

# DÁIL ÉIREANN

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## AN ROGHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

### SELECT COMMITTEE ON JUSTICE AND EQUALITY

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*Dé Céadaoin, 16 Bealtaine 2018*

*Wednesday, 16 May 2018*

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Tháinig an Roghchoiste le chéile ag 4.45 p.m.

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The Select Committee met at 4.45 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Colm Brophy,	
Jack Chambers,	
Peter Fitzpatrick,	
David Stanton (Minister of State at the Department of Justice and Equality).	

I láthair / In attendance: Deputies Donnchadh Ó Laoghaire and Róisín Shortall.

Teachta / Deputy Caoimhghín Ó Caoláin sa Chathaoir / in the Chair.

## Business of Select Committee

**Chairman:** The committee is in public session. I ask members to switch off their mobile phones, please. I have come without mine so that is a good way of dealing with it. This meeting has been convened for consideration of Committee Stage of the Parental Leave (Amendment) Bill 2017, a Private Members' Bill sponsored by Deputies Róisín Shortall and Catherine Murphy. I welcome Deputy Shortall and the Minister of State at the Department of Justice and Equality, Deputy David Stanton, who is the former Chair of this committee. I also welcome his officials. Only one amendment has been proposed and at the outset, we will go straight to the business as there are likely to be early interruptions relating to matters on the floor of the Dáil.

### Parental Leave (Amendment) Bill 2017: Committee Stage

**Chairman:** I invite Deputy Shortall to make opening remarks on the Bill before we address the amendment and I will then ask the Minister of State, Deputy Stanton, to comment if he so chooses.

**Deputy Róisín Shortall:** I thank the Chairman for arranging the time to consider Committee Stage of this Bill. I will keep my comments short. The purpose of this Bill is to extend the existing entitlement to unpaid leave from 18 weeks to 26 weeks. We, in this country, are in a situation where our parental leave entitlements are among the lowest in Europe. In total, there is an entitlement to about 60 weeks. The average in Europe is almost 100 weeks. This is not any kind of substitute for paid parental leave. Obviously the Social Democrats and all of us want to see entitlement to paid parental leave being extended as soon as possible. That, in the main, relates to the very early years in a child's life and I strongly support the proposal that all families should be facilitated in looking after their children for at least the first year of life at home, through paid parental leave.

Unpaid parental leave is a different matter. It can be used in those early years but it principally gives flexibility to parents to balance their work obligations and their parental obligations. It provides that kind of flexibility where they may go on a four-day week for a period, take time off during summer holidays from schools and that kind of thing. It is an extremely popular measure. In the main, it does not cost an awful lot. There are some small recruitment costs for replacement staff but it does not cost a significant amount of money and, from the parents' point of view, it is a very popular move because it provides the flexibility that parents need to balance their work, life and family responsibilities. It can be seen as a measure which supports women to remain in the workforce because it provides an element of flexibility.

Since this Bill moved through Second Stage, I have had a huge amount of correspondence from parents who strongly welcome it and keep asking, on a regular basis, when the law is going to change because it is such a popular option for people. We also know that, in many cases, it can make sense from a financial point of view for a parent to take a certain amount of time out of the workforce. When one considers the cost of participating in work and the extraordinarily high cost of childcare, sometimes it simply does not pay, financially. The key thing that many

women want to ensure is that they retain statutory rights relating to employment and that they can take leave at particular times, have that flexibility, and still maintain all of their employment and statutory rights. I will leave it at that, with regard to the purpose of the Bill. It is a family-friendly measure which is about facilitating work-life balance and it is also about retaining women in the workforce. That is the motivation behind it and I look forward to the support of all members here.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank the Chair. It is good to be back here again. I am happy to have the opportunity again to discuss the Parental Leave (Amendment) Bill 2017. I would like to make a few remarks before we discuss the individual sections and the amendment put forward by Deputy Shortall.

**Chairman:** I am sorry to interrupt but I note that a vote has been called in the Dáil Chamber. The Minister of State might have the opportunity to conclude his opening remarks at this point. It is an eight-minute bell. He can be the judge of that.

**Deputy David Stanton:** I will go through some of it anyway. There is not a lot there. I think we are all agreed that this proposed legislation impacts on a number of important policy areas, including childcare, gender equality issues and other areas. Once one starts bringing forward legislation in this area, it impacts on other policy areas. It is good practice, as the Chairman himself said, to invite stakeholders and, in this case, employers, employees and business interests, both large and small, to have input into legislation such as this, to have their say and allow them to put forward their points of view if that is so desired.

I am somewhat surprised and disappointed that the committee decided not to carry out any pre-legislative scrutiny on this important legislation. I know the value of pre-legislative scrutiny, having spent five years in the chair. It can highlight unintended consequences, and strengthen and improve legislation. I am surprised that it did not happen. I strongly suggested at the end of Second Stage that the committee would do that to allow stakeholders the opportunity, if they so desired, to comment on the proposed legislation. I expected that would happen and we are at a bit of a loss because it did not. There is a dearth of data because of that. I respect the complete independence of the committee but personally feel that. I publicly invite any stakeholders to write to me, as a Minister of State, if they so wish, if they have comments or suggestions to make regarding this Private Members' Bill.

**Chairman:** The route to the Chamber is a little longer than might have been the case, so I suggest that we might suspend until after this vote that has been called, or there might be a series. I am not sure of the situation. I cannot read it from here. Will Deputy Chambers help me? What amendment is that?

**Deputy Jack Chambers:** Amendment No. 14. I think it is on the digital age of consent.

**Chairman:** There is likely to be one on amendment No. 15 immediately following. I suggest, on the conclusion of each of those two votes, that members please return, and we will resume discussion of the Parental Leave (Amendment) Bill.

*Sitting suspended at 4.53 p.m. and resumed at 5.19 p.m.*

**Chairman:** We are in a position to resume. I invite the Minister of State, Deputy Stanton, to resume his opening remarks.

**Deputy David Stanton:** As I was saying before the division in the House, this is important

legislation which impacts on significant policy areas, including childcare and gender. I am surprised and a bit disappointed, therefore, that we have had no opportunity to consult with the stakeholders who will be impacted in both positive and negative ways. It is one of the issues with Private Members' Bills which I have raised time and time again in the House and elsewhere. They would be greatly enriched if we had proper pre-legislative scrutiny even before Second Stage such as all Government Bills go through along with other checks and balances. We are where we are, however.

There is no doubt that many households may be unable to avail of unpaid leave. As such, it is important that our policies in this area are coherent in both domestic and EU contexts and move forward in a progressive manner and in sync with each other. We are all in agreement that we must do our utmost to help and support parents. I remind the committee that over the last three budgets, the Department of Children and Youth Affairs has secured an unprecedented 80% increase in the budget for childcare, which reflects the Government's commitment to parents and children. In 2018 alone, investment in childcare will be €487 million. This investment is being used to improve access to high-quality affordable childcare for approximately 170,000 children and their families. As the committee will be aware, free preschool services provided under the early childhood care and education programme have been extended and improved and measures have been put in place to reduce the cost of childcare.

The Government believes the focus should now be on introducing parental leave on a paid basis. A Programme for a Partnership Government includes a commitment to increase paid parental leave during the first year of a child's life as research shows that children benefit most from parental care in that first year. An interdepartmental working group has been examining proposals to give effect to this programme commitment and is in the process of putting the final touches to its report. We hope to have that shortly.

At EU level, a new work-life balance directive is under discussion at working group level under the Bulgarian Presidency. The proposed directive recognises that the provision of paid parental leave will be more effective and appropriate in encouraging fathers to be more involved in the caring role for their children, thus contributing to the promotion of gender equality. The directive is part of a package of EU measures aimed at addressing the under-representation of women in employment and supporting women's career progression by creating improved conditions whereby they can reconcile their work responsibilities and family commitments.

We must support families and promote gender equality at the same time by bringing about a degree of cultural change in considered steps. Women's empowerment is a key theme running through our programme for partnership Government. As such, there are multiple policy objectives in this case which means a nuanced and sophisticated approach is required. When it comes to improving and expanding our current family leave system, there are wider and more complex factors which I have set out above which this Bill does not consider. As such, I may bring forward amendments to a number of sections on Report Stage. I will outline those as we move through the Bill. We also have a national strategy on women and girls towards which we are working to improve equality. Just this morning and yesterday, I attended an international conference on equal opportunities for men and boys.

A great deal is happening at Council of Europe, EU and Government level in this area. As such, the Deputy is right to bring this forward. However, there are issues. We must bear in mind the impact any change in legislation has on stakeholders and the need to involve them in the process. If the Government brought forward legislation like this without involving stakeholders in some kind of discussion, there would be ruaile buaile. We are where we are.

Section 1 agreed to.

## SECTION 2

**Deputy Róisín Shortall:** I move amendment No. 1:

In page 3, between lines 12 and 13, to insert the following:

“(b) in subsection (2)(a) by substituting “attains the age of 12 years” for “attains the age of 8 years”,

(c) in subsection (2)(b)(ii) by substituting “attained the age of 10 years but not 12 years” for “attained the age of 6 years but not 8 years”,.”.

The purpose of this amendment is to reflect recent developments at EU level since we published the Bill. I refer to the directive to which the Minister of State has already referred. One of the key recommendations in the directive on work-life balance is to raise the qualifying age from eight years to 12 years. It is sensible that this Bill should reflect current thinking at EU level. I propose, therefore, that we change the age from eight years to 12 years and make a corresponding change in cases of adoption, where the age would go from ten years to 12 years also.

**Deputy David Stanton:** I agree with Deputy Shortall’s proposal to extend the qualifying age from eight years to 12 years. The Government will not oppose the amendment and in fact supports it.

I mentioned earlier that the Government intends to bring amendments forward on Report Stage, and this is one that we had prepared. We are in sync with the Deputy on that one.

As every member of the committee will accept, families are best placed to determine what works for them and what supports they need. I am sure that every member of the committee and the Houses will agree that as legislators and policymakers we have to listen to the needs of families, take on board their concerns and then figure out how we can best ensure that the necessary supports are in place. In this context, the Government and my Department have received a number of representations from families asking for parental leave to be available in respect of children up to the age of 12. Second, this is one of the foremost issues addressed in parliamentary questions on parental leave, so colleagues on all sides of the House have been tabling this.

Increasing the qualifying age from eight to 12 is one of those issues where families know what they need. It provides families with greater flexibility to determine what is best for them and what works for them. Indeed, this is the type of measure that is easy to support. Second, the Deputy’s amendment and the Government’s intended amendment would resolve another issue concerning the age of children and parental leave. As we are all aware, section 6 of the Parental Leave Act 1998 provides for 18 weeks of unpaid parental leave in respect of a child up to the age of eight years, or 16 years in the case of a child with a serious illness or disability.

The age provided for in the Act is a statutory minimum. It is at the discretion of individual employers whether they wish to extend the eligibility criteria for their employers to avail of parental leave beyond that minimum. At present, the majority of companies in the private sector only permit parental leave to be taken up to the statutory requirement of eight years, whereas in the public sector it can be taken in respect of children up to the age of 13. Therefore, the secondary effect of this amendment would be to produce an approximate parity between the two sectors.

**Chairman:** I thank the Minister of State. We have an indication of Government acceptance of Deputy Shortall's amendment. However, I offer the opportunity if either Deputy Brophy or Deputy Chambers would like to say anything at this point. If they are happy we can proceed.

**Deputy Jack Chambers:** There is collective unanimous agreement.

**Chairman:** Collective agreement sounds like a good idea.

**Deputy Jack Chambers:** Absolutely.

Amendment agreed to.

Question proposed: "That section 2, as amended, stand part of the Bill."

**Deputy David Stanton:** I wish to comment on the section's amendments. Section 2(a) of the Bill amends the Parental Leave Act 1998 to extend family leave from 18 weeks to 26 weeks. It could be argued that this is a rapid increase, a case of too much too soon, and could have an adverse effect on some businesses, especially small businesses and employers, if it was implemented in one fell swoop. The Government may propose amendments aimed at facilitating employers and businesses to adapt more easily to the provisions. I may bring forward amendments to this effect on Report Stage. This approach would allow employers sufficient time to implement any necessary measures to reduce the impact on their businesses, and to make sure that they have the necessary structures in place to facilitate the taking of leave.

Second, as the committee is aware, negotiations on a draft work-life balance directive are currently under way at EU level. The Government wishes to highlight the need to ensure that whatever changes are made to domestic legislation will dovetail with the provisions and time-frame for transposing the directive.

Section 2(b) of the Bill amends section 6(8) of the Act to ensure that a relevant parent should be allowed to benefit from the extended parental leave if they have already used their current allowance of 18 weeks. Parents who have not used their entire entitlement will be allowed to claim the balance of their unused parental leave and the further eight weeks introduced in the Bill. The Government supports this approach as all eligible parents should be eligible to claim their full entitlement to parental leave when extended. However, the Government may bring the amendment forward on Report Stage to modify the wording in this regard. The substance will remain as it is.

Section 2(c) of the Bill is a straightforward amendment to section 6(9) of the Parental Leave Act 1998, updating the reference to the Parental Leave (Amendment) Act 2006 with a reference to the Bill.

**Chairman:** I thank the Minister of State. His intentions for Report Stage are noted.

Question put and agreed to.

### SECTION 3

Question proposed: "That section 3 stand part of the Bill."

**Deputy David Stanton:** Section 3 amends section 7 of the Parental Leave Act 1998 to update the criteria or the manner in which leave can be taken. There is an issue here. The Chair might assist on this. The proposed amendment in section 3(a) of the Bill raises an issue, as it



seeks to replace references to “18 working weeks” in subsection (7)1 of the Act. However, there is a problem with the amendment in that neither subsection 7(1)(a) nor section 7(2)(a) includes references to “18 working weeks”, but refer to “14 weeks”. As the committee will appreciate, it is not possible to replace text in the Act that is not actually present in it, so what is being proposed cannot be done. Given that the Bill’s aims are to extend parental leave, I would ask for the Government to be given adequate time to examine the issue and to deal with it on Report Stage by amendment. There is a technical flaw here.

**Deputy Róisín Shortall:** I note what the Minister of State is saying. I defer to his advice and note that we may revisit this on Report Stage with a Government amendment or one of our own.

**Deputy David Stanton:** What it actually means is if that section 3 really and truly cannot be taken because it does not make sense, in my view.

**Chairman:** If there is agreement, and if it is an impediment to the Committee Stage progress of the Bill, we can put the question “That section 3 be deleted.”. Is that an answer, or what would the Minister of State suggest from his own analysis? He will appreciate that this is the first I have heard of this.

**Deputy David Stanton:** We are in the hands of the committee on this, but when the Bill as proposed has a built-in flaw, which we have identified, we cannot actually allow the section to go forward. It is not possible to do it, because it deletes something which is not in the Bill.

**Chairman:** I think it is within our scope to delete the section from the Bill. It can be revisited on Report Stage.

**Deputy Jack Chambers:** What is the drafting issue?

**Deputy David Stanton:** The Bill as drafted suggests that the phrase “18 working weeks” be deleted, but that particular part of the Act mentions “14 weeks”, not “18 working weeks”. It is a technical flaw.

**Deputy Jack Chambers:** Is that not easily amended?

**Deputy David Stanton:** We do not have a proposal to amend it before us.

**Deputy Jack Chambers:** As the Chair said, if we decided to delete this section on the basis that Deputy Shortall-----

**Chairman:** Deputy Shortall would return on Report Stage with a suitably-worded proposition that will overcome the difficulty.

**Deputy Róisín Shortall:** I wonder why the Minister of State did not table a Committee Stage amendment.

**Deputy David Stanton:** It is a Private Members’ Bill. We are working on something completely new here, and it has moved very quickly.

**Chairman:** With respect, I do not think the Minister of State is precluded from offering amendments. We have already dealt with other Private Members’ Bills, and there have been amendments to them.

**Deputy David Stanton:** I have said we will deal with it on Report stage, but the section

here cannot be moved.

**Chairman:** We are trying to tease out whether it is only a procedural situation at this point. This is the first time that this has been presented in the way that it has, and I am endeavouring to be guided by what I am hearing. Acknowledging the Minister of State's experience and the support of his Department, if he is telling me that we are not in a position to proceed with section 3 as presented at this point, the only logical position that I see as an alternative is that we agree to delete it, and that Deputy Shortall revisits it appropriately on Report Stage. Are members in agreement with that as a way of overcoming the difficulty?

**Deputy David Stanton:** If the committee puts the question "That section 3 stand part of the Bill." and we all agree that it does not, then it does not go forward.

**Chairman:** That is an alternative wording.

**Deputy Róisín Shortall:** I am wondering about the advice on that. What this amounts to is the committee deleting that section and reinstating it, with the necessary corrections made, on Report Stage.

**Deputy David Stanton:** I have already signalled that it is my intention to bring amendments forward on Report Stage, and this would be one of them.

**Chairman:** I have no doubt that Deputy Shortall would be in a position to bring that forward.

**Deputy Róisín Shortall:** All right.

**Chairman:** Nothing in my knowledge of the progress of legislation tells me that she could not. The Minister of State has suggested, rather than wording the proposition as I suggested initially, that I word it in the positive and members agree that it does not stand part of the Bill.

**Deputy Jack Chambers:** What is wrong with leaving it there and changing it on Report Stage?

**Deputy David Stanton:** It is nonsensical because it speaks about deleting something that does not exist.

**Deputy Jack Chambers:** I know, yes.

**Deputy David Stanton:** We cannot delete something that does not exist.

**Deputy Jack Chambers:** If we are hamstrung by a ruling on Report Stage then it could undermine the section altogether, whereas if we leave it and amend it, it may allow us to change it on Report Stage. We need clarity on whether we can reintroduce the section.

**Deputy David Stanton:** If the Chairman wants to adjourn and return another day I am-----

**Deputy Jack Chambers:** We need to make sure this is the case.

**Chairman:** I am anxious to proceed. That was the purpose and intent of the committee and we are just carrying through what the committee has already mandated us to do. With the advice that is open to the Minister of State is he absolutely of a mind, and is it his understanding, that we are not in a position to allow section 3 stand at this juncture? Flawed though it may be, are we not in a position to let it stand and deal with the issue on Report Stage?



**Deputy David Stanton:** With the greatest of respect, the proposal is to delete something that does not exist in the actual legislation. It does not exist. It would do something that is not possible to do. The cleanest way out of it would be to not let this stand and return to it on Report Stage when we can recommit the Bill in the Dáil, if necessary, to tease it out further when we are on Report Stage. That would be the cleanest way.

**Deputy Róisín Shortall:** If I may say, it is a pity this was not brought to anybody's attention beforehand. I am at a disadvantage, insofar as I do not have a copy of the principal Act here. For clarity, will the Minister of State repeat the response that he gave earlier?

**Deputy David Stanton:** The proposed amendment in section 3(a) of the Bill raises an issue, as it seeks to replace references to "18 working weeks" in subsection (7)1 of the Act. However, there is a issue with the amendment in that neither subsection 7(1)(a) nor section 7(2) (a) include references to "18 working weeks", but refer to "14 weeks". As the committee will appreciate, it is not possible to replace text in the Act that is not actually present in it. It is a technical issue at the end of the day, but this is why it is so important to go through all of these with a fine-tooth comb and have all kinds of scrutiny of legislation at all levels.

**Deputy Róisín Shortall:** I defer to the Minister of State. It did go through a couple of checks, including in the Houses, but I defer to his advice on this. I suggest we proceed along the lines suggested by the Chairman, that we do not adopt the section if it is inaccurate, bearing in mind what the Minister of State has said, that it is open to members to submit amendments on Report Stage to reinstate the section.

**Chairman:** My understanding is that on any matter relevant to the legislation that is raised, just as the Minister of State has done on section 3, Deputy Shortall is in a position to revisit on Report Stage. Nothing in my experience tells me there is anything other than that. I would not seek to misguide the Deputy that she was running the risk of this matter falling off the table.

**Deputy Róisín Shortall:** Sure.

**Chairman:** This is my understanding, and let me be corrected by anyone who knows to the contrary, and silence, in my opinion, has to mean agreement with what I have just said. In that case, I propose to put the proposition in the positive and the members can indicate they do not agree. That is a reasonable approach. The proposition was, in the absence of amendments to section 3, that section 3 stand part of the Bill.

Question put and declared lost.

Section 3 deleted.

#### SECTION 4

Question proposed: "That section 4 stand part of the Bill."

**Deputy David Stanton:** I want to refer to section 4(3) of the Bill, which provides for commencement three months after enactment. As I outlined earlier, the Government may bring forward amendments to reduce the impact on private and public sector employers and small and large businesses, and to allow time for the conclusion of negotiations on the EU draft directive on work-life balance and paid parental leave. In this context, I request the Bill is not pushed ahead as it is, but that the Government is given time to consider possible amendments on Report

Stage that would meet the needs of all parties, including employers, employees, families and so forth. As I said at the very beginning, there are serious policy implications arising in this area and we want to make sure we proceed properly, carefully and effectively. I want to bring up another point at this stage, or will I have time to come in at the very end?

**Chairman:** Yes.

**Deputy David Stanton:** I will wait until then because it is a serious issue.

**Chairman:** We are just dealing with section 4 at this point in time.

**Deputy Colm Brophy:** To follow up on the point made by the Minister of State, it is very important that consideration is given, particularly to small businesses in terms of the impact of a change of this nature on them. This is a crucial consideration as far as I am concerned. There is a time factor in that businesses need to gear up for any type of change. There is also an impact. Before being elected to the House I had 20 years of being in business and there is no such thing as something that is free and has no real cost. Everything has an impact on businesses, particularly businesses that run on very tight margins, which is the case for a lot of the small employers in Ireland, who have one or two employees.

In the absence of a consultation process for those people or their representative groups, it is vital that we take time on this to ensure we get the balance right between the aims of the Bill, of which I am very supportive in general and which are to facilitate work-life balance and increasing leave overall, and the impact it will have, particularly on small businesses. Big multinational corporations can handle things like this in their sleep. It is when we get down to somebody running the local shop, running the local hairdressers, somebody in a village running the pub or somebody running a small manufacturing business that we need to recognise there are two things we need to consider, which are the work-life balance of people working and the impact on the industry and business in question.

**Deputy Róisín Shortall:** I note what the members are saying and what the Minister of State has said, but this will not come in overnight. There will be a few weeks at least of a delay by the time it gets back into the Dáil and goes to the Seanad. We are also talking about an extension of eight weeks which can be taken over a 12-year period. I do not think this is unreasonable. We have to take a positive view of this also.

Obviously it is very popular with parents, but it is also very helpful to employers because it helps with the retention of staff. It helps to retain long-term, highly-experienced staff if the employer displays a flexible approach and facilitates the demands that exist with regard to childcare in particular, but also other family and caring responsibilities. This has not come out of the blue. The Bill has been published for some time. People have had an opportunity to adjust their thinking to it and a three-month period is reasonable in this regard because, in effect, it will be four or five months.

**Deputy David Stanton:** There are other policy implications here that are wider than this. For instance, parental leave can be shared or not shared as the case may be. We have to be careful the mother does not end up taking the bulk of parental leave, jeopardising chances of promotion later. There are many other issues such as this. The debate is useful and important, but I want to draw the attention of committee members to the European Union draft directive on work-life balance, which is very important. There is a proposal to introduce paid parental leave rather than unpaid parental leave. I said earlier that we have an interdepartmental work-

ing group that is due to report. I am concerned that we did not have any formal consultation on this Bill with stakeholders. In all fairness, if someone is impacted in any way, as Deputy Brophy said, particularly small businesses, they should have an opportunity to have their say. Usually, if it is a Government Bill, we would have a public symposium where people would come along, have their say and have an impact. That was not possible here and did not happen. I was hoping it would happen in the committee but it did not. I am bit concerned about that. I wish to raise another issue at the end when we discuss the summing up.

**Chairman:** The Minister of State's concerns in that regard are noted but the committee did make its own judgment call, which is its prerogative.

**Deputy David Stanton:** I know.

**Deputy Jack Chambers:** I note that the Minister of State mentioned the potential ramifications and negative feedback. As Deputy Shortall has said, this is spread over a significant period of time. It is a marginal change if one takes a multi-annual period. Has the Department received any negative feedback about current laws because in my experience as a public representative, I have received no negative feedback from businesses or enterprise, little or large, about the laws that currently stand? If there was a negative perception of the law as it stands, we would hear about it. I do not think this will have Armageddon ramifications of the type spoken about by the Minister of State. I do not think there is a need for the level of stakeholder engagement. It is spread over a long time and I do not think it will have the effect about which the Minister of State is concerned. This is probably too cautious from the Department's perspective. Has the Minister of State received negative feedback about the current law?

**Chairman:** The Minister of State might like to respond to Deputy Chambers before we come back to Deputy Shortall.

**Deputy David Stanton:** The Government is in favour of extended parental leave. We are talking about the first year of a child's life. We are talking about going way beyond this and bringing in paid leave. As I said, there are implications for the EU work-life balance directive and there are other nuances. These must be introduced properly after consultation where people, particularly small businesses, can be prepared for them and have an input. There could be unforeseen consequences of which nobody has thought, which is why consultation is so important and why I am such a fan of listening to what people have to say on these kinds of matters.

In respect of section 4(3) regarding the three months after enactment, I note what Deputy Shortall said about it going to the Seanad and that Report Stage might be a number of weeks away and so forth. Even at that, it may very well be okay but I will be bringing forward amendments to be sure in case something unforeseen arises so we are not locked in to three months after enactment. That is all but we are very anxious to support parents in a very positive way by introducing paid parental leave. Last year, we started off with two weeks paternity leave. The uptake of that has been very gratifying. A total of 67% of young fathers have taken that. We want to encourage and increase that even more so we are taking the steps in the direction; the issue of paid leave is what will really encourage people because many families will not be able to afford to take unpaid leave but they can take paid leave. That is where the Government is trying to go. I ask members to keep that in mind as well.

**Chairman:** Given the Minister of State's response was to Deputy Chambers's question directly, did the Deputy indicate that he might like to come back?

**Deputy Jack Chambers:** With respect, when I hear about consultation from the Department of Justice and Equality around gambling and other issues, I see it as a delaying tactic. The Department should put out for consultation for a few weeks, get feedback between now and Report Stage and give us the feedback quickly. We need to move the legislation forward. It is progressive and gives families an additional opportunity to take time off. Let us get on with it.

**Deputy David Stanton:** We are not opposing the legislation.

**Deputy Jack Chambers:** I accept that but I must say that I am cynical about the word “consultation”. I do not think it will have ramifications. The Department should spend a few weeks talking to the various stakeholders. We are a small country. The Department should get the feedback and then get on with it rather than spend months on end waiting for the legislation to move forward. That is just a general point. It is not about the Minister of State, I just think all Departments work this way. They spend months, nearly years, talking and doing outreach about things at which they have previously looked and reforms are delayed. We are right not to spend another block of time bringing in stakeholders. The Department should get the feedback, bring it to us and let us amend it accordingly. I am glad we are not wasting time in respect of this opportunity.

**Chairman:** I note Deputy Brophy has indicated but I will take Deputy Shortall because she has been waiting.

**Deputy Róisín Shortall:** I will respond to some of the points made by the Minister of State. I agree that pre-legislative scrutiny is a good thing and a good practice that we have developed but that is where one is talking about a new measure. This is not a new measure. It is an existing measure that has been there for some time and is merely an extension of that. I repeat that it is an eight-week extension that can be spread over several years up to 12 years. It is not a major change and will not be a sudden change all in one go. I do not believe there is any need for pre-legislative scrutiny of it.

The Minister of State also made a point about paid versus unpaid leave. I said at the outset that I absolutely support the commitment the Minister of State has given to introduce paid parental leave so that children can be cared for in their home by a parent in the first year. That needs to happen as quickly as possible and I think we would all be supportive of that. However, this is a different measure. This is not talking specifically about the early years. It is talking about flexibility that is available to parents over the child’s lifetime for those first 12 years. It is an entirely different matter and measure and serves quite a different purpose. This is not an “either-or” situation; it is in addition to something that already exists. I think we would absolutely support the Minister of State if he brought forward proposals for 12 months paid leave. This cannot happen too soon.

This needs to be viewed in the context of Ireland being among the worst in Europe when it comes to parental leave entitlements. We have a huge amount of catching up to do. Much of our legislation in this area has been dictated to us by Europe, which has had a positive influence, but we have not brought forward legislation ourselves. We have tended to drag our heels in respect of parental entitlements. Too often, the views of employers have outweighed the needs and views of parents in this regard. It is time that we got on with it. This is a small improvement in one of the aspects of parental leave and flexible work options and the sooner it happens, the better. I think most parents would feel that.

**Chairman:** I thought Deputy Shortall mentioned 12 months paid leave there. I think it was

12 weeks.

**Deputy Róisín Shortall:** No, there is a Government commitment to 12 months paid parental leave and that is a very important thing. We are still waiting for the Government to come forward with that. This is a different measure.

**Chairman:** Absolutely.

**Deputy Colm Brophy:** I have to come back in regarding the point of consultation. I have great respect for Deputy Chambers but I disagree totally with the point he made. There are a few aspects that are very important. The first is that we should have consultation on any change. The reason is very simple. This country is littered with examples where we have passed legislation without properly thinking through the implications and have lived to regret it. Deputy Chambers and the rest of this committee engaged in a process when we made a decision and through greater consultation, other parties have reversed that decision today on another Stage of the Bill. People can argue for and against consultation and they can argue the merits of it one way or the other. My view on it is simple. If we have a change that is substantial, we should engage in consultation. I believe the committee would be better off to have that as a guiding principle. If we were making a change in another way and we excluded the notion of consultation with parents, people would be horrified at the idea. There is no real loss in simply talking to everyone involved about a change such as this. I am not arguing for a delay. My understanding of this discussion is that everyone here is effectively supportive of this measure and wants to see it proceed. Everyone is in agreement to try to make it work. Indeed, the Government has an even more substantive proposal. I do not believe there is anything greatly wrong in saying that a process of consultation would have benefited everyone involved.

**Chairman:** That is noted.

**Deputy Jack Chambers:** I argued for consultation but in a quick, efficient and effective manner. I argued for the Department simply to go and do it. My experience of other legislation is that those responsible talk about doing it and years go by. My point was not to try to remove consultation. If people want to do it, then they should do it and get on with it and give us the information and feedback.

It is not a political issue but rather a departmental issue across many Departments and it prevents legislation being progressed. That affects the people we represent and the commitments we make. I believe in consultation. Reforms are promised. One Minister of State has mentioned centralising the entire consultation process. I know that is not what this Bill is about but there is a plan for a centralised consultation process that would move it away from Departments. Perhaps it was the Minister of State, Deputy Breen, who mentioned it. We need to do this more quickly than we have been doing it. I have an interest in the gambling control Bill. Every time I ask about it, consultation is the reason given for why we are delayed and we are six years down the line now. The Department of Justice and Equality is not moving quickly enough on that front. That is not a ministerial issue but a departmental issue. We have seen it in the Department of Health with mandatory disclosure. Officials wanted more consultation and we saw the impact of that. It is a problem. I have said enough.

**Chairman:** We must move to make a decision on section 4. Has the Minister of State anything further to add?

**Deputy David Stanton:** I will bring forward amendments on Report Stage, as I indicated



earlier.

**Chairman:** We are okay to proceed.

Question put and agreed to.

#### TITLE

Question proposed: “That the Title be the Title to the Bill.”

**Deputy David Stanton:** There is one small issue that Deputy Shortall brought up at the start of proceedings. She indicated that this Bill would cost some money. I know that a money message was not requested by the committee. I want to note that the Deputy made the point that it would cost some money. I wrote it down.

**Chairman:** She did not refer to the Exchequer. She was not talking about public moneys.

**Deputy David Stanton:** Even so, it is something I am concerned about because a money message was not requested.

**Chairman:** The money message was of course requested. It was clarified that no money message was required.

**Deputy David Stanton:** Again, the Deputy made the point that it would cost some money. I am a little concerned about that because I do not want to act outside of the rules.

**Chairman:** I can clarify it. Does Deputy Shortall wish to comment?

**Deputy Róisín Shortall:** I referred to minor recruitment costs.

**Deputy David Stanton:** Any costs at all may be a problem.

**Deputy Róisín Shortall:** No, there may be minor recruitment costs involved but any costs associated with this are minor. It makes a great deal of sense from the point of view of many people, including employers and families.

**Chairman:** The Minister of State’s contribution is noted.

Question put and agreed to.

**Chairman:** I thank the Minister of State and his officials for attending. I thank Deputy Shortall and the other colleagues who were able to make the time to be here to facilitate Committee Stage of the Bill.

#### Message to Dáil

**Chairman:** In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Justice and Equality has completed its consideration of the Parental Leave (Amendment) Bill 2017 and has made amendments thereto.

The select committee adjourned at 6 p.m. *sine die*.



16 MAY 2018