the plan applies to the relevant area. Subsection (5) defines the development plan and local area plan as having the meanings assigned in the Planning and Development Act 2000.

Amendment No. 78 will delete the words “permission granted or” from section 25(1) to clarify that the subsection is intended only to provide for a continuing role by the county council in processing planning applications made before transfer day to the point where a decision is made to grant or refuse the application.

Amendment No. 79 deletes the published subsection (2)(a) and replaces it with a new subsection (2)(a) to clarify that after transfer day, the city council will become the planning authority for planning applications decided or appeals to An Bord Pleanála determined before transfer day, apart from cases where enforcement proceedings had been commenced by the county council.

Amendment No. 81 amends subsection (2)(b) by inserting a requirement for the county council to consult the city council when finishing enforcement proceeding cases that had commenced before transfer day.

Amendment No. 82 replaces subsection (3) with a new subsection (3) that removes the reference to contributions paid under section 48 of the Planning and Development Act 2000 from the provision. This change is proposed because of information received from the county coun-

cil to the effect that isolation of contributions in respect of public infrastructure and facilities benefiting development in the area of the planning authority as a whole which are paid and not yet expended in the case of developments in the relevant area would not be possible. The provision deals only with section 49 contributions that will vest in the city council, that is, earmarked contributions for specific projects, and that will continue to require to be expended on public infrastructure services and projects in the relevant area. The final amendment to section 25, amendment No. 83, adds “development” to the terms defined as having the meaning assigned by the Planning and Development Act 2000 in subsection (5).

Amendment No. 100 proposes to insert a new section, after section 30, dealing with the making and review of development plans by Cork local authorities, the purpose of which is to enable the Minister to extend by order the statutory time limits applicable to the development planning process. The new section amends sections 9 and 11 of the Planning and Development Act 2000 to enable the Minister, by order, to add an additional period of not more than one year to the normal six-year period within which Cork City Council and Cork County Council must make a development plan, and to provide similarly in regard to the four-year period applicable to the giving of notice of an intention to review the development plan.

The new section 32 proposed by Opposition amendment No. 103, involving the amendment of section 13 of the Planning and Development (Amendment) Act 2018, is, I imagine, for the same purpose as Government amendment No. 100, which I have just discussed. If so, I hope Deputies will take that into consideration when considering their amendment No. 103.

**Deputy Donnchadh Ó Laoghaire:** I ask the Minister of State to repeat what he said as I was checking my notes.

**Deputy John Paul Phelan:** Our amendment No. 100 effectively seeks to do the same thing as the Deputy’s amendment No. 103. This is all about the applicability of development plans and local area plans, and how the transfer arrangement will impact on the applicability of those plans in the relevant area until a new plan is drawn up.

**Deputy Donnchadh Ó Laoghaire:** It is not quite the same thing. I will address those two amendments but, before I do, I have a question that is relevant to the grouping as a whole. What happens to a Part 8 process that has started before the transition date? There is every likelihood the county council or city council may not proceed in order to avoid that. However, what will happen to Part 8 processes that either span the transition or are completed shortly beforehand? We need to ensure projects initiated by the county council continue to flow to the city council as smoothly as possible.

On amendment No. 103, the point is made by the city council that the regional spatial and economic strategies are due to be adopted in March 2019. Under the Planning and Development Acts, the city council is generally required to start the process of a new city plan within 13 weeks, which would be June 2019. This makes the process a busy one and some flexibility would be reasonable. If it is covered, that is fair enough, but from the explanation the Minister of State has given, I am not sure it is.

On amendment No. 102, I have discussed the issue previously with the Minister of State. As a councillor for one of the largest transition areas, I had the experience of working in a municipal district. Despite having been sceptical at the outset, and the experience of councillors in different municipal districts was different, we had a very good municipal district and it worked very well. It kept local issues off the county council agenda and ensured they were

dealt with at a local area level. It is a good model. I know there are area committees in Dublin and in other places but these do not have the same statutory basis. While it might not be in order for full local area plans to be made by municipal districts in a city such as Cork, although there may be a value in it, municipal districts can make by-laws. I believe it makes sense to do this at a more local level. It makes sense for municipal districts to adopt or comment upon the municipal allocation or the budgetary allocation that is coming from the city council. If that statutory structure is provided for dealing with very local issues and taking very local budgetary initiatives, it will be a value to those councillors in that ward or municipal district, but it will also ensure the city council as a whole is far more focused on the overall policy direction and strategy of the city and metropolitan area. I think it is a good model and we should have it, or something like it, in the city.

**Deputy John Paul Phelan:** The Part 8 issue comes under enforcement at section 25(2)(b). The Part 8 process will stay with the county council until it has been completed and then move with the relevant area so the city council can continue and take up where the county council has left off, effectively. It does not disappear. It will not be finished for the county council until the process is completed.

**Deputy Donnchadh Ó Laoghaire:** Does that anticipate a formal legal process?

**Deputy John Paul Phelan:** That is the formal process. As the Deputy knows, the Part 8 process can take a while. Rather than getting the city council to start the ball rolling from scratch again, the county council will complete the formal legal process and it is then part of the transfer for the city council to implement whatever the Part 8 is. Amendment No. 100 takes account, at least partially, of the point the Deputy makes in amendment No. 103. We propose to allow the Minister the discretion, if asked by the local authorities, to grant a time period of up to 12 months of an extension to the existing development plan to allow for the drafting of the new development plan. That is not to say it is necessarily up to 12 months; it is just to provide a window for the planners and the councillors considering it, so they can do the thorough work that is involved in drafting county development plans.

In regard to the municipal districts, the municipal district structure does not exist in city authorities in Ireland. I understand the point the Deputy is making in the broader context of municipal districts. Their impact and effectiveness vary greatly from local authority to local authority. Some local authorities have very well embedded, supported and funded municipal districts that operate very successfully. However, in other local authorities the structure is still weak and many of the issues the Deputy noted that should be dealt with at local district level end up going back to the full plenary session of the council. That is a matter we will have to return to in the future.

It is open to Cork City Council, as it is to Dublin City Council, to designate area committees, although these do not have the same powers and functions. All of these sections of the Bill relate to Cork specifically. A decision was taken that in providing for the planning and development of Cork into the future, we should look at Cork city as one entity rather than continuing the current system, where bits of it are in certain municipal districts in the county, with different local area plans. There should be one plan for the city of Cork, regardless of whether there will be different constituent parts of the new city in the future.

There are strong identities in some of the areas the Deputy represents on the south side of Cork city, as there are on the north side. Effectively, urban villages that were in County Cork up to now will be in Cork city. There is a particular issue in regard to Ballincollig, which has

traditionally been separate. Through continuous development over the years, Cork city has spread to Ballincollig, and it would be impossible for anyone here to envisage a Cork city in 20 years of which Ballincollig is not an integral part.

I will have to talk to the Minister of State, Deputy English, about the provisions for separate local area plans for some areas which are a very identifiable component of the new extended Cork city. I would be willing to talk to him before Report Stage to find if some leeway can be found in the Planning and Development Act that would allow for a more locally based area plan for specific parts of the newly constituted Cork city. If possible, the Deputy might leave it with me until Report Stage. I will talk to the Minister of State, Deputy English, to see if it can be included, although it may be that it cannot.

**Deputy Donnchadh Ó Laoghaire:** I will. I am encouraged by that. I would add, however, that it is not just the planning element; there are also the by-laws and the budgetary and statutory requirements. There are area committees in Dublin which work pretty well and there are no statutory requirements in respect of them. We need to look at that. I would be obliged if the Minister of State could return to this on Report Stage.

Amendment agreed to.

Section 24 deleted.

#### SECTION 25

**Deputy John Paul Phelan:** I move amendment No. 78:

In page 22, line 34, to delete “permission granted or”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 79:

In page 22, to delete lines 37 to 39, and in page 23, to delete lines 1 to 3 and substitute the following:

“(2) (a) Subject to *paragraph (b)*, the functions of a planning authority under the Act of 2000 shall, as respects—

(i) a decision under section 34 of that Act, or

(ii) a determination under section 37 of that Act,

made before the transfer day in relation to development or proposed development in the relevant area, be performable from that day by the city council.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 80:

In page 23, line 7, to delete “after” and substitute “from”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 81:

In page 23, line 8, after “council” to insert “after consultation with the city council”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 82:

In page 23, to delete lines 9 to 16 and substitute the following:

“(3) Any contribution—

(a) paid before the transfer day in accordance with section 49 of the Act of 2000 for the purpose of any public infrastructure service or project in the relevant area, and

(b) vested in the city council under *Part 2*,

shall be expended by the city council for that purpose.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 83:

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

“ “development” has the meaning assigned to it by the Act of 2000;”.

Amendment agreed to.

Section 25, as amended, agreed to.

## SECTION 26

**Deputy John Paul Phelan:** I move amendment No. 84:

In page 23, line 27, after “day” to insert “and in so far only as it is not inconsistent with this Act”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 85:

In page 23, line 28 to delete “in so far only as it is not inconsistent with this Act,”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 86:

In page 24, to delete lines 1 to 5 and substitute the following:

“(4) An instrument to which *subsection (1)* applies shall, in so far as it is inconsistent with an instrument that applies to the relevant area or part thereof by virtue of a resolution under *subsection (3)*, cease to apply to the relevant area or, as may be appropriate, any part of the relevant area to which the second-mentioned instrument applies”.

Amendment agreed to.

Section 26, as amended, agreed to.

Section 27 agreed to.

NEW SECTION

**Chairman:** Amendments Nos. 87 to 89, inclusive and amendment No. 91 are related and may be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 87:

In page 24, to delete lines 13 to 16 and substitute the following:

“**28.** (1) Any charge in respect of—

(a) the local financial year in which the transfer day falls, or

(b) any preceding local financial year,

that, immediately before the transfer day, was due and payable to the county council shall, from the transfer day, continue to be due and payable to the county council unless the city council and the county council agree otherwise.”.

This amendment seeks to replace subsection (1) of section 28. While it is mainly a drafting change, it also allows the two local authorities to agree an alternative to the default position whereby existing arrears of the main revenue sources remain payable to the county council if such an agreed alternative suits them. Similarly, amendment No. 88 again allows the two local authorities to agree an alternative to the default position, whereby the main revenue sources remain payable to the county council in respect of all of 2019, if such an alternative suits the two local authorities. Amendment No. 89 inserts a new paragraph (b) into subsection (3) to include entry year property levy within the provision.

As I understand amendment No. 91, its purpose is for the mortgage debt of housing loan recipients in the relevant area and associated loan repayments to remain with the county council. We were discussing this earlier. I do not propose to accept this amendment because the normal arrangement that applies to a boundary alteration is that the housing loans and all associated management of those files will transfer across to the new local authority, in this case the city council. It is the city council that will receive the subsequent repayments and will also deal with any consents to resale that might arise in the future.

The Bill provides that assets and liabilities will transfer to the city council on the transfer day and that repayments are payable to the city council from 1 January of the following year. The liability owed to the Housing Finance Agency associated with the mortgages for the properties will transfer from the county to the city as will the income stream which will offset the debt owed to the agency. There is not going to be any change to the term or tenure of the mortgage holders. It would be unusual to change the position in respect of transferring the liability along with the asset. For that reason, I will be opposing this amendment.

**Deputy Donnchadh Ó Laoghaire:** It is different from local authority housing or some of the other issues in that the asset is the liability. It is a loan. There are approximately 150 of these properties in the transition areas, not a huge number. However, there is concern that the level of administration involved in their transfer from the county to the city would mean proportionately a significant amount of work for the city while it would actually be far easier to just let it rest with the county. There are numerous questions there. All the transactional data

would have to come across. The county council would have to provide the city with complete paper files. There would have to be a risk profile. The county council may have initiated legal proceedings in respect of some of those borrowers, potentially. There would be changes to statutory reporting requirements to the central credit register. Then there is the issue of loan accounts that are in credit. While I think the general approach that is being taken makes some sense, although I would hope that the Department will consider resources for a lot of these issues, I think the housing loans are a particular category and I am not sure they can properly be categorised as an asset.

**Deputy John Paul Phelan:** On the basis of accounting logic, they are. I understand the point the Deputy is making. He is saying that it is not a large number of housing loans. However, we want to make a clean break and it would be very messy if these remained with the county council even though they are in the area that is being transferred to the city. I do not dispute that it may take up extra man hours and we are providing additional substantial resources to both local authorities for the changeover period. I do not think the fact that the process itself might be difficult is sufficient reason to make an exception for housing loans. It is clearer and cleaner if the transfer includes them. I do understand the issues the Deputy is raising but I think it should happen.

**Deputy Donnchadh Ó Laoghaire:** To clarify the point - maybe the Minister of State will communicate with the local authority in this regard - compared to the difficulties involved in transferring them, there is very little difficulty that I can see in leaving them with the county council. There is a contractual obligation with the council but there is no obligation in terms of housing maintenance, tenancy or anything like that. If the Minister of State will take that into account in advance of Report Stage, I might withdraw the amendment. I ask that he communicate with the city council.

**Deputy John Paul Phelan:** I do not think I can take it on board, to be honest. I do not like saying “No”; I suppose I am a real politician. The main purpose of all of these sections of the Bill is to expand Cork city. It would not be consistent with that purpose to allow these to remain with the county council even though they will be physically in the city in the future. It is cleaner that way. I cannot accept amendment No. 91. I have enough to be doing to talk about the other couple of amendments and about others in future. I think this one is just messy.

Amendment agreed to.

## SECTION 28

**Deputy John Paul Phelan:** I move amendment No. 88:

In page 24, line 19, after “shall” to insert “, unless the city council and the county council agree otherwise,”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 89:

In page 24, between lines 22 and 23, to insert the following:

“(b) any levy payable under Part 19A (inserted by section 7 of the Local Government (Business Improvement Districts) Act 2006) of the Principal Act,”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 90:

In page 24, line 24, to delete “to 2013” and substitute “to 2015”.

Amendment agreed to.

**Deputy Donnchadh Ó Laoghaire:** I move amendment No. 91:

In page 24, between lines 26 and 27, to insert the following:

“(4) All housing loan debts, which are outstanding from loans provided by Cork County Council to customers residing in the transition area, shall remain with Cork County Council.”.

Amendment put and declared lost.

Section 28, as amended, agreed to.

#### NEW SECTIONS

**Chairman:** Amendment No. 92 has been ruled out of order as it involves a potential charge on the Revenue, while amendment No. 93 has been ruled out of order because it is not relevant to the provisions of the Bill.

**Deputy Michael Collins:** Will we be able to debate those amendments on Report Stage, given they have been ruled out of order?

**Chairman:** No.

**Deputy Michael Collins:** Can the Minister of State tell me when we can debate the boundary changes for the local authorities?

**Deputy John Paul Phelan:** The Deputy may debate the section.

**Chairman:** The Deputy may debate the section but his amendments have been ruled out of order.

**Deputy Michael Collins:** I will be able to debate the section.

**Deputy John Paul Phelan:** The Chair will ask if we agree to section 29 once we have gone through the amendments, and the Deputy may then-----

**Deputy Eoin Ó Broin:** For clarity, boundary changes are not a part of this Bill so it would not be appropriate to discuss them.

**Chairman:** We will discuss anything relevant to the Bill.

**Deputy Michael Collins:** When can we discuss boundary changes? Is this the wrong place to have a discussion on this?

**Chairman:** This is the wrong place; it is not part of the Bill.

**Deputy Michael Collins:** When can we do that in the Dáil?

**Deputy Eoin Ó Broin:** It can be discussed during Private Members' time or during discussions on Government legislation.



**Deputy Michael Collins:** In other words, there will be no Bill on this matter before the Dáil and this is a *fait accompli*. The decision has been made regardless of the constituency. In Cork South-West, places such as Courtmacsherry, Timoleague and other areas have seen boundary changes made without the will of the people. I want to know where I can discuss that.

**Deputy John Paul Phelan:** I understand. I come from a little place with a population of 2,000 people on the Wexford-Kilkenny border called Tullogher Rosbercon, and the commission decided to separate Rosbercon from Tullogher. How it came about I do not know; it has never happened before. My own neighbours are contacting me continuously. The Deputy is correct that I am the person who will sign the statutory instruments. I could decide not to sign them but we must remember that there are local elections in the near future. People are deciding to run and are making decisions about it. It would be completely inappropriate for me, as a Minister of State, if I did not implement this change.

I misunderstood what the Deputy was saying at first. The matter can be raised in the Dáil in Private Members' time, and I suggest, because it is an issue in the Deputy's part of the world, that that might be the place to have the discussion.

**Chairman:** It is not relevant to this Bill so we will move on to the next section.

**Deputy Michael Collins:** It is a huge issue. I do not believe this is a very democratic process. The Minister of State has the final decision and is not obliged to accept the findings from the independent commission. The people from my area of west Cork, and I presume many more constituencies, want to know-----

**Chairman:** Deputy Collins, I am not-----

**Deputy Michael Collins:** I have not delayed this process.

**Chairman:** I know the Deputy has not delayed the process, but with respect, I am not getting into a conversation about boundaries here. This legislation is not relevant to that matter. The Minister of State will have no problem talking to the Deputy about this afterwards, but we have to make progress on this Bill. It would be unfair for me to allow the Deputy to speak because it would open the floor to any other matter the Deputies wish to talk about. I always try to be as fair as possible. We will move on to the next amendment, which is in the Deputy's name.

**Deputy Michael Collins:** I will finish my point, if the Chair does not mind.

**Chairman:** I do not mind as long as it is about this Bill and not boundaries.

**Deputy Michael Collins:** It is important for me to finish my point. We live in a democracy and everyone should have a say-----

**Deputy Darragh O'Brien:** We also live by the rules.

**Deputy Eoin Ó Broin:** With the greatest of respect, this has nothing to do with the Bill. This is not how this committee operates.

**Deputy Michael Collins:** The Deputy has said that already.

**Deputy Darragh O'Brien:** We have an independent boundary commission.

**Deputy Michael Collins:** The only reason I brought it up was to find out the relevant place to discuss it. It is hugely important to my constituents. I appreciate having the opportunity to

speak; we will see where we go from here.

Amendments Nos. 92 and 93 not moved.

**Deputy Michael Collins:** I move amendment No. 94:

**“Blarney Tower and adjacent hinterlands**

**29.** That the Blarney Tower and adjacent hinterlands should remain within the Cork County Council Area and not be transferred to the City Area. This would result in a population of 6,357 remaining within the County administrative area (based on the census 2016).”.

I will try not to delay progress on this Bill because there are quite a few amendments listed tonight. I want to revisit amendments Nos. 45, 48, 50 to 52, inclusive, 55 and 57 on Report Stage but for now I will discuss this amendment, which is hugely important for the people of Blarney. We are talking about 6,357 people. I have to take feedback from the areas represented by independent councillors, such as Councillor Kevin Conway, who has made it clear to me that the people of that area do not want to be brought within the city boundaries. The people feel their voices have not been heard. The people of Blarney certainly feel like that and I know something like 6,000 people signed a petition against this in Ballincollig. I would appreciate it if the Minister of State could clarify to the people of Blarney that they will not be brought under the city council area.

**Deputy John Paul Phelan:** Unfortunately, I cannot clarify that. The task was given to the implementation group to look at the maps and delineate between the areas which would be in the city in the future and the areas that would remain in the county. Undoubtedly there was surprise when the maps were produced. We are all politicians here, and we know that when boundary maps are produced, usually for electoral purposes, surprises often happen. Some of them can be unhappy surprises.

This is somewhat connected to the response I gave to the Deputy on the previous issue. There already has been a designation of the areas that are expected to be in the city council for the next local election. This also goes to the heart of the whole process of the group looking at where the boundary lines should be drawn. I, no more than anyone in the Oireachtas, know how difficult issues about boundary lines can become. Moving the lines goes to the very core of people’s identity. The Deputy would agree that if the proposal was to move Goleen and Ballydehob into south Kerry there would be ructions. Some people in south Kerry might be happy about that-----

**Deputy Danny Healy-Rae:** There would be no problem in Kerry. The boundaries for Kerry were drawn above in the restaurant somewhere down in the middle tables.

**Deputy John Paul Phelan:** I am talking about the county boundary.

**Deputy Danny Healy-Rae:** The local boundary divisions were drawn up-----

**Chairman:** We are not getting into this.

**Deputy Danny Healy-Rae:** -----in the restaurant around a table with a number of Fine Gael councillors from Kerry at the end of January. That is where the boundaries were drawn.

**Chairman:** We are not getting into this now.

**Deputy Danny Healy-Rae:** Rathmore and Gneeveguilla, in the same parish-----

**Chairman:** Is the Minister finished?

**Deputy Danny Healy-Rae:** -----were divided on the table in the restaurant.

**Chairman:** The Chair is speaking, and Deputy Danny Healy-Rae should show respect to members of the committee.

**Deputy Danny Healy-Rae:** I apologise to the Chair.

**Deputy Eoin Ó Broin:** Hear, hear.

**Chairman:** Is the Minister finished?

**Deputy John Paul Phelan:** I was referencing the county boundary between Cork and Kerry. The issue here is the boundary between the county of Cork and the city of Cork. I accept that some people will have reservations but if we were to begin the process of unpicking it now, the whole boundary line is then called into question. I am not in a position to accept amendment No. 94. I am sorry for upsetting Deputy Danny Healy-Rae.

**Deputy Michael Collins:** I will withdraw the amendment on the basis that I can revisit it again on Report Stage.

Amendment, by leave, withdrawn.

#### SECTION 29

**Deputy John Paul Phelan:** I move amendment No. 95:

In page 25, to delete lines 1 and 2 and substitute the following:

“(iii) the insertion, in subsection (5), of the following paragraph:

“(aa) *Part 2 of the Local Government Act 2018*”;

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 96:

In page 25, to delete line 9 and substitute the following:

“(c) in subsection (10) of section 140, by the insertion of the following paragraph:”.

Amendment agreed to.

Section 29, as amended, agreed to.

#### SECTION 30

**Deputy John Paul Phelan:** I move amendment No. 97:

In page 25, line 14, to delete “Local Government Act” and substitute “Act of”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 98:

SHPLG

In page 25, lines 22 and 23, to delete “in his or her statement of response” and substitute “, in his or her statement of response,”.

Amendment agreed to

**Deputy John Paul Phelan:** I move amendment No. 99:

In page 25, line 31, after “boundary” to insert “and”.

Amendment agreed to.

Section 30, as amended, agreed to.

NEW SECTION

**Deputy John Paul Phelan:** I move amendment No. 100:

In page 25, between lines 32 and 33, to insert the following:

**“Making and review of development plans by Cork local authorities**

**31.** The Act of 2000 is amended—

(a) in section 9, by the insertion of the following subsections:

“(1A) Notwithstanding subsection (1), the council of the city of Cork shall make a development plan every 6 years (or such longer period, not exceeding 7 years, as the Minister may specify by order).

(1B) Notwithstanding subsection (1), the council of the county of Cork shall make a development plan every 6 years (or such longer period, not exceeding 7 years, as the Minister may specify by order).”.

and

(b) in section 11 (inserted by section 12 of the Planning and Development (Amendment) Act 2018), by the insertion of the following paragraphs in subsection (1):

“(aa) Subject to paragraph (b) and notwithstanding paragraph (a), the council of the city of Cork shall, not later than 4 years (or such longer period, not exceeding 5 years, as the Minister may specify by order) after the making of a development plan, give notice of its intention to review its existing development plan and to prepare a new development plan for its area.

(ab) Subject to paragraph (b) and notwithstanding paragraph (a), the council of the county of Cork shall, not later than 4 years (or such longer period, not exceeding 5 years, as the Minister may specify by order) after the making of a development plan, give notice of its intention to review its existing development plan and to prepare a new development plan for its area.”.

Amendment agreed to.

SECTION 31

**Deputy John Paul Phelan:** I move amendment No. 101

In page 25, line 36, after “change” to insert “of circumstances”.

Amendment agreed to.

Section 31, as amended, agreed to.

**Chairman:** While members can come and go, the secretariat, the officials and the Minister of State cannot leave. We will suspend for ten minutes and reconvene at 8.20 p.m. Is that agreed? Agreed. We will resume on section 32.

*Sitting suspended at 8.10 p.m. and resumed at 8.25 p.m.*

NEW SECTIONS

**Deputy Donnchadh Ó Laoghaire:** I move amendment No. 102:

In page 26, between lines 1 and 2, to insert the following:

**“Amendment to Local Government Reform Act 2014**

**32.** The Local Government Reform Act 2014 is amended in section 22A(1), by the substitution of the following paragraph for paragraph (a):

“(a) subject to subsection (4), every county and city and county set out in Part 1 and Part 3, respectively, of Schedule 5, and Cork City Council or Chomhairle Cathrach Chorcaí in Irish, in Part 2 of Schedule 5, shall have 2 or more districts (each consisting of one or more than one local electoral area) to be known as a municipal district and collectively as municipal districts, as the Minister shall determine by order made under section 23(1)(c).”.

Amendment, by leave, withdrawn.

**Deputy Donnchadh Ó Laoghaire:** I move amendment No. 103:

In page 26, between lines 1 and 2, to insert the following:

**“Amendment to Planning and Development (Amendment) Act 2018**

**32.** The Planning and Development (Amendment) Act 2018 is amended in section 13, after subsection (1A), by the insertion of the following subsection:

“(1B) The planning authority of Cork City Council, shall not in 2019, be required to begin the formal process of developing a city plan, in advance of the adoption of the Regional and Spatial Economic Strategies, within 13 weeks, however, it shall be required to begin this process in 2020.”.

Amendment, by leave, withdrawn.

**Chairman:** Amendments Nos. 104 to 110, inclusive, are related and will be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 104:

In page 26, between lines 1 and 2, to insert the following:

“PART 5

PLEBISCITES ON DIRECT ELECTION OF MAYORS

**Interpretation**

**32.** (1) In this Part—

“directly elected mayor” means the cathaoirleach of a local authority elected to that office by the electors of the administrative area of that local authority and on whom are conferred—

(a) some or all of the functions for the time being performable by the chief executive of that local authority, and

(b) such other functions as may be provided by or under statute;

“local authority” means—

(a) the council of the city of Cork,

(b) the council of the city and county of Limerick,

(c) the council of the city and county of Waterford, or

(d) the council of the city of Galway and the council of the county of Galway;

“plebiscite” means, in relation to an administrative area, the plebiscite of the electors of that administrative area required to be held under this Part;

“proposal” means a proposal to provide by law for a directly elected mayor of the administrative area of a local authority.

(2) For the purposes of this Part, each of the following is an administrative area:

(a) the administrative area of the council of the city of Cork;

(b) the administrative area of the council of the city and county of Limerick;

(c) the administrative area of the council of the city and county of Waterford; and

(d) the administrative areas of the council of the city of Galway and the council of the county of Galway.”.

These amendments propose to insert after section 31 a new Part V, plebiscites on direct election of mayors, comprising seven sections.

At its meeting on 27 September 2018, the Government agreed in principle to the holding of plebiscites on directly elected mayors with executive functions for Cork City Council, Limerick City and County Council, Waterford City and County Council and Galway City Council and Galway County Council, in anticipation of the merger of those two local authorities in 2021, at

the same time as the local government elections in May 2019. This agreement was subject to the inclusion of the necessary legislative provisions within the Local Government Bill 2018 and the future submission of more detailed proposals on the plebiscites and the questions to be put to the electorate, as well as the specific powers to be given to mayors. The provisions proposed for inclusion in the Bill by this amendment facilitates the holding of the plebiscites.

The proposed new section 32(1), inserted by amendment No. 104, contains definitions applicable to the new part 5 of “directly elected mayor”, “local authority”, “plebiscite” and “proposal”. “Directly elected mayor” means the cathaoirleach of a local authority elected by the electors of the authority’s administrative area on whom is conferred some or all of the functions currently performable by the chief executive and such other functions as are provided for by legislation. In this part, “local authority” means Cork City Council, Limerick City and County Council, Waterford City and County Council or Galway City Council and Galway County Council together; “plebiscite” means a plebiscite of the electors of an administrative area that is required to be held under this part; and “proposal” means a proposal to provide by law for a directly elected mayor of the administrative area of a local authority.

The new section 32(2) provides that the administrative areas for the purposes of this part are those of the five local authorities referred to.

The new section 33, inserted by amendment No. 105, provides: in subsection (1), that the proposal is to be submitted to a plebiscite of the electors of the area to which the proposal relates; in subsection (2), that each plebiscite is to be held on the day and at the times appointed by the Minister by order; and, in subsection (3), that it be conducted in accordance with regulations made by the Minister under the new section 34(3).

Subsection (4) states that at least 30 days before the day appointed for the plebiscite, the relevant local authority is to cause information relating to the proposal to be circulated so as to bring it to the attention of its electors. That information is to contain a summary of the functions and office of directly elected mayors for the local authorities concerned, the likely impact on the relevant local authorities’ performance of their functions, relationships between the offices of directly elected mayor and those local authorities and with other relevant statutory bodies, the estimated cost and resource implications, the possible advantages and disadvantages associated with the proposal, any impact for the functions of any other statutory body and any other information the Minister considers appropriate, through subsection (5). Subsection (6) requires the Minister to issue guidelines to the local authorities in relation to the information to be circulated under subsection (5).

The new section 34, inserted by amendment No. 106, empowers the Minister, under subsection (1), to make regulations for the purpose of this part. Subsection (2) lists a number of matters for inclusion in the regulations, including the form and wording of the ballot paper; the arrangements and requirements relating to publication of notices and the provision of information to electors; the appointment, duties and staff of the returning officer; the taking of the poll; voting and counting of votes; the maintenance of the secrecy of the ballot; the procedures to be followed in the case of misconduct, disorder, obstruction or interference; modification of electoral offence provisions applied by the new section 35; and other appropriate matters. Under subsection (3), the regulations will require to be approved by resolution of the Oireachtas.

The new section 35, inserted by amendment No. 107, applies to the plebiscite’s relevant electoral offence articles that are contained in the local elections regulations of 1995, subject to any necessary modifications that are specified in the regulations made under the new section 34.

The new section 36, inserted by amendment No. 108, specifies the persons entitled to vote in the plebiscites as those entitled to vote at local elections for Cork City Council, including those being transferred under this Bill from the county to the city, Galway City Council, Galway County Council, Limerick City and County Council and Waterford City and County Council.

Under the new section 37, inserted by amendment No. 109, within two years of the holding of the plebiscites, the Minister must submit a report to the Oireachtas specifying either legislative proposals to establish the office of directly elected mayor for any of the local authority areas concerned or his or her reasons for not submitting such proposals.

The new section 38, inserted by amendment No. 110, provides that the costs incurred in the holding of a plebiscite are to be borne by the local authority.

**Deputy Fergus O'Dowd:** I want to refer to the White Paper we received today. This is an entirely new section of the Bill and we have not had an opportunity to discuss it, or even to see it, until this evening. I want to talk about issues that arise from it and expand upon views about which the people who vote for me feel strongly.

I welcome the principle of what the Minister of State is bringing in. He is bringing in directly elected mayors of certain local authorities, or combinations of them. I will just talk about my own area of County Louth. I have looked at the figures for population growth in the last census and, outside of the areas mentioned in these new sections, plus Dublin, the next largest town in the country is where I live in Drogheda. That is followed by Swords, Dundalk, Bray, Navan and Kilkenny. There are new changes in local government and I recognise the Minister of State has support of Members from Cork and other places for what he is doing. I accept and acknowledge that it will not be possible in this Bill to get the outcome I want, but the Minister of State can start the process by master-planning for areas like Drogheda where there has been significant growth over the past number of years. People may argue about the size of towns. If, however, one compares the population of Waterford city, 53,504, with that of Drogheda, approximately 42,000, one discovers that they are relatively close.

People want to be in control of their own local destiny. Whatever decisions are made in places like Cork, and I have no issue with that, the people in south Louth, where I live, want to control their future. Drogheda and Dundalk are major towns. Drogheda is the sixth largest town in the country and Dundalk is the eighth largest. These are huge urban areas. The population of each is greater than the populations of Leitrim and Longford. I am not arguing for changes in those counties. They have their county managers or chief executives, the relevant infrastructure, etc., but Drogheda, the populations of which is greater than those counties, does not have that and will not get it under this legislation. I ask the Minister of State to comment on this aspect.

The Minister of State might consider a master plan that includes Drogheda, the sixth largest town in Ireland, through the urban renewal generation fund, or whatever other mechanism he can find, to fund, control and plan for proper and accountable local government in that area. The problem that will then arise is with the area contiguous to Drogheda in County Meath. There are different views on this. The general population of east Meath, Drogheda and the greater Drogheda area is in excess of 80,000 and yet there is no definitive one-stop shop for administration there. The Minister of State's second tranche of amendments will probably cover some of this.

I am asking the Minister of State to come back on Report Stage, or any other appropriate



time, to look at the master-planning for areas like Drogheda which need to be in control of their destiny. They have the population and urban pressure. They have infrastructural deficits that need to be addressed and which were not addressed in the latest round of funding from the Department. I am not blaming the Minister of State for that and I will take the matter up with the officials later. Would the Minister of State consider that as a constructive way of engaging with a significant need? Finally, the spread of the greater Dublin area, GDA, is highlighted by all of those large towns, almost all of which are on the east coast adjacent to Dublin city. They all face significant pressures that are not being dealt with. Certainly, the existing local government infrastructure neither meets nor is accountable to the needs of their population.

**Deputy Eoin Ó Broin:** When we debated a motion in the Dáil to allow these amendments through, one of the concerns a number of us raised was that we only received the amendments the previous evening. While the Minister of State had signalled his intention to bring them forward, it still gave us little time to properly scrutinise and get our heads round them. I acknowledge that he made time for us today to go through some of them but given that we were only able to ask for that last night and schedule it today, we did not have a great deal of time. That is no criticism of those seated on the other side of the room but it begs a question. I will repeat some of these points when we deal with the next set of amendments because it is even more substantial. Substantial changes to local government are being proposed by way of amendment with limited scrutiny at almost 9 p.m. in the middle of a bunch of other matters. I am on the same side as the Minister of State on this in the sense that I am a supporter of directly elected mayors and if the powers and the relationships between those offices and the other structures of local government are correct, I would encourage people to vote for it, but the Government is making it difficult for us.

The reason I say that is I was part of the mayoral reform in Dublin when the former Minister for the Environment, Community and Local Government, Mr. Hogan, proposed a plebiscite in Dublin for a directly elected mayor. Councillors from the four Dublin local authorities were asked to debate and vote on this and if all four local authorities voted in favour of the plebiscite, we would have it. The difficulty was we were having that discussion in a vacuum. We had no idea what the powers would be. We had no idea whether powers would be sucked upwards from the local authorities into the office of directly elected mayor and whether powers would be devolved from Government agencies, Departments, etc. While three of the local authorities, including mine in south Dublin, voted in favour of the plebiscite despite the fact that we did not know, the major problem in Fingal County Council was that in the absence of any certainty, the local authority was not willing to allow the proposal to go forward. The Minister of State will tell the committee, as he did earlier, that next year we will deal with the more substantive issues of powers and relationships, etc., but that legislation will not be passed before these plebiscites. The Government might be able to say what it would like to do if the plebiscite passes and if it gets the legislation through. That involves many ifs and buts. That is as sure way to lose a plebiscite or, certainly, a way to confuse the public and make it difficult for the public to engage with the issue. I am on the Minister of State's side on the principle of this but I am genuinely concern about the sequencing of it.

Given that the Minister of State is telling us that if the legislation goes through and the plebiscites pass and the people in the respective areas support the proposition, it could be up to two years before he publishes a report to set out the legislation, does that mean the timeline for directly elected mayors is subject to the passing of a plebiscite for the local government elections, not next year but subsequently? If that is the case, why are we rushing what essentially is separate legislation in amendments to this Bill?

I also have some minor concerns on which I may table amendments on Report Stage. I would much prefer if the Minister of State would examine them because if he tables amendments in this regard, they are more likely to pass.

Without opening up the Galway debate because we will have that afterwards, it is presumptuous the way Galway is inserted in this. I understand there will be a plebiscite in the two local authority areas as they are currently constituted but if, for example, the good people of Galway city and county in their wisdom at a later stage decide to follow the Cork model and instead of a merger opt for a boundary extension, although I do not say the Minister of State would propose that, then the plebiscite in May of next year will not be valid for what the new enlarged Galway local authority. That is a matter for folks in Galway to go through in detail. It is none of my business as I do not represent the area but it is a significant problem under section 32.

Section 33, which I raised at the briefing earlier, relates to the information to be provided. We are aware of the difficulty we have in referenda. An independent Referendum Commission has been set up because of the difficulties relating to Government bodies issuing information on referenda. It is all very well to state that the local authority, following regulations from the Minister, will provide factual information but let us wait to see when we have the plebiscites whether facts become opinions and opinions become differences. I am concerned that those regulations might not require sufficient independence in the presentation of the information that we are accustomed to in referenda. That could just be a genuine difficulty.

I do not understand the timeline in section 37. Why two years? Why not six months after the passing of the plebiscite? If, for example, the good people of Cork or Limerick vote in favour of this, why wait two years? Why not, within a relatively short period, bring forward at least the Government's outline proposals?

I have a concern about costs under the new section 38. We are being asked to impose the costs of these plebiscites on the local authority but we do not know the costs. I raised this with the officials, who stated that they had some indicative costings. If they could share these with the committee, that would be good. For example, a cash-strapped local authority that has passed its estimates might have to take a decision to limit the distribution of material to fit the budget available to it when it comes to the plebiscite next year, and that could impact on the overall turnout whereas if the local authority were to decide to send literature to every house in the city or county and place new advertisements in the newspapers, the costs will become significant. For some of the smaller local authorities, €20,000 can become €50,000 or €100,000, and while I appreciate these plebiscites will be carried out on the day of the local and European elections in order that the count and related costs will be covered, even the dissemination of information could involve a significant cost. Does that mean, for example, if we agree the amendment to section 38, that Galway city or Limerick city and county councils must revise their estimates, even to find €20,000, €50,000, €80,000 or €100,000, depending on the cost? If the Minister of State can reassure us on his estimations of the cost, I would be grateful.

It is unclear to me why Dublin is not included. I do not seek an amendment to include Dublin because there is a set of complexities in Dublin but many parties, including my own, would support such a proposal if the configuration is correct.

My party will not oppose this amendment, although I will, subject to the replies, at least have recorded my opposition to the proposed new section 38. As somebody who would like to enthusiastically support this, the Minister of State is making it difficult for us. If he is making it difficult for us, the debate in the public arena will be even more difficult for much of the

electorate when it comes to the plebiscite.

**Deputy Darragh O'Brien:** Deputy Ó Broin mentioned many of the matters I wished to raise and I will not repeat them. I have a concern about the timing of something as fundamental as this being included at a late stage in the Bill. I recognise that the Minister of State and his officials briefed members earlier.

I recall the proposal of a previous Minister for a directly elected mayor in Dublin when my local authority was the only one of the four in the region that opposed it. The reason the councillors in their wisdom did so was there was no detail as to how the directly elected mayor would operate and how the functions of that mayor would integrate with the existing local authority structures, and I agreed with them. That question still remains. It is happening now because we have a local election and a European election in May next year and the Department or the Government has taken a view that it would be expeditious and cost effective to have these plebiscites on the same day. The Minister of State might clarify that. I would like the cost element in the new section 38 clarified.

I would like to understand the logic of the inclusion of the four areas the Minister of State has selected. One could question the Minister of State's native city. The people of Kilkenny are always at pains to tell us it is a city. Why is the other city in this country not included?

I refer to the points Deputy O'Dowd made. I could mention Swords. We could mention towns that are larger than cities such as Kilkenny and ask why one would do it.

I would like to get a handle on the timeframe. In the amendment to section 33 the proposal is that: "For the purposes of a plebiscite, the local authority concerned shall, not later than 30 days before the day appointed under *subsection (2)*, cause information relating to the proposal to be published". How advanced is the work within the Department on the functions of directly elected mayors? What functions will they take from the chief executive? What will be the term of a directly elected mayor? Those are fundamental aspects of how a directly elected mayor would operate. In section 33 the Department is effectively saying that we would have that information 30 days before the plebiscite but I think we need to do a lot better. I accept the Minister is setting that as the minimum, but when people are unsure about things they generally vote against them. As an individual who supports directly elected mayors, as does the Fianna Fáil Party, we want to make sure that we are going to get this right and that it is not rushed. The measure appears rushed.

The proposed section 37 deals with the reference to two years. It states: "The Minister shall, in respect of each administrative area in respect of which a plebiscite is held in accordance with this Part and not later than 2 years" lay a report. The reference is to an "area in respect of which a plebiscite is held". I take it that it means where a plebiscite is passed.

**Deputy John Paul Phelan:** No.

**Deputy Darragh O'Brien:** Will the Minister report back anyway? The reference is to "a report specifying proposals for the enactment of a law providing for a directly elected mayor". For argument's sake, if one of the four cities, for example, Limerick, decided by plebiscite that it did not want a directly elected mayor would the report still be made?

**Deputy John Paul Phelan:** The report does not have to be positive or negative. It is a report on actions.

**Deputy Darragh O'Brien:** Yes, but it goes a little further than that. The reference is to “a report specifying proposals for the enactment of a law providing for a directly elected mayor for such administrative area”. So it does not say what the Minister of State said, it-----

**Deputy John Paul Phelan:** Deputy O'Brien should look at the next subsection.

**Deputy Darragh O'Brien:** It is to “a report specifying the reasons for his or her not preparing and submitting a report”. I put it to the Minister of State that it is slightly different and that he needs to look at the wording prior to Report Stage. My reading of it is that even if a plebiscite is passed, it would give a reason not to prepare a report and to submit it within the two years.

**Deputy John Paul Phelan:** No.

**Deputy Darragh O'Brien:** Will the Minister of State examine the wording and come back on Report Stage? The reference is to “a report specifying the reasons for his or her not preparing and submitting a report”. It does not state not preparing and submitting a law providing for a directly elected mayor. The issue needs to be clarified. In the main, we are supportive of the proposal. We want to make sure that people have the information in good time to make an educated judgment about this. The functions are the fundamental piece behind this. Does the Minister of State have a timeframe for bringing those proposals back to the committee and to say here is what we are looking at by way of the functions of the directly elected mayor? Does the Minister of State intend to do so or does he intend to leave it to the Department to simply publish them within 30 days of those plebiscites being held?

**Deputy Noel Grealish:** I will be brief. I oppose the Bill as I do not agree with it. As I have said from day one, I think it is wrong that Galway should be lumped in with Cork. I will refer to the plebiscite in a moment. If a merger is to go ahead it should be a separate Bill going through the Dáil on its own merit not to be added in with Cork. I do not agree with what the Minister of State is proposing on the plebiscites for a directly elected mayor. I have always supported the system we have in Galway. I think it works very well. In his opening comments on the section, did the Minister of State say there would be a plebiscite for a directly elected mayor in Galway city and also in Galway county?

**Deputy John Paul Phelan:** No.

**Deputy Noel Grealish:** Will there be a plebiscite on both? What happens if it is rejected by the people? What will be the outcome of that?

**Deputy John Paul Phelan:** The report will issue and it will say no action is required if the plebiscite is rejected.

**Deputy Noel Grealish:** Could the Minister say he will enforce the change and go against the will of the people?

**Deputy John Paul Phelan:** It would be a foolish Minister to go against what people have voted for or against.

**Deputy Noel Grealish:** Why was Galway included? Why is the scope of the Bill being widened to include Galway given that only two lines referred to Galway in the original Bill? I do not agree with the proposal and I will oppose it.

**Deputy Éamon Ó Cuív:** I am a member of the Sub-Committee on Dáil Reform. We

passed a mammoth memorandum to do with pre-legislative scrutiny on Government notices, but in the main for Bills that have approximately three sections. Without any pre-legislative scrutiny the Minister has written a new Bill in an old Bill. He has doubled the size of the Bill. I could not believe it when I looked at my computer this morning to check the amendments for this evening's debate. There are 41 pages of amendments to the Bill and there are 37 lines of text in every page. When I pick up the Bill itself I find that it is not even 30 pages because the back page is taken up with the Long Title. There are more pages of amendments than pages in the original Bill.

I am long enough in the House to know the form. When one comes back after the summer break or the Easter break the House is looking for something to debate for weeks and weeks. Those of us who are around here for long enough know that nothing ever changes. We can have all the reform we want but in those weeks we discuss reports and look for something to do and especially coming up to Christmas we suddenly have to do a year's work in two or three weeks. This Bill adds insult to injury because not only are we doing a Bill but we are doing a Bill within a Bill. It is Shakespearian; it is like a play within a play. We got the amendments after Second Stage and they have significant implications. As a Minister I once foolishly added something to a Bill after the Bill had gone through the Seanad and it was in the Dáil. It was not a major issue and although it looked very innocuous at the time it was probably the decision that caused me the most grief as Minister subsequently. I learned that one should not trick around with the Houses or with the people. The longer a Minister spends in a committee going through a Bill in a constructive and interactive manner, accepting changes and making amendments, the less grief the Minister will face in the future. A Minister should never dismiss amendments, no matter who suggests them, as long as they have validity.

What we are getting at the moment is a different approach. The approach is that what we have decided we will push through. I am astounded to find that Galway is included in the plebiscites. We will come to the more substantive issue when we get to the opposition from my party and from a number of my colleagues to the section on the joint chief executive. It seems to me that despite the fact that the vast majority of public representatives in Galway believe that the Government should adhere to Eoin O'Sullivan's report, which says money first and all other issues after that, the Government insists on trying to put the cart before the horse. This is a very serious situation. Rushed Christmas legislation is seen as the norm. It is used as a device because people are busy with visitors in the House. There are so many things going on around the place that one would want to have bilocation to get to all the events this evening. The view is that people will take their eye off the ball, get tired and that the Bill will be passed. The Government probably will get it passed, but if the Minister of State believes that will be the end of things, I guarantee that it will only be the beginning of the grief the Government will suffer. It is making a major mistake in its approach. It would have been better to introduce a separate local government Bill next year that incorporated all of these provisions. Instead of waiting until the last minute and proceeding without any public discussion or consultation, it would have been wiser to hold off and do what we all promised at the beginning of this Dáil, namely, to be open, transparent, interactive and inclusive. It was to be new politics, there would be no more ramming things through and we would bring democracy back to Ireland. Other elements of this Bill smack of not trusting elected representatives. For some time, there has been a consistent theme of trying to reduce their power over matters.

I have learned to be wary of bulky documentation and amendments where there are words and words and words. I encountered the perfect example of this yesterday. At a meeting with the National Transport Authority, NTA-----

**Chairman:** I am sorry for interrupting but the Deputy should stick to-----

**Deputy Éamon Ó Cuív:** It is relevant.

**Chairman:** I know, but we have been here since 6 p.m. We have not placed any rush on this Bill in any shape or form. We have not applied any time limits. With respect, all members have kept to the Bill. I ask that the Deputy do so as well.

**Deputy Éamon Ó Cuív:** I want to explain. The Chair will understand what I am saying and why I want to encourage before we rush in-----

**Chairman:** I know, but it would be great if the Deputy was direct instead of going around the houses.

**Deputy Éamon Ó Cuív:** I will be very direct and I will conclude on this point. It is dangerous not to address the issue when it arises in a form such as this. Obviously, it is difficult early on to engage the public in light of all these dry words, but it will have massive consequences. At a meeting with the NTA yesterday, I sought an explanation as to why the cost per kilometre of fares to Claregalway or Carraroe is twice the cost of fares to Oranmore or anywhere in Galway city. According to the chief executive of the NTA, the fundamental reason is the national planning framework in that people would be encouraged to live outside the cities if bus fares were fairer. When we passed the national spatial strategy, we might not have realised that the effect of doing so would lock us into a double-fare basis for those who live outside the magic circle. Like that situation, I am convinced that, if we pass this Bill as is and opt for plebiscites in Galway, we will eventually find that there were many hidden agendas because the Government was afraid that, if it was upfront with the people, they would reject them.

**Deputy Michael Fitzmaurice:** In fairness to the Department, everyone agrees that there is a large financial shortfall in Galway. The first line of the report on Galway points out that it needs funding. Some moves are afoot and the Minister of State has had two meetings with us, for which we thank him, but this is not just a question of €500,000 or €1 million, it is a question of many millions of euro. That has been pointed out to him.

There is a major concern in rural areas of Galway. The municipal districts are under pressure. Unfortunately, populations in particular areas are not what they once were. We must face the fact that some rural villages will go into decline. Representation in such places is important. We must ensure that money is ring-fenced to try to keep them vibrant. All politicians are trying to ignite small villages in rural areas, including in Galway.

We are putting the cart before the horse. It is fine if the changes in Cork are going to go through - the Opposition supports them - but I do not know much about Cork. We will vote on those changes but we will know damn all about them. The people from Cork know more about them than any of us. In terms of Galway, though, the changes need to be well thought out and done right. The first step is to put the money in place so that Galway is on a level playing field. It is agreed by nearly everyone that the system of allocations is flawed. We need to right that for Galway and every other county that has not got its fair share. Galway borders many counties and has many peripheral areas. Every Deputy and councillor is working hard to try to pull a few quid to those areas.

By its nature, Galway city will expand. It is already nearly out to Barna. There does not seem to be a plan for Galway. I would have a Luas or something in it. The outer bypass is being built but transport infrastructure is needed. I can get to Dublin as quickly as I can drive to

Galway, which is only 40 miles away from my home. That is not a good situation for people who travel to the city in the mornings.

Those in Galway's peripheral areas are very worried that they will become the forgotten people. Regardless of whether we like it, the city will extend out past Oranmore. That is a fact. The areas in question will become more prosperous, which is good and no one would disagree with it, but there would then need to be extra city councillors who would look after their own areas. I do not know much about mayors in different places, but my understanding is that there were many problems in Limerick. People have referred to Tipperary. What are the Minister of State's thoughts in that regard?

We are from Galway and we do not know enough about Cork. I mean no disrespect, but it would be like someone from Cork talking about Galway in that he or she would not know the ins and outs. Galway deserves something of its own. There is no such thing as "we are willing to engage" - we are actually willing to work with the Minister of State. The first lines of the report say enough. They basically say, "Show me the money".

**Chairman:** Does Deputy Connolly wish to contribute?

**Deputy Catherine Connolly:** Yes. I also wish to contribute on a later amendment.

**Chairman:** Sure.

**Deputy Catherine Connolly:** I have been outspoken on this decision in the Dáil. It is wrong. Galway should not be included in the Bill at all. It is a simple matter. Galway has been included in the Bill and the reason for that leads to a lack of trust. We are now discussing plebiscites. I am not against plebiscites in general but I have an issue with the manner in which this is being done and the extra stuff we are to be given. I will not repeat what I stated in the Dáil. However, this is a cynical exercise meant to deflect us from the real problems on the ground in Galway, which I will address when speaking to the amendment.

**Deputy Anne Rabbitte:** In Galway, funding is the key issue. The budget for Galway was not passed last Monday when it was supposed to have been. This was because the council does not have the funds to pass the budget and it is not the first year but the third year it has found itself in this position. None of us is against a plebiscite but the lack of trust among all the sitting councillors in Galway is unbelievable. The further one goes away from the city and into the rural communities, the more one feels aghast at the disparity between city and county. The fact that this has found its way in with Cork has increased the distrust. I attended all the meetings around the merger and the report stated at the outset that funding was required so I am here to say, "Show us the money". This comes at a price and this is what councillors are looking for. I am representing them as their voice.

**Deputy Eugene Murphy:** I represent part of the constituency - not a big part but an important one. I support Deputies Fitzmaurice, Connolly and Rabbitte on this issue. There is a major problem with funding and offering a small amount of money to the various municipal districts is not much of a carrot because the deficit is so big. The city and the county have a total population of roughly 320,000, which is very large, with 275,000 in the rural areas.

**Deputy John Paul Phelan:** That is not correct.

**Deputy Eugene Murphy:** I have the figures.

**Deputy Éamon Ó Cuív:** It is approximately 250,000.

**Deputy Eugene Murphy:** It is quite substantial, then. Why is the Minister shaking his head?

**Deputy John Paul Phelan:** The Deputy said the population was over 300,000.

**Deputy Eugene Murphy:** There are between 70,000 and 80,000 in the city. I checked the figures yesterday. It would be no harm to verify them. Whether it is 250,000 or 300,000, it is a huge number of people and we need real planning and real money. The local authority does not have any faith in the system. Outlying areas such as Ballinasloe, which I represent, have felt completely left out for years. There are 79,000 people in the city.

**Deputy John Paul Phelan:** There are 170,000 elsewhere.

**Deputy Eugene Murphy:** No, it is more than that.

**Deputy John Paul Phelan:** I was not trying to be picky with the figures but the numbers were not adding up. Numbers often do not add up and perhaps that is at the heart of this discussion.

In reply to Deputy O'Dowd, the amendments were circulated on Monday evening. Other Deputies have stated that more time would be desirable but it was firmly indicated on Second Stage that there would be amendments in respect of the plebiscite and on urban area committees. The plebiscite chunk of amendments concern the actual structure of how a plebiscite would run and the subsequent actions the Minister of the day might take. It would be inappropriate to spell out what powers the directly elected mayor might have.

In early 2019, perhaps in February of that year, the Government intends to consider a memo, though it has not been drafted yet. I suggest we have either a meeting of the joint committee or statements in the Dáil and Seanad. I am perfectly prepared to do this for as many hours as necessary because there is not as much to divide parties on the issue of direct election as there is on other issues. It would be good to have this well in advance of when the memo goes in so that we can feed into it. Once the memo is adopted it can form the basis of the information to be made available to the public in advance of plebiscites taking place.

Members asked questions about timelines. It is stated that it must be done within 30 days but that does not mean it will be done on the 31st day. It is a statutory minimum. Another issue concerns reporting within two years. If the plebiscites are held and rejected, the reports should be short and sweet, and very quick. The report on actions to be taken if the plebiscite has a positive result would be more lengthy but it puts a backstop to it. As Deputies Ó Broin and O'Brien stated, this discussion has been taking place for years in Dublin but there has never been an end point. The plebiscite issue would have an end point of two years but it would not be my intention to make this a minimum period. In fact, it would be a maximum.

Deputy O'Dowd asked about urban area committees. Part 6, which comprises four sections, speaks to that issue. It is a big issue in the Deputy's part of the world, with a huge chunk of Drogheda in County Meath. A huge chunk of Waterford city is in Kilkenny but we will not go into too much detail on that. I only looked at the headline issues in the applications which were made by the different local authorities and, as I understand it, some local authorities opted out of making any decisions themselves under the urban regeneration fund and put in nine or ten applications. That is not the basis on which to secure funding for anything. Some local



authorities put in very specific proposals and secured funding but the Drogheda relief road was not, to the lay person, urban regeneration. A master plan for Drogheda, or for any town, would very much be part of urban regeneration. The application system will open again next February. Before Report Stage, I will speak to my colleague, the Minister of State with responsibility for planning issues, Deputy English, regarding the reasonable suggestion that areas which have been designated under the national planning framework as areas for development should get more resources to allow them to pursue that development.

In answer to Deputy Ó Broin, there will be a memo in January and I have no problem having a debate in committee or elsewhere. Deputy Ó Cuív spoke about pre-legislative scrutiny but my understanding is that the committee did not seek pre-legislative scrutiny on this. The Galway proposal was in it when the decision was made so I cannot be accused of not being available. There have been multiple meetings on this issue and there will be many more but it is factually incorrect to talk about pre-legislative scrutiny as the committee made a decision not to do it. It is not my fault nor the fault of my officials. I am not saying it is the committee's fault because this is a particularly busy committee. In fact, there is great merit in the idea of local government having its own full committee because of the amount of stuff that comes before the committee. The Cabinet adopted a report about three months ago. It was one of the first reports I presented to Cabinet and it was on the issue of directly elected mayors. It received some publicity in the newspapers and it was submitted to the committee for consideration. The committee is busy and it was not considered by it. That is not my fault or the committee's fault because it is grappling primarily with housing. It is also not a fair criticism to say that the discussion did not happen.

There are certain time sensitivities associated with this Bill, not least the fact that people will contest local elections next year. In Cork, people who are considering running want certainty about boundaries. There are issues about the establishment of electoral registers, which we mentioned with regard to an earlier section of the Bill. I know the point that Deputy Ó Cuív is making about rushing legislation. I have been here for 16 years and there is always a pre-Christmas rush. We have been looking to get on the schedule with the Business Committee for a long time. I would say to all members who have representatives on the Business Committee that we want their support to get legislation to the committee more quickly. Now that we are here, we should have the discussion. It is not any effort on our part to stop it from coming to this point.

Deputy Grealish spoke of a merger. If the merger goes ahead, it should and will be in a separate Bill. There will be a local government Bill 2019 next year, which will primarily be about Galway, but like all other local government Bills, there will be other sections relating to other aspects of local government. It is an area in which there is legislation which often refers to different issues. Galway will have its own Bill next year. The Deputy does not agree with directly elected mayors and I would suggest that many people in local government do not agree with them. There is no answer. People differ and the public will decide ultimately. Galway was included in this Bill with regard to chief executives because all the mergers that have happened in Limerick, Waterford and Tipperary started with the appointment of a joint chief executive officer. I will go into some detail on what we propose to do with regard to funding. When I got this position, about 18 months ago, there was a significant long-running problem in the funding of Galway County Council. It stems partly from the fact that the city council established in 1985 had an impact on the funding for the county. It was never dealt with properly. I will speak about that later.

Deputy Eugene Murphy spoke about issues which I will come back to, including finance, as did Deputy Fitzmaurice. He spoke about the understanding in Limerick. One can ask our Oireachtas colleagues in Limerick about it. The city has transformed. Whether it is transformed by the merger of the local authorities or not-----

**Chairman:** I do not want to interrupt the Minister of State. There should be time for him to finish. There is a division in the Dáil and we will suspend in a couple of minutes to allow members to go.

**Deputy Eugene Murphy:** I have to go. I apologise because I was wrong and the Minister of State was right.

**Deputy John Paul Phelan:** If I thought Deputy Eugene Murphy was being malicious, I would have taken the head off him.

**Deputy Eugene Murphy:** Do not say that.

**Deputy Eoin Ó Broin:** The Minister of State would have ended up back in the courts.

**Deputy John Paul Phelan:** Will we suspend?

**Chairman:** We have another two or three minutes.

**Deputy John Paul Phelan:** With regard to what Deputy Fitzmaurice said, the Limerick example is what I would hope will happen in Galway. There is a geographic issue in Galway. It is a huge county. Deputy Connolly mentioned this on Second Stage. The geographic area will not change much. The population is obviously changing. How do we ensure that we create a powerhouse on the west coast? I would see a united local authority as being a leading part in transforming the fortunes, particularly of County Galway. Many of those towns and villages have become dormitory towns. Their centres are gone because people are doing their shopping and business in Galway city. That is an argument in itself for having a single, unified local authority. I do not know if Deputy Connolly is necessarily aiming this at me. Bigger is not necessarily better. When one looks at the county and city of Galway, where the city is doing okay and the county has, in certain areas, suffered for a long time, it is partly due to funding of the local authority but partly due to planning and the lack of retail, business and infrastructure in those towns and villages in County Galway. I think a unified local authority will benefit those places that have become dormitory towns which we want to become functioning towns again in the future. That is the purpose of the Galway change from my point of view. I do not want to be seen as bullying anything through. Deputy Ó Cuív mentioned it and threatened grief on me afterwards. There is no attempt to bully.

**Chairman:** Does Deputy Ó Broin have a quick question?

**Deputy Eoin Ó Broin:** The Minister of State will not be able to answer it in the time before the division. I will be brief when we come back, if that is okay.

*Sitting suspended at 9.20 p.m. and resumed at 9.50 p.m.*

**Chairman:** Deputy Ó Broin wished to ask a couple of additional questions.

**Deputy Eoin Ó Broin:** I thank the Minister of State for the replies. I wish to raise a couple of quick points. The Minister of State will learn that we are always polite and friendly on this committee.

**Deputy John Paul Phelan:** Well, the members are.

**Deputy Eoin Ó Broin:** That is my point. Let me say this in regard to pre-legislative scrutiny. I am only saying this because the Minister of State will be coming back to us with other Bills. If some of the amendments we received on Monday night had been in the Bill originally, we might have taken a different view of it. I am only saying that because-----

**Deputy John Paul Phelan:** I only said it because a man gave a speech about pre-legislative scrutiny.

**Deputy Eoin Ó Broin:** I accept that, but I want to say this because it is relevant to future Bills. Those of us who took the decision not to have pre-legislative scrutiny did so on the basis of the Bill as published.

I wish to quickly raise two issues. I asked the Minister of State for information on the costs arising from the new section 38. I refer to the additional cost for local authorities. Regarding the new section 33, I asked how information could be handled in a fully impartial and fact-based way.

**Deputy John Paul Phelan:** I will give a brief answer. I do not want to guess the cost. We know that the cost will be low. We do not know accounting costs or the cost of holding the plebiscite. In advance of the report, I will consider the costs concerning information and a methodology to ensure that it is in some way balanced.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 105:

In page 26, between lines 1 and 2, to insert the following:

**“Plebiscite**

**33.** (1) The proposal shall be submitted to a plebiscite of the electors of the administrative area to which the proposal relates.

(2) Each plebiscite shall be held on such day and at such times as the Minister shall, by order, appoint.

(3) Each plebiscite shall be conducted in accordance with regulations made by the Minister under *section 34*.

(4) For the purposes of a plebiscite, the local authority concerned shall, not later than 30 days before the day appointed under *subsection (2)*, cause information relating to the proposal to be published and distributed in such manner as it considers will most likely bring the proposal that is the subject of the plebiscite to the attention of electors in its administrative area.

(5) Without prejudice to the generality of *subsection (4)*, information published and distributed in accordance with that subsection shall, in accordance with guidelines under *subsection (6)*, contain a summary of—

(a) the functions and office of directly elected mayor for the administrative area concerned,

(b) the likely effect that the establishment of such office will have on the performance by the local authority concerned of its functions and the likely nature of the relationship between the holder of that office and that local authority,

(c) the likely nature of the relationship between the holder of that office and any other body established by or under statute charged with performing functions in relation to the administrative area concerned,

(d) the likely cost and other resource implications if the proposal were implemented,

(e) the likely effect (if any) that the proposal would have in relation to the functions and organisational structure of any other body established by or under statute,

(f) the possible advantages and disadvantages that would result if the proposal were implemented, and

(g) such further information as the Minister considers appropriate.

(6) The Minister shall issue guidelines to each local authority regarding the publication and distribution of information to electors for the purposes of a plebiscite.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 106:

In page 26, between lines 1 and 2, to insert the following:

**“Regulations**

**34.** (1) The Minister may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision in relation to any one or more of the following:

(a) the form of the ballot paper in respect of a plebiscite, including the wording of the proposal to be included on the ballot paper;

(b) arrangements and requirements relating to the publication of notices and the provision of information to electors;

(c) the appointment of the returning officer for the purposes of the plebiscite, his or her duties and the assignment of staff to him or her for the purposes of the plebiscite;

(d) the taking of the poll and the counting (including recounting) of votes in a plebiscite;

(e) the use of school premises and other premises to which the public ordinarily have access for purposes connected with a plebiscite;

(f) arrangements for—

- (i) voting at the plebiscite in person or by post,
  - (ii) special voting, and
  - (iii) voting at the plebiscite by persons who are members of the staff of the returning officer;
  - (g) voting at a plebiscite by electors who are physically ill or physically disabled;
  - (h) polling at a plebiscite on islands that form part of the administrative area in which the plebiscite is being conducted;
  - (i) the issue of polling information cards;
  - (j) the maintenance of the secrecy of the ballot;
  - (k) the removal of persons misconducting themselves in polling stations;
  - (l) procedures to be followed in cases of disorder or obstruction at polling stations or otherwise in relation to the holding of a plebiscite;
  - (m) procedures to be followed in the case of damage to ballot boxes or damage to a polling station;
  - (n) arrangements to prevent interference with ballot boxes or ballot papers and procedures to be followed should such interference occur or be suspected of having occurred;
  - (o) modifications of the provisions specified in *section 35* for the purposes of that section; and
  - (p) such other matters relating to the holding of a plebiscite as the Minister considers appropriate.
- (3) Where regulations under this section are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving the draft has been passed by each such House.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 107:

In page 26, between lines 1 and 2, to insert the following:

**“Electoral offences**

**35.** Articles 67, 95, 96, 97, 98, 99, 100, 101, 106, 107, 108, 109, 110, 111, 113, 115, 116, 117, 118, 119 and 123 of the Local Elections Regulations 1995 (S.I. No. 297 of 1995) shall apply and have effect in relation to a plebiscite as they apply and have effect in relation to a local election, subject to such necessary modifications as shall be specified in regulations under *section 34*.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 108:

In page 26, between lines 1 and 2, to insert the following:

**“Persons entitled to vote at a plebiscite**

**36.** (1) Every person whose name is entered on the register of local government electors—

(a) prepared under Part II of the Act of 1992, and

(b) in force for the city of Cork for the purpose of the local elections in 2019 as specified in *section 22*,

shall be entitled to vote in the plebiscite in respect of that administrative area.

(2) Every person whose name is entered on the register of local government electors—

(a) prepared under Part II of the Act of 1992, and

(b) for the time being in force for the city and county of Limerick,

shall be entitled to vote in the plebiscite in respect of that administrative area.

(3) Every person whose name is entered on the register of local government electors—

(a) prepared under Part II of the Act of 1992, and

(b) for the time being in force for the city and county of Waterford,

shall be entitled to vote in the plebiscite in respect of that administrative area.

(4) (a) Every person whose name is entered on the register of local government electors—

(i) prepared under Part II of the Act of 1992, and

(ii) for the time being in force for the city of Galway,

shall be entitled to vote in the plebiscite in respect of the administrative areas of the city of Galway and the county of Galway.

(b) Every person whose name is entered on the register of local government electors—

(i) prepared under Part II of the Act of 1992, and

(ii) for the time being in force for the county of Galway,

shall be entitled to vote in the plebiscite in respect of the administrative areas of the city of Galway and the county of Galway.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 109:

In page 26, between lines 1 and 2, to insert the following:

**“Report to Houses of Oireachtas**

**37.** The Minister shall, in respect of each administrative area in respect of which a plebiscite is held in accordance with this Part and not later than 2 years from the day appointed

under *subsection (2) of section 33*, prepare and submit to both Houses of the Oireachtas either—

(a) a report specifying proposals for the enactment of a law providing for a directly elected mayor for such administrative area, or

(b) a report specifying the reasons for his or her not preparing and submitting a report under *paragraph (a)*.”.

Amendment agreed to.

**Deputy John Paul Phelan:** I move amendment No. 110:

In page 26, between lines 1 and 2, to insert the following:

**“Costs of holding plebiscites**

**38.** The costs incurred by a local authority in the holding of a plebiscite shall be borne by that local authority.”.

Amendment agreed to.

**Chairman:** Amendments Nos. 111 to 114, inclusive, are related and will be discussed together.

**Deputy John Paul Phelan:** I move amendment No. 111:

In page 26, between lines 1 and 2, to insert the following:

“PART 6

URBAN AREAS

**Interpretation**

**39.** (1) In this Part—

“greater urban area” means—

(a) an urban area, and

(b) any part of the administrative area of a local authority designated under *section 41* by the urban area committee appointed for that urban area;

“urban area” shall be construed in accordance with *subsection (2)*.

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(2) (a) For the purposes of this Part, an area that lies within the administrative areas of more than one local authority is an urban area if—

(i) the population thereof, as recorded in the most recent census of population, is not less than 1,500 persons and not greater than 100,000 persons,

(ii) each dwelling situated therein is within 100 metres of another dwelling so situated, and

(iii) the population, as so recorded, of each part of the area consists of not less than—

(I) 15 per cent of the population of the area, or

(II) 1,500 persons,

whichever is lower.

(b) In this subsection “part” means, in relation to an area that is situated in more than one administrative area, that part of each such administrative area that is situated in the area first-mentioned in this definition.”.

These amendments relate to the urban area committees. Amendment No. 111 contains definitions applicable to the new part 6, including “urban area”, which is to be construed under the following subsection, and “greater urban area”, which means an urban area and any other part of a local authority area that is designated by an urban area committee under the new section 41.

Section 39(2) provides that an area aligned with the administrative area of more than one local authority is an urban area if it has a population of between 1,500 and 100,000, dwellings are spaced no more than 100 m apart and the population applicable to each of the component local authorities amounts to at least 15% of the total or 1,500 persons.

The new section 40 inserted by amendment No. 112 requires the establishment of urban area committees by those local authorities in which the urban area is situated within six months of the commencement of the section. Members are to be appointed by the local authorities involved in the urban area and are to consist of the cathaoirligh of the local authorities concerned; three other ordinary members of each local authority, who will be selected in respect of the local electoral areas where the urban area is located; and between two and four people who are not councillors and who have experience and expertise in areas of transport provision, housing provision, infrastructure development or business and trade, nominated by the cathaoirligh in accordance with guidelines issued by the Minister in subsections (3), (4) and (5). In accordance with subsection (11), the members who are not councillors are non-voting and cannot be the chair. The chairperson of the urban area committee is to be appointed from among the members by the members, unless the members fail to do so within two weeks of their appointment to the committee, in which case the Minister will appoint a chairperson.

The urban area committees are to hold as many meetings as are necessary for their functions, and their local authorities are to set the date and place of the first meeting of the committees. Committee meetings are to be chaired by the chairperson, if present, or else by a member chosen by those present. Questions are to be determined by a majority of the voting members, with the chairperson having a casting vote. The meeting quorum is four voting members.



Subsection (12) provides that the committees may act notwithstanding membership vacancies and subsection (13) provides that they may regulate their procedures, subject to this section. In accordance with subsection (15), administrative support to the committee is to be provided by members of staff selected by the committee from nominations made by the two local authorities in consultation with each other. Subsection (16) requires the assignment of support staff to perform functions on behalf of the committee under its direction and control.

Amendment No. 113 inserts a new section 41. It relates to the designation of the greater urban area and local area planning. Subsection (1) provides that an urban area committee may designate any part of a local authority administrative area that adjoins the urban area for the purpose of this section, dealing with its functions. Subsection (2) provides that if the committee has not made such a designation within three months of its appointment the Minister may make the designation by order. Subsection (3) provides that the functions of the planning authority under chapter II of part II of the Planning and Development Act 2000, which concerns local area planning, are to be performed by the urban area committee in relation to an urban area, and subsection (4) provides similarly in relation to a greater urban area.

The main function of the urban area committee will be the production of the local area plan for the cross-boundary urban area and its contiguous areas as designated by the committee, including the appropriate zoning as an explicit function. In the case of these towns and cities, the current position whereby the local area plan is required to be consistent with the local authority's development plan will be reversed, and the development plan content for both local authorities will have to follow on from, and be consistent with, a local area plan made for the cross-boundary area.

It will not be possible for either local authority to amend or revoke the local area plan approved by the committee. Transferring responsibility for local area planning to the urban area committees in this way necessitated a number of provisions to adapt how the local area planning provisions within the Planning and Development Acts are to operate in respect of the committees. Paragraphs (a) to (e) in subsection (3) accordingly amend or adapt how sections 18 to 20 of the 2000 Act apply to urban area committees performing local area planning functions for the urban area. Subsection (4) applies many of the subsection (3) modifications to the performance of local area planning functions for the greater urban area and also adds a number of additional adaptations in that subsection's paragraphs (a) to (e). Subsection (5) disapplies section 131A(1) of the Local Government Act, 2001, which relates to the performance of reserved functions in respect of municipal district members and part 2 of the associated Schedule 14A includes local area planning functions from the urban area committee functions prescribed in this section.

The final section in this part - the new section 42 - is an amendment of section 10 of the Planning and Development Act 2000, proposed to be inserted by amendment No. 114. It amends section 10 of the Planning and Development Act 2000, to add a new subsection (11) providing that a provision in a development plan that is inconsistent with a local area plan made by an urban area committee under this Act shall not have effect in relation to the urban or greater urban area concerned.

**Chairman:** With the agreement of members can we extend the meeting time to 10.30 p.m.? Is that agreed? Agreed.

**Deputy Pat Casey:** I want to have my say on the amendments that are being put before us here tonight. It is disappointing that they are coming so late and I want to put on record that we might need to make amendments to these on Report Stage. I hope the Minister of State will

accept those amendments on Report Stage because we have not had a chance to have a decent discussion on this whole section.

I assume this urban committee is made up of the two cathaoirligh from each administrative area, six councillors and two to four members of society, based on auditing. I have a slight concern as to why we need four members of society at this stage on a committee when we trust our local councillors to adopt local area plans, to adopt county plans and to adopt regional plans at assembly level. Why are we bringing in private people at this stage to a democratic process that has served us well in the past? I would like to get some of the reasoning behind that.

It is equally being said that the private sector has no voting rights if I am reading the Bill correctly. On the election of the chairman of that committee, do they have a say at that point? I ask because it states: "The chairperson of an urban area committee shall be appointed from among the members". It does not say anything about voting rights in that respect.

What sort of powers are being given to this urban committee? I am not sure if it has to follow the same rules as the local authority when it comes to local area plans or county development plans. Is it short-circuiting that process? At one point it is proposed that "For the purpose of this section, an urban area committee may designate any part or parts adjoining the urban area concerned of an administrative area of a local authority in which part of the urban area is situated." Is the Minister of State proposing that without any consultation, this committee has the power to expand the boundaries wherever it deems fit?

When this committee does its own urban area plan, must it follow the same procedure as a local area plan or a county development plan or can it short-circuit that process?

**Deputy Eoin Ó Broin:** I thank the Minister of State for the explanation.

Of all of the amendments that were covered by yesterday's motion, this group of amendments are of the biggest concern and I share all of the concerns outlined by Deputy Casey.

One reason pre-legislative scrutiny was introduced was to allow us to tease out the kind of questions we will ask now and to get responses from both Ministers and Ministers of State and councillors or sitting managers from the areas that could be affected, for example. This was designed to fix a particular problem and the difficulty is that the way this is designed may work for some areas and not for others. Alternatively, it may work for one part of a geographical area that would become one of these urban area committees but we do not have the opportunity to tease that out with those organisations or individuals. While I can see the logic in introducing the measures on plebiscites, particularly with the deadline for registration, I am still at a loss as to why we are dealing with this significant proposed change to our local government structures in this way.

If I read it right, there could be an urban area committee that is made up of a very large geographical portion of one county and a very small geographical portion of another county but they will have exactly the same number of representatives. There is a democracy question around the proportionality of the representation that they have. As the voter base difference can be very substantial, I ask the Minister of State to clarify that with as much detail as possible in order that we know where the upper and lower limits of all that would be.

While the only voting members of the committee are elected members, there is no guidance on those elected members being in some way representative of the councils that they come from. For example, if one party has a simple majority in the council, it could dominate all three

elected positions, rather than having something that is proportionate. I ask the Minister of State to clarify exactly how that would work.

I refer to the staff in the proposed new section 40(16). Correct me if I am wrong, because we have only had two days to read this, but it seems to be that the staff requirements can be decided by the committee, irrespective of whether the city or county manager or the chief executives approve. I do not understand how that works from a HR, staff management and resources point of view. Who will replace those staff for a period?

There also does not seem to be any level of consultation with the elected members of the broader electoral authorities. Again, I ask the Minister of State to correct me if I am reading it wrong. The super-committee of eight, with two chairs and six ordinary members, will agree the plan, but as an extension of Deputy Casey's question, does it have to go back to its two respective local authorities to get that approved? Does it approve it itself? How is that process outlined?

I refer to the issue of costs. This committee will make profound decisions. By the way, it might make really good decisions and decisions that are very popular but the local authorities will have to bear the costs of those decisions. Is that the most democratic way of doing it and how is all of that determined? The same issue arises with zonings. There could be very controversial decisions on zonings, which could raise all sorts of complicated issues and I am not clear around all of that.

I am very uncomfortable with amendment No.-----

**Chairman:** I apologise for interrupting the Deputy but I advise members that there is a vote in the Chamber.

**Deputy Eoin Ó Broin:** I am almost done with my questions.

**Chairman:** I will let the Deputy finish and then suspend.

**Deputy Eoin Ó Broin:** I am very concerned by amendment No. 114 on the proposed new section 42 in respect of the hierarchy of the county development plans. I am genuinely interested in the logic of that and what was the thought process. I am not convinced that there has been sufficient consultation with the elected representatives and the managers in the affected areas. Can the Minister of State tell us the areas to which this will apply in the first instance and what engagement there has been with the elected representatives there on this specific proposal? I am not asking about what consultation happened in terms of the boundary reviews previously but specifically on this point. I may come back with a supplementary question on that.

Without wanting to recommence the war, given the difficult week the Minister of State has had in the courts, could he give us a real life example of how this works? Whether it would controversially be the Minister of State's area or another area, I ask him to talk us through how he sees it because I am thinking of-----

**Deputy David Cullinane:** I will give an example later.

**Deputy Eoin Ó Broin:** The only reason I am thinking about Waterford is because of that population imbalance but if the Minister of State can find another example that allows him to tease that out with me I am quite happy for him to do so. I genuinely have many big concerns about this. We are here after 10 p.m. again. This is huge stuff and this committee has really not

been given adequate time to tease through all of this. It is not that we want to be awkward but we want to do our job properly.

**Chairman:** Are members willing to extend the meeting time to 11 p.m. to allow for us to get back from this vote? We are sitting in the Chamber until 12.00 a.m.

**Deputy Éamon Ó Cuív:** What time will we recommence because some of us got caught short the other time?

**Chairman:** Whenever the vote is over we will make our way back.

**Deputy Éamon Ó Cuív:** I know but can the Chairman just give us a time, because a very important section of the Bill seems to have gone through very fast?

**Chairman:** I have the list. When we come back, Deputy Cullinane is next to speak. Whenever he arrives-----

**Deputy Éamon Ó Cuív:** Give us a time.

**Chairman:** When the vote is taken, we will leave the Chamber and come straight back.

**Deputy Éamon Ó Cuív:** I literally-----

**Chairman:** I am not being awkward with the Deputy. It is clear. When the vote is over, we walk back. As soon as the members are here, we will start. Deputy Cullinane is the next speaker. It is as simple as that.

*Sitting suspended at 10.10 p.m. and resumed at 10.55 p.m.*

**Chairman:** We will resume consideration of the Bill in public session. Deputy Cullinane has the floor.

**Deputy David Cullinane:** Like previous speakers, I am not a member of the committee but I am concerned about the proposed Part 6 of the Bill and the urban areas being proposed. It would have been better if it was brought forward as a stand-alone Bill because at least then there would be an opportunity to properly tease out what it all means and the implications of the proposed Part 6 for local authorities. It would have provided the opportunity to consult with the stakeholders and also to have a consultation process. I am a bit concerned it has been brought forward as an amendment to a Bill that deals with something else. It will cause concern for councils across the State that will be affected by it.

I have a number of questions that flow from the amendments because there are a number of things that are not clear. It states the urban area committee shall appoint members from local authorities - six in total. I imagine if there are two local authorities, it would be three from each. What does it mean by "appoint"? Are they elected by the members of the local authorities? How are they appointed? How does it work? What is the relationship with the local authority when they are appointed or elected? It also states the people who are appointed should have experience and expertise in the provision of transport and housing and the development of infrastructure, business and trade. Who determines that? Who determines what expertise is and what experience is? Will it be more defined?

I have a concern about the making and amending of local area plans. Perhaps I am wrong and the Minister of State might clarify it for me. It seems to suggest that, once established,

these urban committees can formulate their own separate local area plans that could supersede local area plans already agreed by local authorities. It would be very problematic and cause a lot of tension and difficulties for local councils and their CEOs. How it will work needs to be properly explained. It also refers to “a local area plan prepared by a planning authority insofar as it applies to the urban area in respect of which that urban area committee was appointed.” It causes me concern.

Another area of concern is in the area of development plans. It seems to suggest the urban committee could amend development plans that are crafted democratically by local councils. How will that work out? I am struggling to come up with an example of how it will work. Waterford-Kilkenny is a good example. I think the Minister of State would agree the population of the metropolitan area of Waterford city is 45,000. If this was put in place for the Waterford-Kilkenny area so that it included the part of Kilkenny known as Ferrybank, the urban area committee would then cover an area with a population of 50,000, the vast majority of which would be in Waterford. If there were three representatives from Waterford and three from Kilkenny it would not be seen as very democratic and would be highly problematic.

What consultation has there been with the CEOs of any of these councils? What consultation has there been with the elected members? I contacted a number of elected members from all parties from Waterford and none of them was aware of the amendments or what it would mean. What engagement was there with the representative bodies of local councillors?

For all those reasons, notwithstanding whether or not there is logic to what the Minister of State is proposing, although I have some concerns about it, it should be brought forward as a stand-alone Bill. My suggestion is to withdraw the amendments, come back with a stand-alone Bill and let us have the full consultation and Second Stage contributions. If the Minister of State feels there is logic to it, it can be teased out and people can put forward legitimate and proper amendments. Tabling amendments in this way to a Bill that has already passed Second Stage is not the way to deal with a very complicated and contentious issue. It will be treated with suspicion for that reason. I ask the Minister of State to withdraw the amendments and come back with a stand-alone Bill.

**Deputy Darragh O’Brien:** I agree with much of what Deputy Cullinane said. These changes are very significant and in many respects could be very positive. I see the objective, particularly in areas that cross council boundaries. It is a question I had. I thank the Minister of State’s officials for the list of the eight urban area committees. How were they selected? Is it restricted to those eight? I could give examples of many others that cross council administrative boundaries in the four Dublin local authorities, as Deputy Ó Broin and others could. If I take the Clongriffin area between Fingal and Dublin city, it is a massive area. An urban area committee such as this would be a very positive thing there. Fringe committees, such as the northern and southern fringe committees, tend not to work. They tend to be run by officials. There are no elected members on them. There is no buy-in. There is much to the concept. I have some questions. I am conscious of the time but something as significant as this deserves more scrutiny than we are able to give it in the time available. The municipal district councils are not mentioned in this section. On the appointments to the urban area committees, will the three members from each local authority be from the municipal district councils in the relevant areas or will they be drawn from anywhere in the councils? That is not specified. Perhaps I am missing it but I cannot see it. It is fine if it is there, but it would better if it was stated that members would come from the municipal districts in the relevant areas.

There is also the matter of the ratio of members. In circumstances such as the Waterford and

Kilkenny case I discussed with Deputy Ó Broin or a case involving the transfer of a small portion of one local authority into another, will a three-and-three split between the two authorities still be allowed or will the split be proportionate? If it is not proportionate, there will be a much greater weight of numbers from one local authority compared with the other.

There is also the issue of the appointment of the four laypersons, for want of a better phrase, who will be experts in four specified areas. I agree with Deputy Cullinane on this. Who decides that someone has experience and expertise in these four areas? I have no fear of having non-elected people involved and I know these appointees will not have a vote, which was my initial concern. While it is good that they will provide advice at committee level, given that these laypersons do not have a mandate, it is right they do not have a vote.

On local area plans and development plans, section 48(3)(a) allows for the insertion of a new section 17A on definitions in the Planning and Development Act 2000. It seems that an urban area committee may at any time prepare a local area plan. How does that work with the sequencing of development plans and the preparation of local area plans in local authorities? The former are currently submitted to the Department. Do the local area plans supersede the development plan in these areas? From my reading of this, that seems to be the case, although I may be incorrect. If an urban area committee decides to bring in a local area plan, do changes made in that plan automatically carry over to the development plans of the two local authorities in question? Will the council members, who now have the reserved function for development plans, have to ratify those changes?

Many questions arise. While the thinking behind this amendment is very good, it was only produced yesterday. I would like more time to add to this because I think we can work out something that would be very good. This could work in other urban areas besides the eight that have been selected. If we worked on this together as a committee, I do not envisage delaying the Bill until after Christmas. I do not think we necessarily need separate legislation. Perhaps we could address this again on Report Stage. I do not want to be negative about this but I have many unanswered questions. There is much good in it but perhaps more work is needed before Report Stage. Some input from the other parties and members of the committee should be allowed to strengthen the Bill.

I promise this is my final point. Deputy Cullinane wondered if there had been consultation with the members or chief executives of the local authorities in the eight urban areas that have been selected. It is important to ask their views because this is significant and potentially very positive legislation. I am not raising any of these questions from a negative standpoint.

**Deputy Fergus O'Dowd:** I do not have knowledge of the eight urban areas.

**Deputy Darragh O'Brien:** Nor did I until we were informed of them at the briefing.

**Deputy Fergus O'Dowd:** I was not invited to any briefing, not that I am complaining.

**Deputy John Paul Phelan:** The eight urban areas are Athlone, Bray, Carlow, Carrick-on-Shannon, Drogheda, Limerick, Portarlinton and Waterford.

**Deputy Fergus O'Dowd:** Will the Minister of State please repeat that?

**Deputy John Paul Phelan:** They are Athlone, Bray, Carlow, Carrick-on-Shannon, Drogheda, that place, Limerick, Portarlinton and Waterford.

*(Interruptions).*

**Deputy Fergus O'Dowd:** The lads can laugh if they like but this is very important for me. I will be able to inform the Deputies of something that actually happened in County Louth.

**Deputy Noel Grealish:** It was the Minister of State who made a smart comment earlier.

**Deputy John Paul Phelan:** I did not.

**Deputy Noel Grealish:** Yes, he did.

**Deputy Fergus O'Dowd:** Can we be serious, please? In counties Louth and Meath the two county councils met and decided they needed an area plan which covered both jurisdictions. When that happened, the plan was produced and published and people on the councils bought into it. However, the local district committee did not agree with it because it did not like the zoning provided in it. The legal decision was that the consensus of the officials of Meath County Council and Louth County Council in the area plan was null and void and had no status. The local area committee then rezoned hundreds of acres. This is a major scandal in planning in east Meath. That is what the laughing was about, but that is the problem the Minister of State is trying to address.

**Deputy Darragh O'Brien:** Nobody laughed at the Deputy.

**Deputy Fergus O'Dowd:** That is the truth.

**Chairman:** The Deputies were laughing at a comment the Minister of State made, not at Deputy O'Dowd.

**Deputy Fergus O'Dowd:** I usually do not speak for long at these meetings but I want to make a point I feel strongly about. The areas I mentioned earlier have experienced some of the problems in the areas the Minister of State has identified. Drogheda and Bray are on that list but Swords, Dundalk, Navan and Kilkenny are not on it. Those are the biggest towns. The point I raised earlier holds water. The reason for this is the increase in the urban areas, particularly around Dublin. I do not disagree with the idea but how and by whom will it be initiated? Must both councils initiate it and must they both agree? Another issue is that planning is not included along with transport, housing, infrastructure and business and trade as one of the areas for people outside of the elected members with specialist expertise. It should be included.

If a group is around a table, will they have equal status in terms of voting on the plan? There will also be problems between elected and non-elected members. I am not against the proposal in principle. However, I know of a case where consensus was achieved among county councils but it did not work. The difficulty I foresee is where municipal districts in the councils do not buy into this. In a co-joint area, would the municipal districts in the councils make the recommendations or would it be the whole council? It is important to clarify that because there could be a difference of opinion. The municipal district might not want this. Difficulties could arise in scenarios similar to the one I outlined in the case of counties Meath and Louth. I, too, welcome the discussion in principle but we need to think this through. Perhaps it can be fleshed out on Report Stage.

There are serious dangers with this proposal because the areas can have as many as 99,999 people living in them. The point is well made about moving outside of a small map. The area

covered could be very large. In parallel with this, a paper is needed on why those eight towns were selected. I am not disagreeing with the selection as it reflects my own point of view. However, this needs to be planned because in some cases an area committee could be set up when what is needed is a complete reform of the whole functional area of the council. It is late in the day to be discussing this but there are important issues here. I welcome the Bill in principle but I would like to tease out these issues, if possible.

**Deputy Éamon Ó Cuív:** As I said, these extraordinarily big changes to the Bill have come late in the day without any consultation with the wider public. If I had not noticed two issues in the Bill, one in Galway and another that came up yesterday, I probably would not have engaged in detail. I do not think anybody can argue with the idea, whether it is Carlow, Athlone or wherever, of trying to have some creative planning between the two parts of the town. That has to be grappled with. The basic idea of a committee is fine but we all know that the devil is in the detail. Big, broad policy is very easy. It is the implementation and the detail that are the difficult parts. There are a number of serious trends here that I would worry are a precursor for a much wider application of a new process. If there is a little bit of one county with a massive part of another, for example a little bit of Kilkenny in with Waterford, how are they going to divide up the elected members? I am not going to repeat what was said. I do not like corporatism as a form of government. I really like democracy. I like its egalitarianism whereby the so-called least in our society in terms of the elites have the same shout as those who have the PhDs and all the other things after their names. The life I have led has been very interesting. Having moved from a middle class Dublin upbringing, where most of my family and classmates had access to third level education at a time when not everybody did, to the west of Ireland, I found the ordinary people who had been to that greatest of universities, the universities of life, could buy and sell me thought-wise, in terms of foresight, any day of the week.

**Chairman:** I am sorry to interrupt the Deputy. I will let him finish but must let members know there is a vote in the Dáil. I suggest that whenever Deputy Ó Cuív is finished, we adjourn and that we reconvene tomorrow at 12.15 p.m. to finish the Bill. There will be a number of votes in the Dáil. Members are free to go whenever they want. The doors are open.

**Deputy Eoin Ó Broin:** We will have to reconvene after the voting bloc tomorrow.

**Deputy Darragh O'Brien:** I will be seeking leave to introduce a housing Bill, of which members will be aware, after Leaders' Questions, at about 12.45 p.m.

**Chairman:** We would hope to convene the select committee once the joint committee meeting has finished in the morning. If that does not work, the select committee members will try to figure things out in private session tomorrow.

**Deputy Darragh O'Brien:** At what time is the joint committee meeting?

**Chairman:** At 9.30 a.m. I invite Deputy Ó Cuív to continue.

**Deputy Éamon Ó Cuív:** Is it worth starting? I have a reasonable amount to say.

**Chairman:** Would Deputy rather have the run of it tomorrow? We could start with him tomorrow.

**Deputy Éamon Ó Cuív:** Yes, that might be better. As an exceptional measure, as I will not be at the joint committee meeting tomorrow, can somebody let me know at what time the select committee is to reconvene?



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**Deputy Darragh O'Brien:** Of course we will do that.

**Deputy Eoin Ó Broin:** Can we officially thank the staff for staying so late? We really appreciate it.

**Chairman:** Of course. I thank the members, the officials and the secretariat. We will reconvene tomorrow.

Progress reported; Committee to sit again.

The select committee adjourned at 11.15 p.m. until 11.40 a.m. on Thursday, 6 December 2018.