



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Máirt, 5 Márta 2019*

*Tuesday, 5 March 2019*

Chuaigh an Ceann Comhairle i gceannas ar 2 p.m.

*Paidir.*

*Prayer.*

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## Ceisteanna ó Cheannairí - Leaders' Questions

**Deputy Micheál Martin:** In January 2018 the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, announced with great fanfare a Rebuilding Ireland home loan scheme which would be available to all local authorities as a solution for many people who were not in a position to secure finance to purchase a home. As we learned quickly and anyone with a busy constituency office would know, the scheme was extremely difficult to process, with many hurdles put in front of people and many delays. Far from four to six weeks, the process went on for months in many cases. At the time the Minister announced that a second fund would be created very quickly that would be demand-driven, given the overall state of the mortgage market, at a figure of €99 billion. He said it would be a demand-led scheme that would progress.

We learned this morning from Louise Byrne on the RTÉ “Morning Ireland” programme that in a briefing note to the Minister’s press office the Department of Housing, Planning and Local Government stated it had been advised no further approvals should issue for now, that the Department was undertaking a review of the scheme and that the Departments of Public Expenditure and Reform and Finance were engaging on it. That was on 31 January this year and notwithstanding that Deputy Darragh O’Brien had tabled parliamentary questions about the issue and that Deputy O’Dea had been told in December by the Minister that he was progressing reforms to ensure the loan scheme could work for more people and more quickly. One month later he is advising his press office that no further approvals should issue.

I do not know what planet the Minister is living on, but the question I ask the Taoiseach is why was the scheme not extended. Why was there no public announcement to that effect? If the Taoiseach tells his press office, surely the public deserves to know. Why was the Dáil not told in an upfront and honest way? Why is there this continuing lack of respect for the House in terms of being open, upfront and honest about what is going on with schemes of this kind? People are still applying, but no one save for the press office has been told that no further approvals will issue, according to RTÉ this morning following a freedom of information request.

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Why can the Government not just be honest with the people about these issues? Will the Taoiseach bring clarity to this situation? When will the scheme be extended and to what degree? The original limit was €200 million and the Minister alleged that 1,000 houses were to be accommodated. Approximately 1,550 applications, if not more, have been accepted. Will those people who have been approved be in a position to draw down their loans?

**The Taoiseach:** I thank the Deputy. This is a Government that believes in the view that everyone has the right to shelter and everyone should be able to aspire to buy his or her own home.

**Deputy Timmy Dooley:** In the meantime, the Government puts them in hotels.

**The Taoiseach:** We are a Government that is very committed to home ownership and that has taken many actions in recent years to assist people to buy their own homes.

**Deputy Timmy Dooley:** How is that working out?

**Deputy Thomas Byrne:** A non-practising believer.

**The Taoiseach:** Take, for example, the help-to-buy scheme, whereby people can get some of their income taxes back to help fund a deposit. So far, 10,000 people have used the help-to-buy scheme to help them get a deposit to buy their first homes. Ten thousand people today are living in homes that they were helped to buy by the help-to-buy scheme.

**Deputy Timmy Dooley:** That is a different scheme.

**The Taoiseach:** The Rebuilding Ireland home loan scheme is another way in which we are assisting people to buy their first homes. It is open to-----

**Deputy Timmy Dooley:** Fine Gaelers.

**The Taoiseach:** -----single people with an income of €50,000 or less and couples with an income of €75,000 or less where they have been refused a mortgage from the bank but could pay that mortgage back with this product because it is at a fixed low rate. It has been very popular. So far, 575 people have been helped with buying their first home with a Rebuilding Ireland home loan and a further 1,000 applicants have been approved but have not yet drawn down the funding. The scheme was initially limited at €200 million and that €200 million has been allocated, but as loans are not drawn down - they expire after six months if they are not drawn down - more finance does become available.

We now have to consider two things: whether we should increase the cap above €200 million, and that is under consideration by the Government, and we have to consult the Central Bank because this is a mortgage. It is a loan that is being offered to people who have been turned down by banks and building societies and it is at a reduced interest rate. We have to consider two things now: whether we should increase the €200 million cap and the need to consult the Central Bank as to whether it is comfortable with us offering more of these loans, taking into account the fact that it is a low-interest loan offered to people who were not able to get loans from commercial lenders.

**Deputy Micheál Martin:** When did the Taoiseach discover that the Government had to do those two things? The Minister said last year: “We are not going to wait for the fund to run out before we build up a second fund to allow a continuation of the scheme with whatever changes we might deem to be necessary”. He said that there would be no issue here and he

would continue with a second fund. He was saying that as late as December, when he stated in a parliamentary reply that he wanted more people and for them to be processed more quickly.

It is low-income people who are being let down again. Their hopes are raised with fanfare by the Government, but the dashing of those hopes is done silently. Why was what the Taoiseach just told the House not said by the Minister in his parliamentary reply? Why did the Minister not say that he was going to be approaching the Central Bank and that the Central Bank was going to place a limit on this? Why all the secrecy and silence around this? Why can the Government not just be upfront and straight with people about what it is doing instead of hoping that the problem will go away or that someone will not discover it?

**An Ceann Comhairle:** Time is up, Deputy, please.

**Deputy Micheál Martin:** The Government advises its own press office and tells no one else. We are all dealing with applications in our constituencies. These are people who are desperate to buy homes. If they could get mortgages, they would be cheaper than the rents that they are paying. There have been higher rents for seven or eight years now and they could be paying much less if they could get a mortgage. They are all going through this charade, being asked for this note, that letter, and the other form. That is what is going on in the real world while the Government just prances about the place, going on about this and that. It is just not good enough.

**The Taoiseach:** While Deputy Martin is prancing about the place, wagging the finger and telling us off, we are actually doing things.

**Deputy John Lahart:** Doing what?

**Deputy James Browne:** Certainly not building houses.

**Deputy Thomas Byrne:** The Taoiseach is hoping for an election.

**Deputy Dessie Ellis:** The Deputies should not fall out with each other.

*(Interruptions).*

**The Taoiseach:** We are doing things in the real world that help people to buy their first homes. We have helped 10,000 people to buy their first home through the help-to-buy scheme.

**Deputy Dara Calleary:** There are 10,000 people in emergency accommodation.

**Deputy Timmy Dooley:** The Taoiseach should visit a hotel in the city one of these days.

**The Taoiseach:** We have helped 10,000 people. While Deputy Martin was wagging the finger, we actually did it for 10,000 people.

*(Interruptions).*

**The Taoiseach:** When it comes to the Rebuilding Ireland home loan, 575 people have been helped to buy their first home-----

**Deputy John Lahart:** What about the other 1,000 who have been approved?

**The Taoiseach:** -----and 1,000 more have been approved, many of whom will go on to buy a home.

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**Deputy Darragh O'Brien:** Why did the Minister mislead the House on 19 February?

**Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy):** I did not mislead the House.

**The Taoiseach:** They have six months before the loan approval expires.

**Deputy Micheál Martin:** The Minister misled the House. He said he was going to extend it.

**The Taoiseach:** When the Rebuilding Ireland home loan was announced, we said that the scheme would be capped at €200 million and would run for three years.

*(Interruptions).*

**Deputy Micheál Martin:** That is wrong. He said that he was not going to wait for-----

**The Taoiseach:** Notwithstanding the fact that the Opposition has falsely claimed that it has failed, it has actually been a real success. There has been enormous uptake-----

**Deputy Darragh O'Brien:** The Minister misled the House on 19 February in an oral response.

**Deputy Eoghan Murphy:** I did not mislead the House. The Deputy can check the record.

**Deputy Timmy Dooley:** The Minister should put down his finger.

**The Taoiseach:** -----and we now need to do two things. First, we must consider whether we can lift the €200 million cap. We must find the finance for that, by the way.

**Deputy Eoghan Murphy:** The Deputy should be careful.

**Deputy Darragh O'Brien:** Why should I be careful? It is the Minister who needs to be careful.

**The Taoiseach:** The money will have to be found, as is always the case. Second, we must consult the Central Bank.

**Deputy Thomas Byrne:** All the Government is good for is high-vis jackets and hard hats. That is all.

*(Interruptions).*

**Deputy Regina Doherty:** The Deputies should calm their jets.

**An Ceann Comhairle:** Order, please, for Deputy Mary Lou McDonald.

**Deputy Mary Lou McDonald:** This morning the Society of St. Vincent de Paul published its Working, Parenting and Struggling report, which is an analysis of the employment and living conditions of one-parent families in Ireland. Its findings are an indictment of the Government's record on poverty prevention and alleviation among single parent families, many of whom are at work. The report finds that one in 11 working lone parents was living below the poverty line in 2012 but that number had jumped to one in five in 2017. The high cost of housing and child-care combined with low levels of income are making it impossible for families to make ends

meet. The report finds that the living standards of lone parents in this State are among the worst in Europe. We have the second highest rate of income poverty, persistent poverty and severe deprivation among 15 other EU states. That is shocking. What is most shocking, however, is that the majority of one-parent families, the vast majority of whom are headed by women, are in work. These families are like others. They are people who get up at the crack of dawn but who still struggle and fail to meet their own and their families' basic needs. Our cost of living crisis is leaving hundreds of thousands of people struggling and living in fear of any extra financial burden like a car breaking down or a washing machine packing it in. These are people who work hard to provide for their families. They have a modest aspiration for a decent, happy life but they cannot plan for their future. How can they plan when they cannot make ends meet in the here and now?

Low pay, especially in the context of the soaring cost of living, is the real problem. Workers on low wages, in many cases in insecure employment, are being asked to find money to pay for extortionate rents, crazy insurance premia and crushing childcare costs. It is not good enough to brush all of this aside, as the Taoiseach does frequently, with the promise of a meagre tax relief at an ill-defined point in the future. These families do not need a handout but a hand up in the here and now. These are people who work and who want to continue working to give their families and their children a better life. What does the Taoiseach propose to do in the here and now to address the cost of living crisis that is crippling these families? When will he introduce a living wage?

**The Taoiseach:** At the best of times being a parent is an enormous challenge in having to provide for oneself and one's kids. It is particularly difficult for lone parents who do so without the support of a partner, without a second income and without someone to share in the burden, cost and time taken by childcare.

To answer the Deputy's question, we are helping all parents, but especially lone parents, to improve their living conditions by creating jobs. The number of lone parents who are working has increased. The rate of unemployment is down by almost two thirds and the Deputy will know that it is down again today. We are increasing welfare payments that had been cut back in the past. They are being restored with an increase kicking in to the one-parent family payment and the jobseeker's transition payment in a few weeks' time. We have introduced the working family payment to replace the family income supplement, which allows lone parents who are working to keep more of the money they earn and to have their income topped up so they can avoid poverty.

We have reduced the costs of childcare and we will further enhance that with the introduction of the affordable childcare scheme later in the year.

We are increasing pay. The minimum wage has increased and pay has been restored for people who are public servants. It is also increasing across the private sector. We are reducing the costs of medicines and prescription charges are being reduced. General practitioner, GP, visits, which are already free to all children under the age of six, will be extended to a further 100,000 people from April onwards. Those are the measures we are taking to reduce the costs of living, to assist lone parents into work and to ensure they have more money in their pockets.

We are also focusing very much on education. We have, for example, restored the costs of education grant, and as a result record numbers of people from non-traditional backgrounds are now participating in higher education.



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I have immense respect for the Society of St. Vincent de Paul and have worked with it on many occasions; especially when I was the Minister for Social Protection, but I do not believe the report that was issued today tells the full picture. This morning I asked for the statistics from the Central Statistics Office, CSO, which collects the official statistics on poverty in Ireland. The CSO figures show that the consistent poverty rate - the official measure of poverty in Ireland - jumped from 18.4% in 2012 to 26.3% in 2013. Since 2013, however, for each of the past four years, consistent poverty and deprivation among lone parents has actually gone down. It fell to 23.1 % in 2014, there was a slight increase to 23.2% after that and then 20.7% in 2017. The most recent figures we have are for 2017 and they are less than those for 2013. This demonstrates that the policies we have implemented in helping people get back to work, helping them into education, improving welfare and reducing the costs of childcare are working. I predict that when we see the 2018 figures they will have improved again.

**Deputy Mary Lou McDonald:** The tone of the Taoiseach's response is not unexpected but it is almost depressing. The measures his Government is taking are clearly not working for hundreds of thousands of people across the State but in particular for those families headed by a lone parent.

*The Irish Times* carried a very interesting series on child poverty. If the Taoiseach has not read some of the articles I would recommend them to him. One of the articles compared the standard of living of a mother of two from the midlands with an appropriate counterpart living in another jurisdiction. The article made for incredible reading. The woman concerned is at work. Such are her struggles to ensure her family can get by that she rations the number of times the kids are allowed to boil the kettle. Can one imagine having to count the number of times that a family can boil a kettle in its house? I put it to the Taoiseach that this is how tight things are. Many of the interventions cited by the Taoiseach are, in effect, subsidies for low-pay employment.

**An Ceann Comhairle:** The Deputy's time is up.

**Deputy Mary Lou McDonald:** I am asking for additional time. I will not debate the ins and outs of parenting and the challenges of it, and I am not going to trade statistics with the Taoiseach. I will simply tell the Taoiseach something that he should already know, that is, more needs to be done because people are struggling and suffering.

**An Ceann Comhairle:** Please Deputy.

**Deputy Mary Lou McDonald:** What by way of addition is the Taoiseach going to do now about the cost of living crisis being experienced by families across the land? When will the living wage - not the minimum wage - be the floor and the basic income in this jurisdiction?

**The Taoiseach:** The reason the Deputy does not want to trade statistics is that she does not want to talk about facts.

**Deputy Mary Lou McDonald:** I want to talk about people.

**The Taoiseach:** No amount of individual stories, no matter how genuine they may be, will change the facts. It is a matter of fact that in each of the past four years, the rates of consistent poverty and deprivation have been falling in Ireland. Deprivation rates have fallen for lone parents and child poverty rates have fallen from 12.8% to 12.7% in 2014 and to 11.5% in 2015, 10.9% in 2016, and to 8.8%, which was one of the biggest falls, in 2018. They will fall again

exactly because of the policies the Government is pursuing. There is more employment and-----

**Deputy John Brady:** Those in work are at risk of poverty.

**The Taoiseach:** -----better wages and better salaries. USC is being reduced and access to affordable and subsidised childcare is widening-----

**Deputy Mary Lou McDonald:** Which is sessional.

**The Taoiseach:** -----the cost of medicines is being reduced and we are capping rents. I accept that more needs to be done.

**Deputy Pearse Doherty:** What is it?

**The Taoiseach:** We are doing more and will continue to do more. On the Deputy's specific question, there is a living wage in the United Kingdom and in Northern Ireland, which is a place she will know well. That living wage is actually lower than our national minimum wage in Ireland. We have a minimum wage in Ireland which is the second highest in the western world. It is calculated independently by the Low Pay Commission.

**Deputy Mary Lou McDonald:** Does the Taoiseach have to restrict the number of times he boils his kettle?

**The Taoiseach:** Sinn Féin wants to change it in such a way that it is calculated without any reference to employers. Sinn Féin wants to exclude small businesses from having any role in contributing to how the minimum wage is calculated. Sinn Féin wants to disregard the impact on the Border counties of a huge differential between minimum wages North and South. We have a minimum wage in Ireland, which is higher than the living wage in the UK and in Northern Ireland and it is calculated fairly.

**Deputy Paul Murphy:** I am sure the Taoiseach has heard about Greta Thunberg. She is the now 16 year old Swedish school student who started a worldwide movement of school student strikes and protests demanding action on climate change. At the Intergovernmental Panel on Climate Change, IPCC, conference in Poland, she stated:

For 25 years, countless people have come to the UN climate conferences begging our world leaders to stop emissions and clearly that has not worked as emissions continue to rise. So I will not beg the world leaders to care for our future. I will instead let them know change is coming whether they like it or not.

That urgency for action, that recognition that we cannot rely on convincing those in power to do what is necessary is absolutely correct. It is perhaps the reason the European Parliament groups to which Fine Gael and Fianna Fáil belong have blocked her from speaking to that assembly this week. The latest IPCC report warns that we have 12 years to avoid global warming growing over 1.5°C. After that, a further 0.5°C would have devastating consequences. Sea level rises would affect 10 million people, 99% of coral would be destroyed and many insects would be wiped out. The current level of commitments, which are not even being honoured, would still mean a rise in temperature of 3°C. In fact, given what is actually happening, we are heading towards a 4°C to 5°C increase in temperature, which will make large parts of the Earth uninhabitable. That is why young people have taken the lead. More than 300 cities have seen strikes by schoolchildren, while hundreds of thousands have come out on the streets in Belgium, the Netherlands, Australia, Sweden, Germany and elsewhere.



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I note that 15 March has been named as the date for a global school student strike action. School students in Ireland will, hopefully, join that in large numbers. The contrast of those young people with the inaction of the world's leaders could not be starker. The contrast is stark not only with climate change deniers like Trump, but with those like the Taoiseach, who acknowledge that climate change exists and the role of human society in it but who do not want to do anything about it. As a result, Ireland is the second worst in the EU at meeting climate change targets. According to the Sustainable Energy Authority of Ireland, SEAI, today, Ireland is third worst in the EU at meeting renewable energy targets. The reason for this inaction is clear. Establishment politicians represent big business, including the 90 corporations responsible for 63% of cumulative global emissions and the oil, gas and big agribusiness companies pursuing the maximisation of profit. A mass movement on climate change is needed and the school students should be joined by others, in particular the trade unions, to demand investment in green jobs and a centrally-based eco-socialist programme to take control of the economy out of the hands of the polluters and profiteers and to place it under the democratic control of the public to enable the rapid just transition we need. I have two questions for the Taoiseach. First, will he listen to school students when they strike on 15 March? Second, given that transport is the second largest emitting sector of the economy, will he agree that radical action is needed to get people out of cars, that the State should invest in properly funded public transport services and, furthermore, should make public transport free, as has happened in Estonia, Luxembourg and 100 cities around the world?

**An Ceann Comhairle:** The Deputy's time is up.

**The Taoiseach:** I thank the Deputy for raising the important issue of climate change. To reply to his first question, yes, of course, I will listen and I do. Second, we need to invest in public transport. One of the actions we are taking, for example, is that from the middle of this year Dublin Bus and Bus Éireann in the other cities-----

**Deputy Michael Healy-Rae:** Dublin again. Do not forget Dublin.

**The Taoiseach:** -----will no longer purchase high emission vehicles. They will all be no or low emission vehicles. As the Deputy is aware, we are implementing proposals for major investments in public transport through projects such as BusConnects, MetroLink and so forth, of which I hope he will be supportive.

I heard Greta's speech. The fact that young people are taking action, protesting and going to strike and take a break from school on 15 March is good. It is welcome. Unlike the Deputy, I do not see it as a party political matter. It is quite different and I have heard what they have said. These are young people who are standing up to adults. They are children, pupils and students telling all of the adults in all parties to get their act together and do more about climate change because it is their future that is in jeopardy. That is why I support what they are doing and we all must listen to what they are saying.

Among the people who must listen are those in socialist parties such as the Deputy's who are climate tax deniers and deny the fact that a carbon tax or climate charge must be part of the solution to climate change. We know that a carbon charge alone will not solve the problem of climate change, but we equally know and science tells us that without it we cannot achieve our objectives. It must be part of the solution.

**Deputy Ruth Coppinger:** Cut emissions.

**The Taoiseach:** That is why I ask the Deputy to listen to what the students are saying and why they say his policy on carbon charging is wrong. He should ask them what they think of it.

**Deputy Paul Murphy:** First, it is great that the Taoiseach supports the school students' strike on 15 March.

**Deputy Ruth Coppinger:** Brilliant.

**Deputy Paul Murphy:** School students across the country should take it as the green light to walk out next Friday week in protest against climate inaction. That is what the school students' strike is about.

*(Interruptions).*

**An Ceann Comhairle:** Order, please.

**Deputy Paul Murphy:** The Government has stated it supports them. If it is not to be a patronising pat on the back, it will support and defend the rights of the students who are protesting for their future and the future of humanity. I agree that it is not a narrow party political issue. However, the system and policies the Taoiseach defends are incompatible with dealing with the issue of climate change. An economy that continues to be based on the drive for profit of individual companies that treat nature and damage to it as an externality cannot deliver the rapid change needed. What is required is a democratically planned economy. That is why we need eco-socialist policies.

Second, using climate change as a green washing exercise to try to introduce more regressive taxation measures will not wash with people. They know that the polluters are the top companies which are responsible for 63% of emissions.

**An Ceann Comhairle:** The Deputy's time is up.

**Deputy Paul Murphy:** I return to the question I asked and ask the Taoiseach to answer it, as opposed to posing questions to me. Free public transport would have a major impact on emissions from the second biggest sector in the economy.

**An Ceann Comhairle:** The Deputy has made his point.

**Deputy Paul Murphy:** It would only cost €600 million, the same amount as the fines Ireland could be facing annually from next year. If the Government is serious about listening to students, will it give a commitment to invest in properly funded - properly paid and proper conditions for the workers - and free public transport?

**The Taoiseach:** No, we are not going to introduce free public transport. Many public transport services, particularly at peak times, are already operating at capacity; therefore, making public transport free would not enable any more people to use it.

**Deputy Paul Murphy:** Invest more in it.

**Deputy Ruth Coppinger:** They can stay in their cars.

**The Taoiseach:** Instead of using €600 million to make public transport free, we should use that €600 million to invest in public transport, to increase capacity, to have more buses and more trains more frequently, and to invest in rural public transport as well so that more people

use it, not just so it becomes free. The solution to all our problems is not to tax everything and make it free. Rather, it is improving the quality of our services, including transport.

I will repeat what I said earlier. I am inspired and enthused by the fact that young people, students and school pupils are taking a real interest in climate action, that they are going to protest and that they are putting it up to all of us in all parties, and to all adults, to do more when it comes to climate action.

**Deputy Ruth Coppinger:** Why then is the Taoiseach not doing it?

**The Taoiseach:** I hear that and I am listening to it. I ask the Deputy to listen to it too because socialists are no friends of the environment. They opposed water metering and water charges and they now deny that a carbon tax is part of the solution to climate change. The Deputy should listen to students too and ask them what they think about water conservation-----

**Deputy Ruth Coppinger:** The Government missed all the targets.

**The Taoiseach:** -----what they think about carbon tax, and not tell them what socialists think they should think.

**Deputy Ruth Coppinger:** Did the Taoiseach not hear the news this morning? All of the targets were missed.

**Deputy Michael Harty:** I wish to question the Taoiseach on the lack of meaningful health reform in our health service. The consequences of not changing our model of care are plain to see. Fine Gael has been in power for eight years and this Government has been in power for the past three years. In those past three years, we have seen little or no health reform. In fact, the situation has deteriorated. The Taoiseach talks about health reform but he fails to implement what is glaringly obvious. Time is not in our side as demand for our health service continues to grow with our ageing population.

Sláintecare is now two years old. It still awaits transitional funding to trigger meaningful roll-out and delivery of better care to our patients. Sláintecare is stranded in the doldrums of inertia. There is much talk about implementation but no implementation. We cannot reform the health service from current spend. It is not possible. Specific independent, targeted funding is needed. Without this, Sláintecare will be just another report. Transitional funding is needed to shift the balance of care towards community care while at the same time delivering on unmet need. New models of data gathering, digital healthcare records and individual patient identifiers are essential so that we can gather data which will make meaningful progress in informing how we reform our health service.

The HSE service plan for 2019 indicates the HSE will struggle to maintain services at 2018 levels, which in themselves were inadequate, and will not deliver services as we require them in 2019. We still do not have multi-annual budgets. Without this, long-term planning is impossible. Unmet need will continue to grow as elective care will be limited by necessity. We will be providing only essential and urgent care in our hospitals. The expected increase in emergency admissions this year will diminish the ability to provide elective care.

Meeting current and future challenges within our service as it is currently designed is not sustainable. The service is facing extraordinary challenges and will need an extraordinary response. The capacity of our service is at maximum, with ever-increasing unmet need. Our

hospitals are operating at 100% capacity which, internationally, is recognised as unsafe. We have a shortage of intensive care unit, ICU, beds, which limits elective care. We need 8,000 extra beds over the next ten years unless we engage in extraordinary health reform. Opening 200 beds this year is wholly inadequate. We educate our graduate nurses, doctors, consultants and general practitioners, GPs, for export. This feeds into inadequate quality in the services that we provide. The affect of this on our population is clear, with 100,000 people on trolleys, 70,000 awaiting elective care and 500,000 on waiting lists.

Will this be the legacy that this Government leaves behind? When will the Government deliver the extraordinary response that is needed to reform our health service?

**The Taoiseach:** I agree with the Deputy on the point that we need more health reform. I do not agree with his contention that health reform is not happening at all. I will give a few examples in response to some of the questions the Deputy raised. At the heart of Sláintecare is the view that health care should be affordable and that we should extend free GP care to more people and reduce the cost of accessing medicines. That is happening. We have extended free GP care to all children under the age of six and all citizens over the age of 70, as well as to an extra 100,000 people based on income from April.

**Deputy Brendan Howlin:** That was all done by previous Governments.

**The Taoiseach:** In addition, we have reduced prescription charges and will do so again in the next couple of weeks. Sláintecare, which the Deputy advocates for and supports, recommends that we extend free GP care to an extra 500,000 people a year, that is, 500,000 this year, 1 million next year and 1.5 million the year after. I think that the Deputy's recommendation is a mistake because it is too fast. I do not think the capacity to increase free GP care as quickly as he advocates, that is, an extra 1 million in two years and an extra 2 million in four years, exists in our GP surgeries. I think he is mistaken in that regard, although I recognise that he is a strong advocate of the Sláintecare report.

We are also investing in primary care centres. There are now 120 primary care centres open throughout the country, while there were only 40 a few years ago. We have set aside a ten-year capital budget envelope for health, which is a multi-annual budget if ever there was one. It provides for €11 billion, which is double what it was for the past ten years. As a result, three new national hospitals are under construction, with one to go to tender quite soon.

There is investment in ICT. The medical laboratory information system, MedLIS, is now available almost across the board, allowing people to see blood results all over the place. There is also the picture archiving and communication system, PACS, and what replaced it in radiology, and there is the maternal health record, where women who attend maternity hospital now have electronic records which they did not in the past. We are introducing reforms such as a commissioning model, where the National Treatment Purchase Fund is used to commission operations and procedures, which is why the waiting times for those waiting more than three months for an operation or procedure has fallen for months.

We are increasing bed capacity, by 200 last year and approximately another 200 this year. I visited Clonmel the other day, where there is a new 40-bed unit under construction, while the Minister for Health recently gave approval for an extra 60 beds in Limerick. As a result, the number of patients on trolleys thus far this year, while still far too high, is at its lowest in four years, and let us hope that will continue.

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The next large step is contractual reforms for GPs and we are in negotiations with the Irish Medical Organisation, having concluded talks with the nurses on a new contract for them. We are keen to get that done to provide additional resources for general practice, that is, not just additional money for doing the same things but rather for change, embracing medicines management and ICT, giving information that we need to plan our health services and providing new services, particularly in the field of chronic care.

**Deputy Michael Harty:** The Taoiseach referred to his and my discipline of general practice in respect of Sláintecare. As he will know, the continuation of financial emergency measures in the public interest, FEMPI, has devastated general practice and it will take years for general practice to recover. He referred to the expansion of primary care, which is an essential component of Sláintecare, and he was quite right that we cannot expand eligibility or services unless there is the manpower to do so. That is the very issue: we do not have the manpower in general practice to underpin Sláintecare. We do not have the capacity in general practice to supply the increased eligibility that the Taoiseach proposes and to expand the range of services if GPs are not available. We are losing GPs from our urban practices, not to mention from our rural practices, and we cannot recruit GPs to supply the extra services.

The Taoiseach has put the cart before the horse. If our health service is to be reformed, manpower in general practice needs to be expanded, which is the underpinning of Sláintecare. Unless we have an expansion of primary care, Sláintecare cannot progress. The Government is damaging general practice by the continuation of FEMPI and the failure to reverse it.

**The Taoiseach:** I followed with interest in recent days the debate about how moving towards multi-annual budgets would help us to improve our health services. I am broadly a supporter of multi-annual budgets, not just in the health service but across the board. Before there can be multi-annual budgets, however, one must demonstrate that one is able to keep within annual budgets. We already have a multi-annual budget in health, namely, a ten-year envelope for capital, but have the HSE and the health service managed to keep within that budget? Is there anyone in the House who believes that if there was multi-annual budgeting for current spending, the HSE, which has gone over budget every year for any number of years, would not also go over budget on its multi-annual budget? I believe it would. It may burn up the money quicker than it does now and we have to take those concerns into account. We are training more general practitioners, GPs, have increased the number of training places and, thankfully, those training places are being filled. We are in negotiations with the Irish Medical Organisation, IMO, to restore funding for general practice and to link that to important reforms, including extending eligibility, moving to greater chronic care, medicines management and use of IT. Where I disagree with Deputy Harty in his strong advocacy for Sláintecare is that it is pretty unequivocal that it wants, as well as the 1 million people who already have free GP care, to have an extra 500,000 next year and 500,000 more after that. I think the Deputy is mistaken on that and that we need to do the other thing first.

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

**Deputy Maria Bailey:** The business this week shall be as set out in the first revised report of the Business Committee, dated 5 March 2019. Today's business shall be No. *a11*, motion re sittings and business of Dáil for 5 to 7 March 2019, to be taken without debate and any division demanded thereon shall be taken immediately; No. *b11*, motion re instruction to committee of



the whole Dáil for the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019, to be taken without debate and any division demanded thereon shall be taken immediately; No. 11, motion re financial resolutions for the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019; No. 12, motion re Istanbul Convention; No. 13, motion re proposed approval by Dáil Éireann of the terms of the convention on social security between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland, back from committee; and No. 30, Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019 - Committee and Remaining Stages.

Wednesday's business shall be No. 30, resumed.

Thursday's business shall be No. 30, resumed. Private Members' business shall be No. 211, motion re local drugs and alcohol task forces.

**An Ceann Comhairle:** Is the proposal for dealing with today's business agreed?

**Deputy Mary Lou McDonald:** Not agreed.

**Deputy Richard Boyd Barrett:** Not agreed.

**An Ceann Comhairle:** I call Deputy McDonald.

**Deputy Mary Lou McDonald:** The purpose of this emergency legislation is to guard against the worst effects of a hard Brexit. I think everybody in the House has co-operated with Government because we recognise the necessity for contingencies for such a scenario. It is inexplicable therefore how so many of our amendments, moved in that spirit of being prepared, have been ruled out of order. They have covered such things as equality of citizenship and dealing with green card measures to support agriculture. I could go on. Some 25 of our amendments have been ruled out of order. It raises a question for us as to the quality of this debate and exchange and the robustness of the legislation. We were encouraged to co-operate with the Government, which is fine. We were told that we would be listened to and there would be an opportunity for substantive amendments to be brought forward, yet here we are, with 25 amendments on critical issues that have simply been set aside. Speaking to some colleagues earlier, they now regard the debate as something of a sham because it is a precooked outcome from the Government and we are to operate as some kind of elaborate rubber stamp. On that basis, we do not support the proposition. I would like substantiation of how so many of these amendments represent a charge on the State. They have been ruled out of order wholesale and we are very disappointed.

**An Ceann Comhairle:** It is not normal to discuss the ruling out of amendments on the floor of the House, but to be helpful, I should point out that the ruling out of amendments is nothing whatsoever to do with Government. Some 74 amendments were tabled to the Bill. They got the highest level consideration from the Service before they were ruled upon. Some 38 of the 74 have been ruled out of order. Each Deputy who submitted an amendment has received correspondence setting out clearly why they were considered to be out of order. I have written to Deputies to say that I am available after this sitting to meet with any Deputy who wants to discuss the ruling out of an amendment.

I am sorry, Deputy Cullinane, only leaders can come in on this matter.



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**Deputy David Cullinane:** I do not accept that.

**Deputy Darragh O'Brien:** The Deputy does not accept that he is not the Leader.

**Deputy Richard Boyd Barrett:** The Standing Order which was used to rule out a number of the proposed amendments states that the basis on which they can be ruled out of order is that they are in conflict with the principle of the Bill. How could an amendment we proposed, about ruling out under any circumstances physical infrastructure between North and South in the form of a border, not be in line with the objectives of the Bill or how could it be deemed to be in conflict with a Bill that specifies in its description that it is a Bill to deal with the potential consequences of no deal and to prevent "disturbance" to the South in economic or other terms? How could, for example, asking that British driving licences would be recognised in the South be in conflict with the Bill? It is incomprehensible and it renders the debate a sham.

**An Ceann Comhairle:** First and foremost it is not in order to discuss this matter on the floor of the House. I am quite willing to meet anyone who wants to come to discuss with me and the Service the decisions that have been made in respect of their individual amendments.

**Deputy Richard Boyd Barrett:** On something as important as this the public needs to know.

**An Ceann Comhairle:** That decision is not made here in this Chamber-----

**Deputy Darragh O'Brien:** Sinn Féin should not have supported Brexit.

**An Ceann Comhairle:** ----and has never been.

**Deputy David Cullinane:** Deputy smart Alec O'Brien.

**Deputy Darragh O'Brien:** It is true.

**Deputy Micheál Martin:** Aontaím leis an rún atá curtha os comhair na Dála ag an Rialtas. Táimid sásta comhaontú leis an Rialtas i gcomhthéacs an Bhille seo. Go bunúsach, tá sé i gcroílár an Bhille seo go mbeidh an tír seo réidh má fhágann an Bhreatain an Aontas Eorpach gan aon chonradh ag leibhéal na hEorpa. Is é sin an méid atá i gceist sa reachtaíocht seo. I ndáiríre, níl cúrsaí polaitíochta go speisialta i gceist anseo. Níl i gceist ach gnáthrudáí an tsaoil a choimeád slán i gcomhthéacs an Bhreatain-----

**Deputy Donnchadh Ó Laoghaire:** Tá sé sin sna leasuithe.

**Deputy Micheál Martin:** -----ag éirí as an Aontas Eorpach.

**Deputy Donnchadh Ó Laoghaire:** Tá na leasuithe ag déileáil le cearta na ndaoine - cearta saoránaigh an Tuaiscirt.

**Deputy Micheál Martin:** Is é sin an méid atá i gceist sa Bhille seo.

**Deputy Donnchadh Ó Laoghaire:** Níl suim dá laghad ag an Teachta na leasuithe sin a phlé.

**Deputy Micheál Martin:** Tá suim faoi leith agam.

**An Ceann Comhairle:** Wait now.

**Deputy Micheál Martin:** Ba mhaith liom é seo a rá, a Cheann Chomhairle, más féidir liom. Tá suim faoi leith agam sna hábhair nach bhfuil díospóireacht againn fúthu an tseachtain seo de bharr an Bhille seo. Ní féidir linn rudaí áirithe eile a phlé sa Dáil. Mar shampla, ní bheidh aon Ord Gnó againn amárach ós rud é go bhfuilimid ag déileáil leis an mBille seo.

**Deputy Donnchadh Ó Laoghaire:** Tá na leasuithe ag déileáil leis na ceisteanna sin.

**Deputy Micheál Martin:** Tá mise ag lorg gnáthsocruithe na Dála a thabhairt ar ais, fiú agus muid ag déileáil leis an mBille seo. Caithfimid bheith ionraic agus macánta anseo.

**Deputy Donnchadh Ó Laoghaire:** 100%.

**Deputy Micheál Martin:** Tá sé i gceist againn go mbeimid go léir sa tír seo réidh má fhágn an Bhreatain an Aontas Eorpach gan chonradh. Tá súil agam nach dtarlóidh sé sin, ach tá sé i gceist againn bheith réidh dá dtarlódh a leithéid.

**Deputy Mary Lou McDonald:** That is precisely what our amendments sought to do.

**Deputy Donnchadh Ó Laoghaire:** Níl faic le rá ag an Teachta Martin faoinár leasuithe.

**Deputy Micheál Martin:** Tá rudaí eile curtha ar ceal faoi láthair ós rud é go bhfuilimid ag déileáil leis an mBille seo. Tharla an rud céanna an tseachtain seo caite agus tá sé ag tarlú arís inniu. Tá cúlbinseoirí ár bpáirtí ag cailliúnt dá dheasca sin. Níl go leor ama againn i rith na seachtaine chun rudaí eile a phlé, mar go bhfuilimid ag déileáil leis an mBille seo.

**Minister of State at the Department of the Taoiseach (Deputy Seán Kyne):** Tá cúig uaire go leith leagtha amach inniu, deich n-uaire leagtha amach amárach agus seacht n-uaire go leith leagtha amach ar an Déardaoin chun plé a dhéanamh ar an mBille um Tharraingt Siar na Ríochta Aontaithe as an Aontas Eorpach (Forálacha Iarmhartacha), 2019. Sílim go bhfuil dóthain ama leagtha amach.

Question put: “That the proposals for dealing with today’s business be agreed to.”

<i>The Dáil divided: Tá, 85; Níl, 29; Staon, 5.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Bailey, Maria.</i>	<i>Boyd Barrett, Richard.</i>	<i>Martin, Catherine.</i>
<i>Brassil, John.</i>	<i>Brady, John.</i>	<i>Murphy, Catherine.</i>
<i>Breathnach, Declan.</i>	<i>Buckley, Pat.</i>	<i>O’Sullivan, Maureen.</i>
<i>Breen, Pat.</i>	<i>Collins, Michael.</i>	<i>Ryan, Eamon.</i>
<i>Brophy, Colm.</i>	<i>Connolly, Catherine.</i>	<i>Shortall, Róisín.</i>
<i>Browne, James.</i>	<i>Cullinane, David.</i>	
<i>Bruton, Richard.</i>	<i>Daly, Clare.</i>	
<i>Burke, Peter.</i>	<i>Doherty, Pearse.</i>	
<i>Burton, Joan.</i>	<i>Ellis, Dessie.</i>	
<i>Byrne, Catherine.</i>	<i>Ferris, Martin.</i>	
<i>Byrne, Thomas.</i>	<i>Funchion, Kathleen.</i>	
<i>Calleary, Dara.</i>	<i>Kenny, Gino.</i>	
<i>Cannon, Ciarán.</i>	<i>Kenny, Martin.</i>	
<i>Casey, Pat.</i>	<i>McDonald, Mary Lou.</i>	

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<i>Cassells, Shane.</i>	<i>Mitchell, Denise.</i>	
<i>Chambers, Jack.</i>	<i>Munster, Imelda.</i>	
<i>Chambers, Lisa.</i>	<i>Murphy, Paul.</i>	
<i>Collins, Niall.</i>	<i>Naughten, Denis.</i>	
<i>Coveney, Simon.</i>	<i>O'Brien, Jonathan.</i>	
<i>Cowen, Barry.</i>	<i>O'Reilly, Louise.</i>	
<i>Creed, Michael.</i>	<i>Ó Broin, Eoin.</i>	
<i>Curran, John.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>D'Arcy, Michael.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Deering, Pat.</i>	<i>Pringle, Thomas.</i>	
<i>Doherty, Regina.</i>	<i>Quinlivan, Maurice.</i>	
<i>Donnelly, Stephen S.</i>	<i>Smith, Bríd.</i>	
<i>Donohoe, Paschal.</i>	<i>Stanley, Brian.</i>	
<i>Dooley, Timmy.</i>	<i>Tóibín, Peadar.</i>	
<i>Doyle, Andrew.</i>	<i>Wallace, Mick.</i>	
<i>Durkan, Bernard J.</i>		
<i>English, Damien.</i>		
<i>Farrell, Alan.</i>		
<i>Fitzgerald, Frances.</i>		
<i>Fitzpatrick, Peter.</i>		
<i>Flanagan, Charles.</i>		
<i>Fleming, Sean.</i>		
<i>Gallagher, Pat The Cope.</i>		
<i>Halligan, John.</i>		
<i>Harty, Michael.</i>		
<i>Haughey, Seán.</i>		
<i>Healy-Rae, Danny.</i>		
<i>Healy-Rae, Michael.</i>		
<i>Heydon, Martin.</i>		
<i>Howlin, Brendan.</i>		
<i>Humphreys, Heather.</i>		
<i>Kehoe, Paul.</i>		
<i>Kelleher, Billy.</i>		
<i>Kelly, Alan.</i>		
<i>Kyne, Seán.</i>		
<i>Lahart, John.</i>		
<i>Lawless, James.</i>		
<i>Madigan, Josepha.</i>		
<i>Martin, Micheál.</i>		
<i>McEntee, Helen.</i>		
<i>McGrath, Michael.</i>		
<i>McLoughlin, Tony.</i>		
<i>Mitchell O'Connor, Mary.</i>		

<i>Moran, Kevin Boxer.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Moynihan, Michael.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Murphy, Eoghan.</i>		
<i>Murphy, Eugene.</i>		
<i>Naughton, Hildegarde.</i>		
<i>Neville, Tom.</i>		
<i>Noonan, Michael.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Connell, Kate.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Donovan, Patrick.</i>		
<i>O'Loughlin, Fiona.</i>		
<i>O'Rourke, Frank.</i>		
<i>O'Sullivan, Jan.</i>		
<i>Penrose, Willie.</i>		
<i>Rabbitte, Anne.</i>		
<i>Ring, Michael.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Ryan, Brendan.</i>		
<i>Smith, Brendan.</i>		
<i>Smyth, Niamh.</i>		
<i>Stanton, David.</i>		
<i>Troy, Robert.</i>		
<i>Varadkar, Leo.</i>		

Tellers: Tá, Deputies Seán Kyne and Tony McLoughlin; Níl, Deputies Aengus Ó Snodaigh and Denise Mitchell.

Question declared carried.

**Deputy Micheál Martin:** In the context of justice legislation and the “Claire Byrne Live” programmes last week and this week, there is a need to progress legislation to ensure those who commit homicides will not benefit from their actions, particularly in cases of familicide. Deputy O’Callaghan tabled the Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017 just over two years ago and it was passed on Second Stage in October last year. The Government did not oppose it and it now needs to

3 o'clock

prioritise it. The Parole Bill was published in 2016 and passed Second Stage. It passed Committee Stage in May 2017 and the Government gave a commitment to bringing it to Report and Final Stages. At present, a person may apply for parole after seven years and the Bill proposes to raise this to 12 years. The parents and family of Rachel O'Reilly are particularly anxious about this. The Bill has other positive provisions. Will the Taoiseach agree to accelerate the passage of both these Bills? They are well drafted. Deputy O'Callaghan is a good legislator and knows what he is doing. It is sometimes alleged that Opposition Bills are not up to scratch. These ones are and they should be done.

**Minister for Justice and Equality (Deputy Charles Flanagan):** I accept the importance of Deputy Micheál Martin's point and I agree with him. The Government is on record as accepting the principle of both Bills. Now that the Brexit legislation has been settled and will hopefully be passed in the coming days, I am keen to sign off on a number of amendments on both these Bills. I am anxious to advance both, acknowledging the importance of what Deputy Martin has said.

**Deputy Mary Lou McDonald:** The residents and owners of some boom-time developments across the State are facing massive repair costs and possible eviction due to building defects. Some of these include fire-safety issues, rotting roofs and defective balconies. The people concerned have bought or rented homes in good faith, but the Government has all but ignored calls to assist them. The Oireachtas Joint Committee on Housing, Planning and Local Government published a report in January 2018 with 26 recommendations to tackle the issue of latent defects, including the establishment of a redress scheme to assist homeowners. The report received cross-party support. That redress scheme would be funded via an industry levy matched by Government funding and low-cost loans to help homeowners pay for remedial works, offering a real solution to those living in defective properties.

It is not acceptable to claim that this is a matter solely between the developer and the home purchaser since weak regulation was an underlying cause of the problem. Will the Government consider the establishment of a redress scheme for those living in defective properties? When will homeowners in Donegal and Mayo, affected by mica and pyrite, be able to access the redress scheme approved by Cabinet in November?

**Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy):** This is a very difficult situation for these people who must now meet a significant expense to remediate certain deficiencies in how their homes were built. It is a very stressful situation and they are trying to find assistance with that, which I understand.

Building standards were not complied with during the boom-time years. Today, unfortunately, certain politicians are looking for us to relax standards once again and to remove layers of oversight when it comes to building, but we will not do that. In 2014 the controls and regulations on building designing, architectural works, planning and the actual completion of works were greatly improved to protect people who were buying homes under this new control regime. The difficulty we have is that there is a significant risk to the taxpayer if the Government accepts liability for individual buildings or for works that were not completed in the appropriate way, while at the same time potentially letting off builders who are responsible in this matter.

Of course we want to find a pathway to help these people, but it is difficult to see one that does not take on this enormous open-ended liability on every other taxpayer in the State that the State simply could not meet.

On the second part of the Deputy's question, at the time of last year's budget agreement in principle was reached for a scheme for people in Donegal and Mayo where pyrite, pyritic heave and mica have been damaging internally the concrete blocks of buildings that were built. My Department and the Department of Public Expenditure and Reform are close to completing the outline of that scheme. An amount of money has been allocated to it in 2019, but we just need to finalise the details of how the scheme will be applied in those two counties.

**Deputy Brendan Howlin:** Last week this House debated a Fianna Fáil motion on plurality in the media where there was a consensus view across this House that we needed to support the local media. The Taoiseach may be aware that the Houses of the Oireachtas Commission operates a support scheme where the operations of this House are reported both to local print media and radio stations. The print media arrangement ends today and the broadcast media support ends on 1 April. I ask all Members of the House, if we are all interested as we all said we were in supporting local media, to indicate our support so that the views expressed in this House and the debates should be presented free of charge to those media outlets that carry it. That would be good for both democracy and the sustaining of local media as well.

**Deputy Thomas Byrne:** Hear, hear.

**The Taoiseach:** I was not aware of that. I imagine it is in the interests of this House to provide content from this Chamber and the Seanad to the media. I imagine this is a matter for the Houses of the Oireachtas Commission.

**An Ceann Comhairle:** It was discussed at a commission meeting this morning.

**The Taoiseach:** On the face I agree with the Deputy. Perhaps the Ceann Comhairle might-----

**An Ceann Comhairle:** I call Deputy Boyd Barrett.

**Deputy Richard Boyd Barrett:** In the programme for Government the Taoiseach said that the provision of affordable housing to those who need it would be a "priority" and that the Government should be tested on its ability to deliver on that promise. Can I suggest that promise is a hoax given the revelation today that, without telling anybody, instructions were given not to give out what is already a very limited scheme around affordable mortgages under the Rebuilding Ireland mortgage scheme? The limitations of this scheme can be told by the fact that in Dún Laoghaire-Rathdown only three Rebuilding Ireland mortgages were given out. Indeed, I have raised this issue with the Minister before, how people who should and are supposed to qualify did not qualify. The affordable scheme, which is supposed to deal with the same cohort of people and in which we were told €300 million was to be put, still has not appeared two years later. Are not all of the "affordable" promises in the programme for Government just a complete hoax?

**Deputy Declan Breathnach:** I would like to follow on from Deputies Martin and Boyd Barrett by asking the Taoiseach and the Minister whether it is a fact that there is no database for the Rebuilding Ireland home loan scheme and the reason that there are 1,000 applicants still waiting for approval is that there are duplicates of up to 50% right across multiple applications, particularly in the north east. Is that the situation? We have been told that there are multiple dual applications and that this is the reason for the delay in the approval of the additional 1,000.

**Deputy Eoin Ó Broin:** The real issue here is that of the 1,500 applications that have been



approved, 68% have not been able to draw down the funds. They have not been able to draw down the funds because either it is taking too long for the underwriting process or, particularly in Dublin, the amount of money being offered - on average about €200,000 - comes nowhere close to the average house price of €340,000 and in Dún Laoghaire of €590,000. We have a situation now where €136 million of this fund is sitting there and the people to whom it is being offered cannot access it. It is not just a matter of extending the overall funding, it also involves fixing the scheme to ensure that when people are offered loans, it is an appropriate amount of money and it is done in a speedy enough fashion so the money can be spent on the houses they so desperately need.

**Deputy John Lahart:** The Taoiseach confirmed that over 500 loans had been drawn down and 1,000 were still outstanding. Could the Minister comment on how long have some of those, the longest of them, been in the system? Does he appreciate the limbo that those applicants find themselves in while waiting for those applications, to know whether they will or will not be drawn down? Can the Minister give an assurance to the House, particularly in relation to the number of constituents that I am familiar with, that the response as to whether they will be able to draw down these mortgages will be considered and given as swiftly as possible?

**Deputy Eoghan Murphy:** I wish to say to the Deputy that this is a revelation today. I was clear with the Dáil and I can direct attention to parliamentary questions on 5 and 26 February but also to previous conversations we have had at committee about the operation of this loan.

The Rebuilding Ireland home loan is incredibly worthwhile and supportive of people trying to buy their first home. Time and again Deputies have come into the House to say that it is not working. Today we see clearly and know that it is working so well that it is working better than anticipated, because the additional €200 million of funding was a tranche that was meant to be there for three years, but only a year and a month into the operation of the scheme we have already seen hundreds of people approved and drawing down and hundreds more waiting to draw down their loans.

We have dual applications because people are applying to different local authorities depending on where they intend to buy their homes. We also have cases where some loans are approved but not drawn down. That happens for many reasons. The lag between an approval and a drawdown is not necessarily on the local authority's side. Once one gets approval for a mortgage it takes time to find a home, to complete the sale and to do all the things that one has to do when someone is buying a home. In those circumstances, that is where a delay can arise and that is often the case. Sometimes a loan is not drawn down at all because the circumstances or the choice of the individual changes. I indicated to the Dáil that we would need to look for a second tranche when the first tranche did expire. Only half of the first tranche has been drawn down to date. That is why at the moment I am in negotiations with the Department of Public Expenditure and Reform about a further tranche to ensure we can continue with the Rebuilding Ireland home loan. It has been successful in helping hundreds of people to buy their first home and we want to see that happen for hundreds more.

**Deputy Danny Healy-Rae:** It was not amusing to hear Deputy Murphy asking the Taoiseach to change the entire Dublin Bus fleet. Outside the Red Cow and indeed in all of rural Ireland, since the ramming through of the Road Traffic (Amendment) Act 2018, to please the Minister, Deputy Ross, people in rural Ireland are angered and frustrated like never before, young and old. Provisional drivers who are waiting for driving tests have no transport now and have to impose on parents and family members to drive them. Old people are facing checkpoints daily

and several times a day right around the country like never before. Will the Taoiseach reduce the level of checkpoints, seeing as it was this Government that put them in place, and with this Government reverse this Act in the light of the anger, frustration and hardship that has been imposed on the people of rural Ireland at this time?

**The Taoiseach:** In the first instance it is important to point out that it is the gardaí and the Garda Commissioner who make decisions on the frequency and location of checkpoints. There are no Ministers ordering checkpoints anywhere: I can guarantee that. There is a degree of misunderstanding on the new law. This new law has not changed the drink-driving or alcohol limits: it has changed penalty. The limits are exactly what they were before. The solution is not to allow drink-driving but is better transport.

I am particularly enthused by what the Minister of State, Deputy Griffin, is leading with his lift scheme in the Deputy's own county, which could be the potential prototype for a much more flexible, more individualised and much more available road transport, particularly at night.

**Deputy Danny Healy-Rae:** One motor car will not transport the people-----

**Deputy Michael Collins:** The Taoiseach can cod the people but it will not fool them.

**Deputy Catherine Murphy:** There was a very significant judgment in the High Court last Thursday in the case of Denis O'Brien *v. Sunday Business Post*, which was a very significant and good day for journalism but it does bring into question the issue of defamation laws. Is it intended to advance a change to our defamation laws or will he consider the call from the National Union of Journalists that there should be a commission into the future of the media, which will obviously look at things like social media and other platforms at the same time? This is a critical issue as to the health of our democracy and health of journalism into the future.

**Deputy Charles Flanagan:** As to the issue of the reform of the defamation laws, Members will be aware that the current law, the 2009 Act, is the subject matter of a review. There is a wide-ranging consultation process underway, and has been for some time because of its breadth. I expect to have a report in the next five to six weeks and I would be very keen then to move matters on towards the next stage, keeping the House fully informed as I proceed.

**Deputy Denis Naughten:** In the past eight months, the HSE has disclosed that 84 families in Roscommon and Mayo have experienced serious failings in audiology services provided to their children due to either misdiagnoses or failures to follow up on results. A further 22 young people over the age of 18 years have been impacted upon.

Page 62 of A Programme for a Partnership Government makes specific reference to the issue of open disclosure and no-fault compensation. The number one priority for these 106 people and their families is to get access to educational supports, aids and resource supports. Some of the families and children are getting resource hours, but others are only getting reduced resource hours. We need to see a uniform allocation of resource hours and supports to these young people. Will a dedicated person be appointed within the Department of Education and Skills to co-ordinate on behalf of these 106 people and minimise the impact of this audiology failure on each of them?

**The Taoiseach:** I thanks the Deputy for raising this issue. I know it was raised in the Dáil a week or two ago. I agree with the Deputy's sentiments. The most important thing now is to make sure that those children and adults affected get the health interventions they need and

should have got in the past, and the education and welfare supports they need. I am informed that some have, but it has been inconsistent and patchy, and we are keen to resolve that. I have asked someone in my office to pull together the main Departments - Employment Affairs and Social Protection, Education and Skills and Health - to try to resolve the situation.

**Deputy Peter Fitzpatrick:** I have raised the issue of local needs guidelines numerous times. Since 2005, our local authorities have been using the same guidelines. In 2016, the Government informed the EU that it would be reviewing the local needs situation. On 22 January, the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, stated that this had to do with the Flemish decree, his Department was working on the matter and a working group had held a meeting the prior week. He said that he would revert to me with an update on local needs. People in villages and rural areas cannot build on their own lands. This situation has been going on for two or three years. Will it come to an end at some stage?

**Deputy Eoghan Murphy:** I thank the Deputy for his question. The matter remains as I explained to the Dáil recently. We are operating on the 2005 guidelines. We have been in negotiations with the Commission following on from the Flemish decree. Much of the thinking that is being incorporated as a result of the Flemish decree made its way into the national planning framework, which is being put through the regional spatial and economic strategies. However, it is not true to say that new homes are not being approved depending on local needs. That is happening. We will have the updated guidelines shortly, but local authorities are working to the 2005 guidelines at the moment.

**Deputy Imelda Munster:** The ongoing feud between drug gangs in Drogheda resulted in the recent shooting of a man in broad daylight in a public car park at a retail park. It was the second shooting in recent months. There have also been physical attacks, intimidation, kidnappings, threats and attacks on homes. Of the 18 additional gardaí allocated in December, 15 were removed in January, leaving us with just three additional gardaí, which is in no way sufficient to tackle this issue. At last night's meeting of the joint policing committee, elected representatives were told that none of the commitments and promises made by the Minister for Justice and Equality, Deputy Flanagan, regarding the Louth Garda division had materialised and that the division's budget had not seen a cent of an increase.

**An Ceann Comhairle:** I thank the Deputy, but can we hear from the Minister, please?

**Deputy Imelda Munster:** When will the Drogheda Garda division-----

**An Ceann Comhairle:** Can we let the Minister answer?

**Deputy Imelda Munster:** -----receive the necessary resources to tackle this ongoing feud, or is it the case that-----

**An Ceann Comhairle:** Please, Deputy. You have gone way over time.

**Deputy Imelda Munster:** -----the Government is waiting for some innocent passer-by-----

**An Ceann Comhairle:** Can we hear the Minister, Deputy Flanagan, please?

**Deputy Imelda Munster:** -----to be caught up in one of these shootings? The people of Drogheda are living in fear. It looks like the Minister-----

**An Ceann Comhairle:** The Deputy is way over time.

**Deputy Imelda Munster:** -----could not care less about it.

**An Ceann Comhairle:** Deputy, please.

**Deputy Charles Flanagan:** I was pleased to visit Drogheda recently in the company of my colleague, Deputy O'Dowd, where we had a number of important meetings. I understand that the Garda Commissioner was also in Drogheda recently. The House will be aware that the operational issues for and on behalf of the An Garda Síochána are under the leadership of the Garda Commissioner. I keep in close contact with the Garda management team, but the issue of resources is one for the Garda Commissioner himself. I am aware of the seriousness of the situation in Drogheda and am keen to ensure that every effort is made to mitigate the issues raised.

**An Ceann Comhairle:** I call Deputy Murphy O'Mahony.

**Deputy Margaret Murphy O'Mahony:** Go raibh maith agat, a Cheann Comhairle.

**Deputy Imelda Munster:** I am sorry, a Cheann Comhairle-----

**An Ceann Comhairle:** No, Deputy.

**Deputy John Lahart:** Deputy Munster only gets one stab at it.

**Deputy Imelda Munster:** Elected representatives were specifically told-----

**An Ceann Comhairle:** Deputy, please.

**Deputy Imelda Munster:** -----at the joint policing committee-----

**Deputy Margaret Murphy O'Mahony:** Ba mhaith liom ceist-----

**Deputy Imelda Munster:** -----that the promises made by the Minister-----

**Deputy Eoghan Murphy:** Respect Deputy Murphy O'Mahony.

**Deputy John Lahart:** Yes.

**Deputy Imelda Munster:** -----never materialised-----

**An Ceann Comhairle:** Will the Deputy resume her seat, please?

**Deputy Imelda Munster:** -----and the division had never seen a cent of an increase in its budget.

**An Ceann Comhairle:** Table a Topical Issue matter or something on this matter. We cannot-----

**Deputy Imelda Munster:** The Minister is just talking rubbish. Spoof and spin.

**Deputy Margaret Murphy O'Mahony:** Ba mhaith liom ceist a chur ar an Aire Cumarsáide, Gníomhaithe ar son na hAeráide agus Comhshaoil. Táim an-bhuíoch go bhfuil sé anseo inniu. There has been considerable talk lately about the roll-out, or the lack thereof, of broadband, but I wish to ask the Minister about areas with poor or no mobile phone coverage. In large pockets across west Cork, people cannot use their mobile phones no matter what provider they are with. What plans has the Minister to improve the quality of mobile phone coverage in west Cork and

the rest of the country?

**Minister for Communications, Climate Action and Environment (Deputy Richard Bruton):** We have a task force, chaired by the Minister of State, Deputy Canney, that works on filling gaps and ensuring closer co-operation in the delivery of mobile and broadband services outside the intervention areas. I will ask the Minister of State to examine the problems that the Deputy has raised and determine whether there is scope to address them.

**An Ceann Comhairle:** That concludes questions on promised legislation. Eight Deputies have not been reached today.

### Sittings and Business of Dáil: Motion

**Minister of State at the Department of the Taoiseach (Deputy Seán Kyne):** I move:

That, notwithstanding anything in Standing Orders, or in the Resolution of the Dáil of 28th February, 2019, and unless the Dáil shall otherwise order, the following arrangements shall apply in relation to the sittings of the Dáil on 5th, 6th and 7th March, 2019:

(a) on Tuesday, the Dáil shall sit later than 10 p.m., and shall adjourn on the conclusion of proceedings on Part 4 of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019, or at 11 p.m., whichever is the later;

(b) on Wednesday, the Dáil shall sit later than 10.15 p.m., and shall adjourn on the conclusion of proceedings on Part 10 of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019, or at 11.30 p.m., whichever is the later; and

(c) the proceedings on Committee Stage of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019 shall be brought to a conclusion within the times indicated in the timetable below, provided that if a Part concludes earlier than indicated, the next Part may commence at an earlier time, or on an earlier day:—

	<i>Date:</i>	<i>Proceedings:</i>	<i>To conclude within:</i>
<i>(i)</i>	<i>Tuesday, 5th March</i>	<i>Part 1 (sections 1 to 3)</i>	<i>1 hour</i>
		<i>Part 2 (section 4)</i>	<i>2 hours</i>
		<i>Part 3 (sections 5 to 7)</i>	<i>90 minutes</i>
		<i>Part 4 (section 8)</i>	<i>1 hour</i>
<i>(ii)</i>	<i>Wednesday, 6th March</i>	<i>Part 5 (sections 9 to 14)</i>	<i>1 hour</i>
		<i>Part 6 (sections 15 to 60)</i>	<i>5 hours</i>
		<i>Part 7 (sections 61 to 64)</i>	<i>1 hour</i>

		<i>Part 8 (sections 65 to 67)</i>	<i>1 hour</i>
		<i>Part 9 (sections 68 to 70)</i>	<i>1 hour</i>
		<i>Part 10 (sections 71 to 75)</i>	<i>1 hour</i>
<i>(iii)</i>	<i>Thursday, 7th March</i>	<i>Part 11 (sections 76 to 78)</i>	<i>1 hour</i>
		<i>Part 12 (sections 79 to 83)</i>	<i>1 hour</i>
		<i>Part 13 (sections 84 to 87)</i>	<i>90 minutes</i>
		<i>Part 14 (sections 88 to 90)</i>	<i>90 minutes</i>
		<i>Part 15 (section 91) and the Title</i>	<i>2.5 hours</i>

and where proceedings have not been concluded within the stated time, they shall be brought to a conclusion by one Question, which shall, in relation to amendments, include only those set down or accepted by the Tánaiste and Minister for Foreign Affairs and Trade, or a Minister of State nominated as substitute on his behalf, and the Question shall dispose of all amendments addressed to the Part of the Bill to which they refer.”.

Question put and agreed to.

### **Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019: Instruction to Committee**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move:

That, pursuant to Standing Order 154, it be an instruction to the Committee on the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019 that it has power to make provision in the Bill in relation to F-Gas re-certification for companies and individuals for a limited period post UK withdrawal, and to make other consequential amendments required to take account of these changes.

Question put and agreed to.

### **Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019: Financial Resolutions**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move:

*I. THAT* section 58 of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010), which relates to the retail export scheme, be amended in the manner and to the extent specified in the Act giving effect to this Resolution.



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2. THAT section 124B of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999), which provides for a levy on certain premiums of life assurance, be amended in the manner and to the extent specified in the Act giving effect to this Resolution.

3. THAT section 125 of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999), which provides for a levy on certain premiums of insurance, be amended in the manner and to the extent specified in the Act giving effect to this Resolution.

Question put and agreed to.

### **Convention on Preventing and Combatting Violence Against Women and Domestic Violence: Motion**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move:

That Dáil Éireann approves the terms of the Council of Europe Convention on preventing and combatting violence against women and domestic violence done at Istanbul on 11th May, 2011, a copy of which was laid before Dáil Éireann on 22nd February, 2019.

Question put and agreed to.

### **Convention on Social Security: Motion**

**Minister for Justice and Equality (Deputy Charles Flanagan):** I move:

That Dáil Éireann approves the terms of the Convention on social security between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland, done at Dublin on 1st February, 2019, a copy of which was laid before Dáil Éireann on 7th February, 2019.

Question put and agreed to.

## **Ceisteanna - Questions**

### **Brexit Issues**

1. **Deputy Micheál Martin** asked the Taoiseach the role of his Department in contingency planning for Brexit; and the number of meetings that have been held since September 2018 on same. [8464/19]

2. **Deputy Brendan Howlin** asked the Taoiseach the role of his Department in contingency planning for Brexit; and the number of meetings held since September 2018 on the issue. [9093/19]

3. **Deputy Richard Boyd Barrett** asked the Taoiseach the role of his Department in contingency planning for Brexit; and the number of meetings that have been held on this issue since

September 2018. [9306/19]

4. **Deputy Eamon Ryan** asked the Taoiseach the role of his Department in contingency planning for Brexit; and the number of meetings that have been held since September 2018 on same. [9390/19]

5. **Deputy Mary Lou McDonald** asked the Taoiseach the role of his Department in contingency planning in respect of Brexit. [9457/19]

**The Taoiseach:** I propose to take Questions Nos. 1 to 5, inclusive, together.

My Department works closely with the Department of Foreign Affairs and Trade, which has overall responsibility for Brexit. A comprehensive set of Government structures has been put in place to ensure that all Departments and their agencies are engaged in detailed preparedness and contingency activities. Since well before the referendum in the UK, Brexit has been the subject of detailed contingency planning across all relevant Departments. Staff across several divisions in my Department contribute to the work on Brexit, including the international, European Union and Northern Ireland divisions, as well as the economic division. To augment this ongoing work, my Department also has a dedicated unit on Brexit preparedness and contingency planning. The unit, working closely with the Department of Foreign Affairs and Trade, focuses on cross-Government co-ordination, planning and programme management. The unit provides assistance to a Secretaries General group, chaired by the Secretary General to the Government, which meets weekly to oversee ongoing work on national Brexit preparedness and contingency planning.

The unit also assists an assistant secretaries group on no-deal Brexit planning which meets on a regular basis. This group is wholly focused on planning for a no-deal scenario based on the Government's contingency action plan published last December. That plan provides detailed sectoral analyses and approaches to mitigate the impacts of a no-deal Brexit. On 30 January, an update to the contingency action plan was published, setting out how preparations for a no-deal scenario have intensified since December.

Our preparedness and contingency planning takes full account of and complements the steps under way at EU level to prepare for the UK's withdrawal, notably as regards the implementation of the European Commission's contingency action plan. There is ongoing engagement between Irish officials and their European Commission counterparts. The unit, in conjunction with the Department of Foreign Affairs and Trade, also assists a senior officials group on Brexit-related legislation, which also meets on a regular basis. The group is overseeing the necessary primary and secondary legislation required for a no-deal Brexit. This has involved a painstaking, whole-of-Government screening of our laws to determine what changes will be needed if the UK becomes a third country overnight. On 22 February, the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019, known as the Brexit omnibus Bill or BOB, was published. This landmark legislation crosses the remit of nine Ministers and is made up of 15 parts, all of which are designed to prepare Ireland for a no-deal Brexit. The senior officials group on legislation will continue to work on the omnibus Bill as it progresses through both Houses of the Oireachtas. Work is continuing in parallel on complementary and necessary secondary legislation. The Government will continue to work very closely with Opposition parties in the Oireachtas and all members of the Dáil and Seanad to ensure that this necessary legislation will be in place by 29 March 2019 in the event of a no-deal Brexit.

**Deputy Micheál Martin:** Since the beginning of the year I have been asking the Taoiseach on every sitting day to outline what will happen if there is a no-deal scenario in the coming months. Every time, the Taoiseach has replied that he is not contemplating or planning for a hard border but he has steadfastly refused to actually answer the specific question. Even for him, this has been a remarkable display of ignoring what one has been asked. It may very well be that Brexit will not be happening on 29 March due to an extension, as yet not agreed, but the Taoiseach has repeatedly said that we have to be ready for any eventuality. He has also said that the United Kingdom leaving without a deal has major implications for the Border. He is saying that we have to be ready and that something will happen but, with 24 days to go, he refuses to say what exactly will happen.

Does the Taoiseach not realise that there are orders already under production that will be delivered after 29 March? Why is Ireland the only member of the EU that has not said what will happen on its borders in a no-deal scenario? Today it is being reported that armed units of An Garda Síochána are being sent to the Border in anticipation of a no-deal Brexit. Are these reports false or are they confirmation that the Minister for Transport, Tourism and Sport, Deputy Ross, was correct and the Tánaiste was wrong when the former claimed that there were “immediate security implications”? Last week Dublin Port confirmed that it will have enough custom checkpoints available on 29 March but that there will not be enough customs officials to staff them. Does the Taoiseach think this is acceptable, given past assurances that everything would be ready by 29 March?

**Deputy Brendan Howlin:** The British Attorney General is in Brussels this week for talks to find what the British describe as a “legally binding” undertaking to ensure that there is no permanent tying of the UK into the EU. I have been seeking clarification for some time as to what might constitute this legally binding assurance. I understand that the British have abandoned the notion of altering the withdrawal agreement itself. It has been the very clear position of the EU from the start that the agreement will not be altered. I asked previously if the assurance might take the shape of an amendment to the political declaration. While I understand that this is still a possibility, it will not constitute a legally binding commitment as far as the British are concerned. What is the Taoiseach’s understanding of the nature of the discussions now taking place in terms of what will give the British the guarantee they are seeking? Will it be a European Council declaration that could be interpreted as legally binding? Could it be, as was suggested this morning on the national airwaves, some sort of new arbitration system? The latter hardly gives the British the guarantees they need. I ask the Taoiseach to provide clarity to this House so that Members here are at least as well briefed as our British counterparts on what exactly is being negotiated to give the British the guarantee they require. Does the Taoiseach agree that this is a very important issue for us? This is a moment of peril for Ireland and we must not weaken in the firm resolve we have shown thus far, in this House and across the European Union, to hold fast on an unalterable backstop until and unless something better replaces it.

**Deputy Richard Boyd Barrett:** By far the most dangerous potential outcome of a no-deal Brexit is the reinstallation of a border between the North and South of this country. Amendments that my colleagues and I put forward to the omnibus Bill have been ruled out of order and the Government does not deal with the possibility of such a border in that Bill. The Taoiseach says publicly that the Government has done nothing to prepare for the possibility of a hard border between the North and South and yet we are hearing a constant drip, drip of commentary and reports which suggest that behind the scenes, the Government may be considering installing a physical border. The latest of such reports, emblazoned on the front page of today’s

national newspapers, suggests that hundreds of gardaí are being sent to the Border counties. At Davos, the Taoiseach talked about the possibility of the Army being deployed along the Border and we have heard leading figures in the EU saying that in the event of a no-deal Brexit, measures would be needed to protect the integrity of the Single Market. To say that there is a lack of clarity and certainty about the Government's intention to absolutely prevent, under all circumstances, a hard border between North and South would be putting it mildly. Can the Taoiseach shed any light on this? As the clock ticks down, there has to be a real fear that, unthinkable as it, such a border is being planned for, either by the Irish Government or the European Union.

**Deputy Mary Lou McDonald:** At this stage, with just 24 days to go, I ask the Taoiseach to confirm to the Oireachtas that he has not given any undertaking or intimation to any negotiating party that his Government or the Irish State will be in any way resiling from the backstop or Irish protocol, as it is currently drafted. It is important that he makes that clear. We may speculate as to what the British Government might seek to negotiate but important though that is, it is outside of our control. We need a clear understanding of the resolve of the Taoiseach and his Government to remain steady and firm in a position for the backstop. Will the Taoiseach simply place it on the record of the House that this is the position of the Government and that it will remain the position of the Government, irrespective of overtures from London or anywhere else?

Will the Taoiseach confirm or deny the news of members of An Garda Síochána being sent to the Border? This matter is important. Not to up the ante of dramatics around the Brexit issue but for people living in the Border areas, news like this certainly causes real concern. Perhaps the Taoiseach can shed some light on this. Is it true? Is the story - as carried in the media - true, yes or no?

Whatever way it happens, be it by accident or design, a no-deal Brexit means a hard border. That is the upshot of it. Will the Taoiseach tell us how he plans to mitigate that? How will the Taoiseach stop that hardening of the Border?

**The Taoiseach:** I thank the Deputy for her questions. I cannot predict with absolute certainty or absolute clarity what will happen in the event of a no-deal Brexit. I do not believe that anybody can. All we can do is plan for different scenarios. I will say - and I am happy to say again - that we as a Government have made no plans for physical infrastructure, checks or controls on the land Border between Northern Ireland and Ireland under any scenario. If we end up with no deal in a few weeks, we will have to have difficult discussions involving the European Commission and the UK Government on how we can protect the integrity of the Single Market and the customs union while avoiding the emergence of a hard border on the island. The only workable solution we have come up with so far is what is written in the Irish protocol and the backstop, which is a system of regulatory alignment between Northern Ireland and the European Union, and also to an extent between the United Kingdom and the European Union. People talk about alternative arrangements but the only thing we have written down, that we know works in law and in reality, is what is contained in the backstop.

On staffing, we had a memo to Cabinet today about no-deal Brexit planning. We will be in a position to have some 400 Revenue and Customs people in place at the end of the month. There also will be between 50 and 60 officials from the Department of Health and between 150 and 200 inspectors from the Department of Agriculture, Food and the Marine. We are confident that the IT systems will be in place and that we will be able to implement the *acquis* at the ports and airports.

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With regard to Border policing, I did not have a chance to read the story in today's newspapers, but my note says that there was an article in today's edition of the *Irish Independent* stating "Armed support units will shortly be deployed around the clock in the Border region, under plans being finalised by Garda chiefs". Anybody will appreciate there is a difference between the Border and the Border region. The Border region is what other people would call the northern division of the Garda. I have been informed by An Garda Síochána that in 2018, a cross-Border threat assessment was prepared jointly by An Garda Síochána and the PSNI. This assessment estimated that some 43% of organised crime gangs in Northern Ireland have a cross-Border dimension. Likewise mobile, organised crime groups responsible for multiple serious incidences of domestic burglary operate on an all-island basis. There are also increasing incidences of borderless crimes such as cyberfraud and international terrorism. This is the context in which the Garda Commissioner made an operational decision to establish another regional armed support unit, which will be based in County Cavan. Members will appreciate that the detail on the number of gardaí and resources allocated to this armed support unit is deemed to be operationally sensitive and cannot be disclosed for security reasons. The Cavan Garda district armed support unit, ASU, is expected to become operational in the near future. The Commissioner has now established armed support units in each of the six Garda regions to provide an armed response capacity and capability on a regional basis to support and supplement the national emergency response unit. In the northern region ASUs are currently based in Ballyshannon and Dundalk Garda stations serving all Garda divisions comprising the northern region. The unit based in Cavan will augment that.

A further 200 Garda recruits will attest later this week. I understand that a further 49 newly attested gardaí will be assigned to the northern region, which comprises the Border counties, but not the actual physical Border itself, which of course does not exist.

There is close and ongoing co-operation between An Garda Síochána and the PSNI. This measure consists of additional gardaí and an additional armed support unit for what are the Border counties, but not the Border *per se*. I believe this will be welcomed by people, in particular by those who have been subjected to burglaries, in that region.

Discussions are ongoing between the EU and the UK. I do not have clarity on the content or form of any further guarantees that may be made around the backstop. The ongoing work is focused on what guarantees could be given regarding the backstop that underline once again its temporary nature, and to give the appropriate legal assurances on both sides. Prime Minister May has acknowledged the EU's position that the withdrawal agreement cannot be renegotiated and that we cannot agree to anything that changes the meaning of the backstop therein.

We are open to providing further assurances on the temporary nature of the backstop but these can in no way contradict, change or undermine the legal operability thereof.

### All-Island Civic Dialogue

6. **Deputy Micheál Martin** asked the Taoiseach if he will report on the all-island civic dialogue held on 15 February 2019.. [8465/19]

7. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the all-island civic dialogue on 15 February 2019. [9092/19]



8. **Deputy Eamon Ryan** asked the Taoiseach if he will report on the all-island civic dialogue held on 15 February 2019. [9391/19]

9. **Deputy Joan Burton** asked the Taoiseach if he will report on the fifth plenary session of the all-island civic dialogue on Brexit; if he had subsequent conversations with the political party leaders present; and the issues that were discussed. [9421/19]

10. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on the recent meeting of the all-island civic dialogue held on 15 February 2019. [9459/19]

11. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the all-island civic dialogue on 15 February 2019. [10515/19]

12. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the all-island civic dialogue held on 15 February 2019. [10927/19]

**The Taoiseach:** I propose to take Questions Nos. 6 to 12, inclusive, together.

More than 400 political, business and civic society leaders from across the island attended the fifth plenary session of the all-island civic dialogue on Brexit in Dublin Castle on 15 February. This was a valuable opportunity to update participants on the Government's position on the latest Brexit developments and on our intensive contingency planning work to prepare for a no-deal withdrawal by the UK.

Having met the five main political parties in Belfast the previous week, I welcomed the opportunity once again to engage with political parties, North and South, and to hear the concerns of society and business, through interactive discussions on people, citizens and rights and on business preparations. This has been a deep consultation exercise, which has helped to shape the Government's policies, strategy and objectives in the Article 50 negotiations and our domestic response to Brexit. The Department of Foreign Affairs and Trade will produce a report of the proceedings and this will be published on its website.

**Deputy Micheál Martin:** Some of the most consistent themes we heard at the all-island civic dialogue are the frustrations of people about the lack of detail on potential aid programmes and the clarity from the Government about what people will be faced with on 29 March, or whatever date Brexit kicks in. Many businesses have told me about how slow everything has been to move from calling on people to be prepared and actually delivering substantive aid at the level of individual companies. One and a half years after aid for the agrifood sector was announced, the loans are only beginning to be approved now. Since last summer we have been seeking an update from Government on the preparedness data, which were formerly being prepared on a six-monthly basis. For some reason the Minister, Deputy Humphreys, and the Government have decided to discontinue this research series. Will the Taoiseach explain why the Government has not published any recent data on the level of business preparedness? We have lots of data on the number of companies seeking basic information, but the more important information on the impact of Brexit and preparedness levels has disappeared.

Last December the Taoiseach stated that the Government's intention was to ensure that every business which needs to be ready will be ready by 29 March. What is the Taoiseach's current assessment of the level of preparedness? Does the Taoiseach still believe that everything that can be done has been done? If, as expected, there is an extension, what will be done to address clear deficiencies in preparations in the added time?



**Deputy Brendan Howlin:** The civic dialogue process has been an important and very useful device in confidence-building across the State. One of the aspects that impacted on that confidence over the last weekend was the sudden blowing up of the *voisinage* dispute when a Northern Ireland-registered vessel was arrested in Irish territorial waters. I am aware there was immediate contact between the Government and Fianna Fáil to fast-track legislation that has been stalled for some time. What exactly is the Taoiseach's legislative solution? There are concerns around finding a solution - which is important for all of us - but not one that does not address the issues that caused the court case to be taken in the first instance. The case was taken by a number of fishermen who were very concerned about the impact of mussel dredging by Northern registered boats. The concern is that one cannot restrict the impact to Northern boats only, as all UK-registered boats could avail of this gentleman's agreement, as it has been constituted to date. Can the Taoiseach indicate, on foot of his deep involvement with this over the weekend, what exactly he understands the dispute to be and what specific legislative measures he wants to fast-track to address the matter into the future? Will that provide the guarantee and assurance to people that it will not be a backdoor to wholesale access to Irish waters from other UK registered or, indeed, London agreement vessels, which would be very significant for the Irish fishing industry?

**Deputy Joan Burton:** The atmosphere at the conference was one of apprehension and concern, in particular on the part of the business people there. It is particularly an issue for small businesses, of which there are many on both sides of the Border. Most hauliers in Ireland are small to medium-sized businesses and the average fleet size is approximately five trucks. No matter what happens, there will be a significant increase in the volume of documentation that will have to accompany imports and exports. That means massive costs in time, administration and money for most medium-sized businesses. I heard on the fringe of the meeting people voicing their concern that very little has been made explicit to them. I understand that because the Taoiseach does not know exactly what is going to happen, he does not want to frighten people. On the other hand, people need to undertake a great deal more preparation than we have seen. There has not been enough outreach. For instance, works on the former customs building in Dundalk are the talk of that town, notwithstanding claims that nothing is going to happen. Clearly, however, documentation will have to increase with any change in the UK's status. It would be better if people were prepared for that now in order that they can minimise the disruption that might, unfortunately, happen.

**Deputy Mary Lou McDonald:** I agree with the Taoiseach that the all-island civic dialogue has been a necessary and useful exercise. I am interested to know what his future plans for the dialogue are. Does he foresee it becoming a forum for exchanges on Ireland post Brexit? Whatever way this lands and whether it is hard or soft, Brexit will have huge implications for the entire island. We need to work to involve unionism in this format. I note that the Taoiseach spoke at the Alliance Party conference at the weekend, which was extremely positive. More unionist opinion needs to be engaged, whether that is through political parties or more generally across society, or civic unionism, if I can use that term. The forum needs to be a space for those views to be articulated. Can the Taoiseach share with the House what he sees as the future of the dialogue?

On the last occasion we met, in addition to issues around business, commerce and trade, huge issues were raised around citizens' rights. Famously, the Taoiseach assured Northern citizens that they would never again be left behind. The truth, however, is that they are being left behind. Even in the best-case scenario now, where the backstop or protocol is honoured and

delivered, there nevertheless will be a significant move away from the initial promise to Irish and EU citizens that they would be free to exercise and enjoy their rights where they resided. That is now not the case, which is a very serious matter and one people are very seized of at this moment. It is a pity the Taoiseach did not avail of the opportunity to afford the two additional European Parliament seats to the people of the North. It could and should have been done. The Taoiseach should have put his money where his mouth was as regards not leaving people behind and allowed people right across society in the North to return two representatives to the European Parliament.

**Deputy Richard Boyd Barrett:** I also attended the dialogue and while dialogue is, of course, important in this current situation of Brexit, it is not much good if some of those involved are not in full possession of the real story. The Taoiseach says he has not read the report on the front page of one of the national newspapers on hundreds of gardaí being deployed to the Border counties. It is astonishing that he has not read the report. If I understood his reply correctly, the Taoiseach said the deployment had nothing to do with Brexit and the possibility of a hard border. It is simply a coincidence and involves a more general concern about organised crime. Can the Taoiseach clarify that is what he is actually saying in order that the House understands? Most people reading the newspapers today will have considered the report to have something to do with preparations by An Garda Síochána for the possibility of a hard border. That anxiety and fear will have been fuelled by comments the Taoiseach made in Davos referring to the deployment of the Army.

Another important item of information I seek in this regard is whether the Taoiseach has had any discussions with EU Commissioners, Barnier, Juncker or leaders like Macron and Merkel about what they mean when they talk about the need to protect the integrity of the Single Market in the event that there is no deal. What are they expecting? I am fearful that there will be pressure from that quarter on the Taoiseach in the event that there is no deal. I find it hard to believe the Taoiseach has not asked them what they mean when they make those sorts of statements.

**The Taoiseach:** To clarify matters for Deputy Boyd Barrett, the position is that we are improving and increasing Garda resources all over the country. There are more gardaí, more armed support units, more vehicles and more investments and, as such, it should surprise no one that the Border region, or the northern division as the Garda calls it, should see increased deployment of gardaí and armed support units. It is happening everywhere in the country, which is the context in which it is happening there. I am happy to clarify that it would be happening, Brexit or no Brexit, due, unfortunately, to the level of crime people experience in Ireland, not least on foot of armed burglaries in rural areas on which we are determined to crack down, not only in Cavan, Donegal and Louth, but everywhere in the country.

Deputy Burton asked about customs declarations. At the meeting, figures were released on the number of customs declarations which will increase from approximately 1 million to 20 million. That is a roughly 20-fold increase in the level of information and documentary obligations falling on business, which would impose considerable costs in time and administration. We are trying to make the process, if it happens, as simple as possible through the use of ICT that did not exist 20 or 30 years ago and training is also on offer for businesses that want it.

The Government's policy on *voisinage* is to restore the situation to the *status quo ante*, which means going back to what we thought the law was before the Supreme Court struck it down in 2016. That situation involves a reciprocal arrangement to allow vessels from Northern

Ireland to enter our six-mile limit just as vessels from Ireland can now enter the six-mile limit in Northern Ireland. It is quite an unfair situation currently as vessels from south of the Border can enter the Northern Ireland six-mile limit waters whereas vessels from Northern Ireland cannot enter ours. We want to correct that situation. While there were complications previously around large vessels, large vessels are all now banned from the six-mile limit and I hope we can, therefore, get cross-party support to get the relevant legislation through. The Bill has been published and passed on Second Stage in the Seanad and I hope it can be enacted by Easter. It would help if the UK Government clarified its intention not to withdraw Northern Ireland from the London convention, but we are not going to make that a precondition.

With regard to European Parliament representation, it is not possible to have a constituency for the European Parliament that is outside the European Union and only EU citizens can vote in European elections. That is in the treaties. It would not be possible to have a constituency of Northern Ireland. Even if it was possible, only EU and Irish citizens would be allowed to vote. One would have to forbid UK citizens from voting and that would be a problem. However, in voting for Mr. Mark Durkan in the European elections people will have an opportunity to ensure there is somebody living in Derry who can represent all of the island in the European Parliament. We will look at other mechanisms that might work. Accession countries can elect observers to the European Parliament and perhaps we might do something similar for Northern Ireland, but I cannot promise that at this stage.

Regarding citizens' rights, people living in Northern Ireland who hold Irish citizenship and, therefore, EU citizenship will continue to have citizens' rights. They include the right to work, study and travel anywhere within the European Union without the need for a visa, permit or the like. If the withdrawal agreement is adopted, they will continue to have access to the European health insurance card and be able to participate in the Erasmus programme during the transition period. I committed in Belfast last weekend to making it a negotiating priority for me in the future relationship talks to ensure EU citizens living in Northern Ireland would be treated as though they were resident in the European Union when it came to practical rights and privileges such as the European health insurance card and participation in the Erasmus programme. I also want Northern Ireland's universities to be able to opt into EU research programmes.

**An Leas-Cheann Comhairle:** We will move on to the next questions.

**Deputy Micheál Martin:** I asked questions about business preparedness.

**The Taoiseach:** I have the answers if I can have more time to continue.

**An Leas-Cheann Comhairle:** Does the Deputy wish to continue to the third group of questions?

**Deputy Micheál Martin:** Yes, we can continue to the third group.

### **Taoiseach's Meetings and Engagements**

13. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his recent meeting with the Portuguese Prime Minister, Mr. António Luís Santos da Costa. [9091/19]

14. **Deputy Micheál Martin** asked the Taoiseach if he will report on his recent meeting with the Portuguese Prime Minister; the issues that were discussed; and the officials who ac-

accompanied him on the visit. [9374/19]

15. **Deputy Eamon Ryan** asked the Taoiseach if he will report on his recent meetings with the French Finance Minister. [10368/19]

16. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his recent meeting with the Portuguese Prime Minister. [10516/19]

17. **Deputy Mary Lou McDonald** asked the Taoiseach if he will report on his recent engagement with the Prime Minister of Portugal, Mr. António Costa. [10782/19]

**The Taoiseach:** I propose to take Questions Nos. 13 to 17, inclusive, together.

I attach great importance to ongoing political engagement with our EU and international partners. I meet and speak regularly to my counterparts, bilaterally, at formal and informal meetings of the European Council and on the margins of international meetings such as the World Economic Forum which I attended earlier this year. Such engagement is crucial to ensure partners are fully aware of our positions on Brexit and other important EU issues and, more generally, further strengthen our relationships for the period ahead.

I had an informal engagement in Lisbon with the Prime Minister, António Costa, at his invitation, on the evening of 15 February. Our ambassador to Portugal joined us for the meeting. We discussed bilateral relations between our two countries, which are excellent, as well as the forthcoming European elections. We also exchanged views on a number of EU issues, including the latest developments related to Brexit and the political situation in the United Kingdom, as well as preparations at domestic and EU level in case the United Kingdom exits the European Union without a deal.

I again met Prime Minister Costa on the margins of the EU-Arab League summit in Sharm el-Sheikh on 24 and 25 February. I used the opportunity of the summit to also speak informally to Presidents Tusk and Juncker, as well as the Prime Ministers of the Netherlands, Luxembourg, Belgium, Greece, Slovakia, Hungary, Poland, Finland, Sweden, Italy and the Czech Republic, the President of Cyprus and the Chancellor of Austria. As Deputies are aware, I had met more formally Presidents Tusk and Juncker and Michel Barnier and Guy Verhofstadt when I visited Brussels earlier that month.

I met Prime Minister May most recently on the margins of the EU-Arab League summit.

The French Finance Minister, Bruno Le Maire, paid a courtesy call to me on 26 February, following his meeting with the Minister for Public Expenditure and Reform, Deputy Donohoe, who joined us. We spoke about current EU issues, particularly Brexit. The Minister, Mr. Le Maire, reiterated France's unwavering solidarity on the backstop and its firm view that the withdrawal agreement could not be renegotiated.

Most recently, on 4 March, I met Prime Minister Skvernelis of Lithuania in Dublin. We discussed the positive bilateral relations between Ireland and Lithuania and a range of EU agenda issues. I thanked him for Lithuania's support for Ireland in the negotiations.

Other EU and international engagements are envisaged in the period ahead. I will be happy to inform the House of these engagements in due course.

**Deputy Joan Burton:** During the informal engagement with the Portuguese Prime Min-

ister, Mr. Costa, did the Taoiseach have an opportunity to ask him how the Portuguese had managed to build an 875-bed hospital for under €400 million? The Portuguese are well known for being very good contractors. Given the pickle the Government has been in because of the extraordinary cost of the national children's hospital, did it occur to the Taoiseach to obtain some friendly advice from another European country on how to manage costs? The issue was underlined again this morning in one of the newspapers which reported that HSE internal documents from the estates department showed that as far back as last May the head of estates in the HSE had made it clear that the budget figures for the children's hospital would have to be available for inputting into the budget last October. That would be the normal practice with which I am familiar. Big capital budgets must be considered in the context of the overall budget. This makes a nonsense of what the Minister for Health has asserted, that the children's hospital budget had no bearing on the overall budget announced last autumn. It is simply not credible to most people who are experienced in how government works in this country.

**An Leas-Cheann Comhairle:** The Deputy should stick to the allocated time.

**Deputy Joan Burton:** When meeting the various Prime Ministers such as Mr. Costa, has the Taoiseach looked at capital projects in other countries and seen how those countries are controlling costs to favour their services and taxpayers?

**An Leas-Cheann Comhairle:** Members must stick to the allocated time or the Taoiseach will not have time to reply.

**Deputy Micheál Martin:** Will the Taoiseach clarify what he means by an informal meeting with the Portuguese Prime Minister? What were the circumstances? Was the meeting organised in advance or did the Taoiseach happen to be in Portugal and just call in to see him? The media were not informed in advance and not brought along. It was published via a tweet afterwards, which caused some surprise at the time. Why was the meeting informal and not formal, given that the Taoiseach met other European leaders in a formal context?

The British Attorney General has been in ongoing contact with Dublin in the past month and it is now clear that tripartite negotiations are under way. On Saturday it was reported that Brussels would basically accept anything Dublin was willing to accept, but it was also stated there was a belief that the major stumbling block to agreeing to whatever was being discussed was the Taoiseach's fear that he might not be able to manage the politics of the situation. Of course, the Taoiseach will deny that anything of the sort is an issue. Will he explain to the House exactly what he has been discussing? "Clarification" and "reassurance" are fine words, but what do they mean in practice? Is the Taoiseach saying he is not willing to agree to anything that would give greater legal certainty to the United Kingdom's ability to leave the backstop - in an earlier reply he described the temporary nature of the backstop - or is he saying the backstop is intended to be temporary and that he is okay with reinforcing the fact that it will be temporary?

It appears that a committee of Tory backbenchers is receiving detailed legal briefings and will have a chance to review the text and the UK Attorney General's advice before the debate on 12 March. Is it the Taoiseach's intention to provide the same courtesy for this House? If he will be making legal claims at some stage about what was agreed to, it is important that he be up-front with this House also. What is he prepared to do to ensure Dáil Éireann will at least have the same level of access to the deal and its legal interpretation as the British Parliament?

**Deputy Richard Boyd Barrett:** Did the Taoiseach discuss with the Portuguese Prime Min-



ister Portugal's model for dealing with illicit drugs? There are major parallels, historically and socially, between Portugal and Ireland in the sense that Portugal developed a big problem with illicit drugs at a similar time to this country in the 1980s. It was an enormous problem, with high rates of HIV, drug related crime, addiction and so forth. Portugal made the brave decision in 2001 to decriminalise the possession and consumption of all illicit drugs and it has been a spectacular success. HIV and drug related crime rates have plummeted. The levels of addiction have not disappeared completely, but they have reduced dramatically and stabilised. I heard the Taoiseach say recently that he wanted to have a health led approach to dealing with the drug problem. People Before Profit has long advocated for that approach. It is long overdue that we move in that direction because criminalisation has not worked. As shown in Portugal, decriminalisation and wrap around support policies can make a difference in dealing with this problem. Did the Taoiseach discuss that model and does he think it needs to be considered for this country because the way we have dealt with it up to now in terms of criminalisation has not worked?

**Deputy Mary Lou McDonald:** In the end game of the Brexit saga a critical issue will be the stance of the Taoiseach and the Government in respect of what is acceptable as a final outcome. I did not understand the point Deputy Micheál Martin was trying to make in regard to the backstop. I am assuming he was not suggesting or encouraging that the Government might resile from the content of the backstop. If he was, I want to pour cold water on it. It is essential at this juncture that the Government does not blink and that it is not distracted or unnerved on any level. The backstop is the absolute bare minimum. Whereas legal assurances and words of comfort are one thing and might be entertained, nothing that in any way compromises what are the absolute bottom line requirements as per the current Irish protocol should be entertained for a second. There needs to be clarity around that. For what it is worth, I also think that the Taoiseach as Head of Government deserves and should expect the support of the Oireachtas in adopting and maintaining that stance.

The Taoiseach said he has not seen the form of reassurances that the British side might want. Has he had any indication as to what they will be putting on the table? I am sure, through his contacts, formal and informal, he must have some notion of how they are proposing to come at this.

**An Leas-Cheann Comhairle:** I will allow the Taoiseach five minutes to respond.

**The Taoiseach:** I thank the Leas-Cheann Comhairle. The informal meeting in Lisbon with Prime Minister, António Costa, was exactly that. We got to know each other a little over the years and I was there on a personal visit. I told him I was there and he invited me over to his residence for a glass of wine and a chat. I brought the ambassador with me and he brought one of his officials with him. That was about the size of it. I do not think there is any need for conspiracy theories on this one.

We did not have a chance to discuss hospital construction. I imagine construction costs are lower in Portugal. I imagine labour costs are lower as well and professional fees are less. I do not know if material costs are lower but they may well be. Generally, Governments and Government agencies examine capital programmes in other countries and try to learn from what they do well and what they do badly and vice versa. A lot of people examine our programmes too. By and large for the past ten years we have been successful in delivering a capital programme on time and on budget. This is true for the massive Irish Water investment programme, the school programme, which is really big, the primary care centres, the €300 million Luas cross-city project and the €500 million projects such as the M17 and M18 and Enniscorthy-New



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Ross. The vast majority of projects have come in broadly on time and on budget in the past ten years, the children's hospital being the notable exception.

There are examples of how it has gone wrong in other countries. Karolinska hospital in Sweden will probably cost somewhere around €6 billion by the time it is finished. It is easily the most expensive hospital project in the world. We all know the problems that have arisen in Australia as well in terms of the parliamentary inquiries into the cost of the new hospital in Perth and the problems that have arisen in Adelaide. Those of us who are interested in aviation will know about Brandenburg Airport, a new airport for Berlin completed five years and not yet open. There is a lot to be learned from what other countries get right and what they get wrong. Unfortunately, big capital projects go wrong in all countries. We need to ensure, particularly when it comes to the new children's hospital, that we do not run into the problems around commissioning that other countries have had. We need to prepare now for that. I have seen examples of other children's hospitals built, which it took three years to commission when construction had finished. We cannot allow that to happen in Ireland. We need to plan for that now.

In terms of the Brexit negotiations, briefings are, of course, available to Opposition Leaders. We are happy to provide them. The position as of today is that we have no texts or draft texts to consider or get legal advice on. I am not entirely sure what MPs are looking at in London but we have no legal texts or draft legal texts to consider, to propose amendments to or to seek legal advice on. What happens a lot in London, as Deputies will be aware, is internal negotiations.

**Deputy Micheál Martin:** The UK Attorney General has been to Dublin and met our Attorney General. That is not internal negotiations.

**The Taoiseach:** They may be exchanging legal texts among themselves and getting advice from each other's lawyers but that does not mean that they have any status in terms of the real negotiations that are going on in Brussels.

In terms of drugs policy, we did not talk about it but I am aware of the decriminalisation model that was pursued in Portugal. The Joint Oireachtas Committee on Justice, Defence and Equality, under the Chairmanship of the now Minister of State at the Department of Justice and Equality, Deputy Stanton, did an interesting report on the issue. There is no doubt in my mind that the Portuguese model has been successful in terms of harm reduction and not imposing criminal convictions on people for minor possession, thus keeping people who were found to be in possession of minor amounts of narcotics out of the criminal justice system and dealing with them in the health system, thereby ensuring that these people, who are mainly young people, do not get a criminal conviction which then causes problems for them for the rest of their lives in terms of getting employment, visas and so on. That seems to me to be a humane approach, although it is evident that drugs and narcotics are very available in Lisbon. They are sold openly on the streets and squares. People will probably tell me that is true of Dublin too but they seem to be more available there than they are in our cities so we would have to bear that in mind as part of any model that we may wish to consider. The issue of decriminalisation is being examined by a group headed up by Mr. Justice Garrett Sheehan and I look forward to seeing the report when it is done.

## **Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions**

**An Leas-Cheann Comhairle:** Deputy Michael McGrath has permission to take Question No. 39 in the absence of Deputy Cowen.

### **Public Service Pay Commission Reports**

39. **Deputy Barry Cowen** asked the Minister for Public Expenditure and Reform when the Public Service Pay Commission will report on recruitment and retention in the Defence Forces; and if he will make a statement on the matter. [10568/19]

**Deputy Michael McGrath:** This question relates to the work of the Public Service Pay Commission on the issue of recruitment and retention in the Defence Forces. The purpose of it is to get an update from the Minister for Public Expenditure and Reform, Deputy Donohoe, on the status of that work. As the Minister will be aware there is a recruitment and retention crisis across the Defence Forces which I know is an issue of concern across the board. I look forward to the Minister's update.

**Minister for Public Expenditure and Reform (Deputy Paschal Donohoe):** The Public Service Pay Commission has adopted a modular approach to its work programme for its present exercise focused on recruitment and retention issues in the public service. As the Deputy will be aware, the first module was published by the commission in August 2018 and deals with issues relating to nursing and midwifery, non-consultant hospital doctors and hospital consultants. The commission has not yet confirmed a timeline for completion of the further modules of its work programme, which will examine recruitment and retention issues in other areas of the health sector, the Defence Forces and the Civil Service, building on the preliminary analysis in its 2017 report and on the various submissions it has received.

In regard to the Defence Forces, I understand that written submissions have been received from both the employer and the staff associations. Oral presentations are scheduled for this week, following which I expect the pay commission to be in a position to indicate a likely timeline for the completion of the Defence Forces module. I understand the pay commission has engaged an independent firm to conduct a survey of Defence Forces personnel to assist in the analysis. This follows on from a study conducted in the second half of 2018 of specialist personnel in the Defence Forces. The main data gathering for the survey, which is being facilitated through the Defence Forces, will be conducted in February and March 2019.

**Deputy Michael McGrath:** As the Minister will know, the numbers in the Defence Forces continue to fall. I understand that the current number is 8,874, which is below the threshold of 9,000 the Government indicated it would not allow the Defence Forces to fall below and which is far short of the 9,500, which was set out within the White Paper. Will the Minister clarify the role of the Department of Public Expenditure and Reform in respect of this issue? He referred to oral presentations, but I understand that the Chief of Staff made a presentation before the commission on behalf of staff and management this morning, and that he was accompanied by officials from not only the Department of Defence but also the Department of Public Expenditure and Reform. We know that the latter Department was very much involved in a submission made in September by the Department of Defence and military management. Why is the Department of Public Expenditure and Reform directly involved in detailed presentations by the

military and the Department of Defence?

**Deputy Paschal Donohoe:** The reason is that my own Department has overall responsibility for pay policy. As a result, we are present or involved in the preparation of submissions to the pay commission. The Deputy will know that in addition to the submissions that the employer makes, submissions are also made by those who represent employees, which, one hopes, allows the Public Service Pay Commission to make a nuanced conclusion in respect of the different issues it examines and make recommendations that will form the basis of acceptance by both sides. The short answer, as I have stated, is that my Department is present because of its responsibility for overall pay policy.

**Deputy Michael McGrath:** The fundamental question is when the Government expects the matter to move on. I understand the Minister's determination to uphold the integrity of the public service stability agreement, which I support. We are dealing with a construct, however, within the confines of that agreement to address specifically a crisis in recruitment and retention. Any recommendations or any report of the pay commission will need to be evidence based and, therefore, it must be methodical and thorough in its work. The Minister stated that an independent firm is involved and that the survey work of the personnel directly involved has been ongoing in February and March. Members of the Defence Forces, however, want to know when there will be an outcome. Does the Minister have any expectation or understanding as to when he will receive the Public Service Pay Commission's report on recruitment and retention in the Defence Forces?

**Deputy Paschal Donohoe:** It is a matter for the pay commission to determine when it will be able to complete the module. It is independent of my Department and reaches its own conclusions about the report and its processes. Nevertheless, as I have outlined, I expect the commission to indicate soon the timeline of the completion of the work. I hope that its indication of a timeline, which will be the first time it will be done publicly, will be of help in managing its work and in maintaining confidence in its work.

### **Public Procurement Tenders**

40. **Deputy Jonathan O'Brien** asked the Minister for Public Expenditure and Reform the extent to which he has issued guidance notes or oversight of the regulation of abnormally low tenders since 2011; and if he will make a statement on the matter. [10673/19]

**Deputy Jonathan O'Brien:** How many guidance notes or oversight documents in respect of abnormally low contract tenders have been published by the Minister or his predecessor since 2011?

**Minister of State at the Department of Public Expenditure and Reform (Deputy Patrick O'Donovan):** The awarding of public contracts is governed by the fundamental principles derived from the Treaty on the Functioning of the European Union as they apply to public procurement. These include transparency, equal treatment and non-discrimination, proportionality and mutual recognition. The European Union directives set out the legal framework for the award of contracts that exceed the specified monetary threshold for supplies, services and works. Under Article 69 of Directive 2014/24/EU, the EU directive governing public procurement, contracting authorities are obliged to require tenderers to explain the price or costs in a tender where tenders appear to be abnormally low in relation to the works, supplies or services.

Contracting authorities must assess the response from the tenderer before coming to a decision as to whether they will admit the tender or reject it on the basis that it is abnormally low. Where the explanation provided by a tenderer does not satisfactorily account for the low level of price or costs, having taken into account the circumstances outlined in the procurement directives, the contracting authority may reject the tender, although it is not obliged to do so. When investigating what may appear to be an abnormally low tender, contracting authorities must take into consideration the possibility that the tenderer may be obtaining more favourable terms from suppliers and subcontractors than rival tenderers.

There is little scope for manoeuvre on labour rates since contractors are required by law to pay workers covered by the sectoral employment orders, SEOs, in accordance with the terms of the applicable SEO. More efficient methods, however, of working to reduce labour costs cannot be ruled out in assessing a tender. Notwithstanding this, there is nothing to prevent an entity from performing a contract at a loss, subject to it being compliant with labour, social and environmental regulations. Where the contracting authority discovers that the price is abnormally low because the tenderer is not meeting its obligations in the field of social, labour or environmental law, the tender must be rejected. Where works contracts are concerned, specific reference to unbalanced tenders and abnormally low tenders is made in section 8 of the standard template instructions to tenderers published under the capital works management framework. These documents, which constitute the rules under which a tender competition is run, must be used in all public works contracts and have been published since 2008.

**Deputy Jonathan O'Brien:** In fairness, I know the law. It is contained in SI 284/2016, which deals with abnormally low contracts, but that is not the question I asked. Rather, I asked whether any guidance notes on the matter had been issued by the Department since 2011. While we are on the subject of abnormally low contracts and how they are meant to be addressed by the contracting authority, will the Minister of State explain why the contract for the national children's hospital was not considered an abnormally low contract? Perhaps the Minister of State has different information to me, but why were no discussions, as far as I am aware, entered into in respect of that particularly low contract?

**Deputy Patrick O'Donovan:** On the national children's hospital, the Deputy will be aware from responses that have been given by the Minister for Public Expenditure and Reform that the National Paediatric Hospital Development Board sought, in advance of the contract being awarded, to apply for a derogation from the use of the standard works contract. This was established by the Government contracts committee for construction, which engaged in its work from May 2014 over a long period. Derogations are allowed in exceptional circumstances, where there can be a presentation to the Government contracts committee for construction, which is a separate entity, to indicate that the circumstances of the standard work contract would not suit the development of a particular piece of infrastructure which in this case was the national children's hospital. With regard to available guidance, the Deputy has outlined that he is aware of the regulations as set out in the statutory instrument and the law itself. There are provisions of guidance and supports available to contractors in advance of a tender being submitted through the contracting authorities, which will clarify individual issues in advance of the tender being submitted, and through representative organisations. The small and medium enterprise committee within the Department of Public Expenditure and Reform, which I chair, has representative organisations from across the sector and I am sure they will be able to engage with the sector on that.

**Deputy Jonathan O'Brien:** The derogation was to move away from the standard contract-

ing practice to a two-phase practice, not to deal with the abnormally low contract price that came in. Why was the guidance and law related to the statutory instrument not adhered to and implemented with regard to this project when there was an abnormally low contracting price compared with the other prices tendered for? One of the individuals who sat on the development board and was responsible for that contract was put on the board because of his expertise and knowledge in this area.

**Deputy Patrick O'Donovan:** The Minister, Deputy Donohoe, addressed that issue both in the committee and in the House. Where there are issues of abnormally low tenders, the contracting authority, whether a public body or State agency, does not have to accept the tender, and I have outlined the reasons for that. As well as that, once a contract for a tender is awarded, there is a dispute resolution mechanism. There can be issues with the tender after it has been awarded where there needs to be dispute resolution and issues arise that would not have been foreseen. On the issue that the Deputy raises, I am sure that the PwC report that has been charged with looking at all of this will enlighten all of us and the debate in its entirety. I cannot comment on an individual case because, regardless of the contract, it is up to the contracting authority, which is the National Paediatric Hospital Development Board, and its parent Department, the Department of Health, which has ultimate responsibility for it.

### **Brexit Preparations**

41. **Deputy Barry Cowen** asked the Minister for Public Expenditure and Reform if he has consulted the European Commission or other European bodies on the possibility of additional funding as a consequence of Brexit; the extent to which leeway will be given or is available with regard to the expenditure benchmark; if he has had formal discussions with the European Union on the relaxing of state aid rules; and if he will make a statement on the matter. [10677/19]

**Deputy Michael McGrath:** This question relates to what extra supports may be available from Europe for Ireland in the context of Brexit, which we will be discussing all week. This relates to the adverse scenario, a no-deal Brexit. It is to give the Minister an opportunity to update the House on his Department's engagement with the European Commission on what supports may be available to deal with and support the most exposed sectors of the economy.

**Deputy Paschal Donohoe:** Making the case for supporting measures at an EU level that recognise where Brexit represents a serious disturbance to the Irish economy is a key pillar of the Government's response to Brexit. I am satisfied that there is a firm understanding at an EU level of the unique and disproportionate impact that Brexit will have on Ireland.

Last March, the Tánaiste met EU budget Commissioner Oettinger when he visited Ireland and discussed with him the negative consequences to the Irish economy resulting from Brexit and the possibility of EU assistance. In November, in its contingency action plan, the Commission confirmed that it would support Ireland in finding solutions addressing the specific challenges of Irish businesses.

Officials at the Department of Business, Enterprise and Innovation and its agencies have been working closely with the European Commission and Directorate General for Competition since November 2017 through the Irish-EU technical working group on state aid. Through the mechanism of the technical working group, Ireland has fully utilised the provisions of the state aid framework to enable the investment by Enterprise Ireland of €74 million in Brexit impacted



businesses in 2018.

On 24 January 2019, the Minister, Deputy Humphreys, met the European Commissioner for competition, Margrethe Vestager. The focus of the meeting centred around the severe challenges that Irish businesses will face when the UK leaves the EU and the need for appropriate and timely State supports. The Commissioner emphasised that the Commission stands ready to act urgently in mitigation against the impacts of Brexit on Irish firms.

The Stability and Growth Pact provides flexibility for budgetary requirements in certain circumstances. One such provision relates to unusual events outside of the control of government which have a negative impact on the budgetary position. If the impact of a disorderly Brexit were to be severe, the Government could make a case for an application for the use of the so-called unusual events clause, which permits temporary deviations from our medium-term budgetary objective or the adjustment path towards it. This could facilitate extra spending linked to the disorderly Brexit as long as it does not endanger our medium-term budgetary sustainability.

**Deputy Michael McGrath:** It goes without saying that this is a scenario that none of us wants or expects to see happen but it is certainly a possibility. Will the Minister outline to the House any specifics of what European authorities have committed to doing to assist the areas of the economy that will be worst-affected, including farmers, the food sector, agrifood and indigenous manufacturing? We have the Brexit loan scheme which is welcome and is supported by the European Investment Bank. Are there other specifics where commitments have been given where, in the event of a disorderly Brexit, direct and immediate supports are required? Has the nature of those supports been scoped out yet? Do we know what they are and how they will be administered? With only such a short window left, people want to know whether specifics have been agreed, and if so, what they are.

**Deputy Paschal Donohoe:** We will be in a position to agree specifics with the European Commission as soon as we are clear on what the specifics of Brexit look like. At this point the Commission, through many Commissioners, has indicated its support in principle and its firm commitment to supporting Ireland in facing this grave difficulty. It will use the flexibility that is open to it to support us in decisions that we need to make. Commissioner Vestager has already publicly said that the Commission would stand ready to act urgently in mitigation of the impact of Brexit on Irish firms. The fact that she has given that commitment publicly is a strong advance on where we have been previously. Due to the work that the Minister, Deputy Creed, has under way, Commissioner Hogan has reiterated the EU's readiness to respond to support Irish farmers and the Irish agricultural community in particular. We will be in a position to give further specifics on this as soon as we are clear on the nature of the event that we are responding to, if this event happens at the end of March.

**Deputy Michael McGrath:** The commitment of support from the European Union is to be welcomed. There has been strong solidarity among our European partners on the issue of Brexit, so that should be acknowledged. These words of support from the European Commission and others are important. I assume that in the background the Government has been scoping out and fleshing out what would be asked for in that scenario. We have the commitment of support from Europe on the one hand, but I expect that with what the Government is doing across all the various strands of state aid and direct support for agrifood and indigenous manufacturing, we have worked out precisely what we will be asking for in the event of a no-deal Brexit materialising on 29 March. I welcome what the Minister has said about state aid. An important commitment has been given about flexibility. Will the Minister reassure the House



that the Government is finalising what those asks are in the background?

**Deputy Paschal Donohoe:** It is not just what our future asks will be in the event of a disorderly Brexit but also recognition of what we have already done. There has been considerable effort to get ready for Brexit, with the support of this House and the support of the Deputy's party in various budgets. I hope I am not speaking too soon but I think we should not underestimate the amount of co-operation going on to enable the passage of a Brexit omnibus Bill this week. It puts into sharp focus the co-operation in Ireland to help the Government and the people respond to the great external risk we face.

In response to the Deputy's question on whether we are clear on the options we might need to pursue in the light of Brexit in the different forms we could face in a few weeks' time, yes, I am clear on the different issues I might face and the different needs we might have and how I would need to respond to them. We do, of course, hope none of this will come to pass. The point at which we will need to translate the support in principle into detailed action will be in the early phases of an event that we are all working to avoid.

### **Flood Relief Schemes Status**

42. **Deputy Jonathan O'Brien** asked the Minister for Public Expenditure and Reform the flood relief schemes or capital projects that will be affected by the re-profiling of €3 million worth of investment under the flood risk management programme; and if he will make a statement on the matter. [10674/19]

**Deputy Jonathan O'Brien:** Are there flood relief schemes or projects which have been affected by the re-profiling of €3 million worth of investment as recently discussed in the debate on the Revised Estimates?

**Minister of State at the Department of Public Expenditure and Reform (Deputy Kevin Boxer Moran):** Arising from the Government's decision of Tuesday, 12 February 2019 on capital reallocations related to the cost overrun on the national children's hospital project, the Office of Public Works is reviewing the most appropriate means of achieving the required capital savings of €3 million in the flood risk management area. Expenditure on any particular project or programme in any year is dependent on many variables related to the progress of the project and programme. All capital projects committed to will be delivered within the quickest possible timeframe.

**Deputy Jonathan O'Brien:** I am not doubting or questioning that they will be delivered. What I am asking is whether there will be delays in meeting some of the completion dates previously outlined or whether the start dates of some projects will be put back. There may be reasons for putting them back, including planning reasons or whatever else, and if that is the case, I am sure the Minister of State will tell me, but I want clarity on whether there are projects the completion or commencement dates of which are being pushed out as a result of the re-profiling of the €3 million worth of investment.

**Deputy Kevin Boxer Moran:** As of today, there are 90 schemes on which we are working with local authorities. Some of them have started, while some are in the planning pipeline. To reiterate what I said: there will be no delays, but there could, as the Deputy said, be delays because of planning issues. For example, I was hoping to be in Cork, with work started and

machines on site, at the end of last year, but that did not happen. However, it was outside our control because people were objecting. The same is true of the project in Ennis south. I was hoping to be there at the end of last summer, but we will be signing the contracts next week. Some schemes might be delayed in the planning process, but I believe and know that the €3 million worth of investment has been lost because of the delays in moving those schemes through the planning process. There are, however, many schemes that will be achieved. When I was asked about the cut of €3 million, I took it out of the area of flood relief measures for the simple reason that I knew some of the schemes were being delayed in the planning process. They might be delayed by two or three months.

**Deputy Jonathan O'Brien:** I want to clarify that none of the schemes is being delayed as a result of the re-profiling but because of other external factors which freed up the money within the budget to be reallocated. If that is the case, I welcome it, but there has been some confusion. However, if that is the answer, I accept it fully. Will the Minister of State clarify that no projects have been delayed as a result of the re-profiling? Is it all due to external factors which enabled the Minister of State to reallocate the €3 million?

**Deputy Kevin Boxer Moran:** In taking up this role I knew that there was not enough money available on day one. I went looking for €1 billion from my colleague and the line Minister which I achieved. It works out at €100 million a year. Three years ago we were spending nothing in response to the need identified. The Government is fully committed to delivering schemes for the people and there will be no delay on my part. However, schemes may be delayed in the planning process.

### **Departmental Staff**

43. **Deputy Joan Burton** asked the Minister for Public Expenditure and Reform his plans to review and revise guidelines on the accountability of public servants on State boards, in particular civil servants from his Department who are members of State boards; and if he will make a statement on the matter. [10675/19]

**Deputy Joan Burton:** Does the Minister have plans to review and revise the guidelines on the accountability of public servants who serve on State boards, in particular civil servants from his Department who are members of State boards? Will he explain the governance arrangements for reporting to us?

**(Deputy Paschal Donohoe):** Circular 12/2010: Protocol for Civil Servants nominated to the boards of non-commercial State bodies lays down a detailed framework for civil servants who are board members to report to the relevant Minister in certain circumstances. The relevant Minister is the Minister under whose aegis the body falls. The purpose of the protocol is to set out the reporting obligations of the nominee civil servant board member in the extreme situation where serious issues arise that are not being addressed by the board and where the chairperson of the board does not report such. Accordingly, for example, the circular provides that where there is a significant public policy issue or where there is disagreement at board level, the civil servant board member should request the chairman to notify the Minister or failing that, notify the Minister himself or herself. Moreover, the circular provides that the civil servant board member should present information directly to the relevant Minister in cases where there are serious weaknesses in controls that have not been addressed, or where there is a significant strategic or reputational risk to the body that is not being addressed, or where there

are serious concerns about possible illegality or fraud. The operation of the circular is subject to the legal common law, fiduciary and statutory responsibilities of the nominee civil servant board member.

The protocol is intended to contribute to greater accountability in the non-commercial State sector by providing further guidance for civil servant nominees on the boards of non-commercial State bodies above and beyond the governance framework already prescribed for all members of State boards and set out in the code of practice for the governance of State bodies. In the normal course of events the correct line of authority is from the chairman of the board to the relevant Minister. As a general principle, the civil servant nominee board member has a responsibility to act collectively in decision-making and I am satisfied that Circular 12/2010 issued by my Department provides guidance and guidelines for civil servants nominated to the boards of non-commercial State bodies which ensures proper accountability and reporting arrangements.

**Deputy Joan Burton:** I think everybody in the country is completely shocked at what has happened with the cost profile for the national children's hospital project. There has to be something deeply wrong with the arrangements the Minister has outlined if the cost overruns that have been experienced happened and nobody from the Department of Public Expenditure and Reform, which is charged with overseeing public expenditure to prevent a further collapse of the economy, saw himself or herself as able or required, or saw it as appropriate, to tell the Minister about what was happening. Moreover, there are further revelations in today's newspapers that, in fact, the head of estates in the Health Service Executive who is on various committees dealing with the national children's hospital made it very clear as far back as last May that there were serious problems with cost overruns, yet it seems the civil servant on the board did not do anything. The Minister's colleague, the Minister for Health, who sat across from him at the Cabinet table decided he did not have to tell him. That cuts against the grain of everything that happens at budget time, not just in the context of current but also capital expenditure.

**Deputy Paschal Donohoe:** I have acknowledged and will do so again that the procedures and difficulties in the latter phase of the national children's hospital project will change and have to change for the future. I have acknowledged and accept my responsibility for the difficulties with the project. In answer to the Deputy's question on whether I am happy with the way in which the civil servant on the board fulfilled his duties, the answer is yes because it is very clear that the issue needs to be raised with the line Department. The view of my official, whom I have met to discuss this matter, is that the issue was being raised with the Department of Health. He could see this was being reported and he felt it was being dealt with. I have already outlined the changes I want to make to help to ensure the issues we have experienced with huge projects like the national children's hospital are not repeated.

**Deputy Joan Burton:** Nobody is suggesting that the Minister or the civil servants in his Department should micromanage every element of a project in another Department because that is what the other Department is for. Given that a world-level overrun is happening in the case of the national children's hospital in Ireland, when does common sense click in? I would have expected that a senior civil servant would discuss this matter with others so that the children's hospital project would come to fruition and the taxpayers of Ireland, and their hard-earned money, would not be taken for a complete ride. The Minister has said he is happy with the arrangements that have led to this outcome. I think that happiness is misplaced. As there are so few people in his Department, I assume everybody pretty much knows everybody. I am sure lots of cups of coffee and tea are shared. The Minister needs to give serious consideration to why no one within his very small Department thought to say to him, at the time of the budget

or at some other time, that there was a serious problem with costs.

**Deputy Paschal Donohoe:** I never said I was happy with the processes that led to this outcome. I said I was satisfied with the operation of the circular. The Deputy either misinterpreted me, or she deliberately attributed words to me that I did not say. It is up to her to decide which of those possibilities is the case. I never at any point said I was happy with the processes that have led to this. I have already outlined what I am going to do to change them. Work is under way to change them. I have said that the way in which this issue developed, particularly the latter phase of it, needs to change in the future and will change. The Deputy will never acknowledge that we get the majority of projects right. We will deliver three major transport projects on time and on track this year. We will deliver major projects like primary schools and primary care centres all over this country in the way the taxpayer wants. I am not looking to minimise in any way the anger and concern caused by the national children's hospital project. I will not have words attributed to me that I did not state.

### **Ceisteanna Eile - Other Questions**

#### **National Lottery Regulator**

44. **Deputy Joan Burton** asked the Minister for Public Expenditure and Reform if he has received an opinion from the regulator of the national lottery regarding the threat to the national lottery and the good cause fund posed by online, offshore bet-on-lottery operators; if he will publish this opinion; and if he will make a statement on the matter. [10639/19]

**Deputy Joan Burton:** It appears that the national lottery, which contributes over €220 million to good causes each year, is now subject to a very serious threat from the operation of unregulated offshore betting-on-lottery operators. Has the Minister received the report that was previously indicated? If so, will he make it available?

**Deputy Paschal Donohoe:** I have not yet received a formal opinion from the national lottery regulator regarding this topic. As the Deputy may be aware, it falls outside the statutory remit of the Office of the Regulator of the National Lottery.

I am aware of the issues in question. The topic has been raised in general discussions as part of the normal engagement my officials and I have with the regulator's office on matters pertaining to governance. We receive general updates on the regulator's activities in exercising her functions, as set out in the National Lottery Act 2013. In a recent meeting, the regulator expressed concern about the potential future impact of online lottery betting in Ireland.

The context for the operation of the national lottery has changed significantly since its original establishment in 1986. The national lottery remains an important asset. The level of moneys raised for use by good causes has increased steadily in recent years. It increased by 28% between 2014 and 2018. As set out in the Revised Estimates for Public Services 2019, this year's estimated total expenditure of €333 million for good causes will be part funded by approximately €225 million from the national lottery, with the remainder being funded by the Exchequer.

While this is a dynamic and rapidly evolving market, the national lottery continues to de-

liver strong results. The most recent reports and financial statements of the current operator, Premier Lotteries Ireland, show that gross ticket sales rose by 6.1% in 2017.

Against this background, there does not appear to be any evidence of a significant impact on the national lottery arising from online lottery betting at present. My officials will continue to engage with the regulator and Premier Lotteries Ireland to review the impact of online lottery betting websites on the national lottery and the good causes fund.

**Deputy Joan Burton:** Does the Minister expect to receive an opinion from the regulator of the national lottery regarding the threat posed by online offshore operators that allow people to bet on the outcome of lottery draws? I think he has conceded that it is a threat. It would have a negative impact on the good causes fund. As he indicated in his answer, the Minister appreciates the €225 million that goes to a wide range of community, sporting, cultural and other events throughout Ireland. Other countries have taken action to reduce the risk to their national lotteries from these unregulated offshore lotteries to ensure funds are held for good causes. Why does the Minister sound so reluctant to intervene in this case? Most people who are aware that gambling is a serious problem know that this kind of online gambling is becoming more prevalent.

**Deputy Paschal Donohoe:** I would like to put on the record of the Dáil some figures regarding the transfers that the national lottery has made to the Exchequer in recent years. I could take any year as a benchmark. In 2011, the figure was €230 million. It decreased to €178 million in 2014. That figure has now rebuilt to €227 million. The contribution the national lottery is making had increased in recent years, but it may have stabilised or plateaued, depending on one's perspective, between 2017 and 2018. The Deputy asked about the engagement of my office and my Department with the regulator on this matter. My understanding of the view of the regulator is based on an extract from the last engagement with our regulator that has been shared with me. The regulator knows that this could be a long-term issue. At the moment, the type of gambling under way here that could present a difficulty to the lottery is small in scale. The Minister of State, Deputy Stanton, will bring a report to the Government shortly in relation to the regulation of the gambling sector. I think that will provide a valuable platform for dealing with this issue.

**Deputy Joan Burton:** Unregulated offshore gambling in this area is developing with speed. I appreciate that it is also developing quickly in many other areas.

We have heard about the gambling regulator and gambling regulation legislation over a very long time. Despite all the talk, nothing has happened. The Minister may wish to see it introduced. However, the threat to the national lottery exists in the here and now.

*5 o'clock* We will welcome whatever the Minister of State, Deputy Stanton, is going to do in due course. However, this particular problem needs to be addressed in the here and now. It would be foolish to think we can leave it to one side until we bring in the gambling regulator's office. Maybe that will happen but maybe it will not. It has been very slow to materialise. I would appreciate any advice from it but I do not know when it is going to come.

**Deputy Paschal Donohoe:** The Minister of State, Deputy Stanton, will be providing us with the report of the interdepartmental working group on gambling very soon. It appears to me that the only way in which we can deal with this issue is to look at how we can review and maybe change the 2013 general scheme of the gambling control Bill. The facts and figures indicate that the current contribution made by the national lottery to good causes has not yet



been materially affected by other developments within the lotteries here in terms of online or electronic lotteries. The contribution that the Exchequer has received from the national lottery attests to that. I acknowledge that although currently the competition is small, it can grow quickly. Were it to grow quickly, it could in turn affect the contribution the national lottery can make to good causes. We have to look at all this from a regulatory perspective. The best and most effective way this can be done is through the review that is being undertaken of the 2013 scheme.

**An Leas-Cheann Comhairle:** We have received apologies from Deputy Gino Kenny, who cannot be here to take Question No. 45.

*Question No. 45 replied to with Written Answers.*

### **Public Sector Pensions Legislation**

**An Leas-Cheann Comhairle:** Deputy Michael McGrath will be taking the question on behalf of Deputy Cowen.

46. **Deputy Barry Cowen** asked the Minister for Public Expenditure and Reform if the report under section 3 of the Public Service Superannuation (Age of Retirement) Act 2018 will be published in March 2019; if the report will deal with potential proposals to remedy the position for those who were forced to take the interim measure due to reaching 65 years of age; the associated costs for each remedy; and if he will make a statement on the matter. [10565/19]

**Deputy Michael McGrath:** This question concerns the Public Service Superannuation (Age of Retirement) Act 2018, specifically the interim measure that was agreed for those public servants who reached the age of 65 before the Act came into being. They had to retire as per their contract of employment. A commitment was given, on a request from Deputy Cowen, that within three months there would be a report to see what could be done for those people. I am looking for confirmation from the Minister that the report is being completed and will be published on time.

**Deputy Patrick O'Donovan:** I acknowledge the support of Deputy Cowen in the passage of the Bill. The Public Service Superannuation (Age of Retirement) Act 2018 provides for an increase to age 70 in the compulsory retirement age of most public servants recruited before 1 April 2004.

As Deputy Michael McGrath will be aware, public servants who reached the compulsory retirement age of 65 before the new legislation was enacted were required to retire in accordance with the statutory compulsory retirement age in effect at the time. Those who availed of the interim arrangements did so in the knowledge that the contract was for one year only, until they reached the age of 66. The Public Service Superannuation (Age of Retirement) Act 2018 has no effect on those public servants who availed of the interim arrangements. The terms of their fixed-term contracts continue to apply and they will cease working at age 66 as previously provided for.

Section 3A(6) of the Act provides that the Minister for Public Expenditure and Reform shall, within three months of the passing of the Act, prepare and lay before the Oireachtas a report on the public servants obliged to retire between 6 December 2017 and the commencement



of the Act, due to reaching the age of 65 years, and on potential remedies to assist this cohort of worker.

Work on the report is under way in accordance with the terms of section 3A(6). Under that provision, publication of the report is required within three months of the passing of the Act on 26 December and the Minister intends to comply with that timeline.

It would not be appropriate for me to comment on the content of a report which is under preparation and not completed, and which I am statutorily obliged to lay before the Oireachtas.

**Deputy Michael McGrath:** The Minister of State has said that those who availed of the interim measure and had to retire at the age of 65, because that is what their contract provided for, understood that they would be rehired on a temporary basis for a period of one year, and that they would then have to retire permanently and would be gone. Is the Minister of State saying that the report will not set out potential remedies, including the possibility of people in that category being retained and being able to benefit from the principal measure of the Bill, namely, that people would be able to stay on until the age of 70? Is the Minister of State saying definitively that the people who were captured by that interim measure will not under any circumstances be allowed to remain on until the age of 70? Is it the case that this potential remedy will not be on the table as part of the report?

**Deputy Patrick O'Donovan:** Deputy Cowen, during the passage of the Bill, suggested a number of measures, as did Deputy Darragh O'Brien. I accepted the amendment in good faith to see if there was a remedy that could address that cohort. However, I put it on the record of the House and made it very clear that the spelling out of the legislation meant that those who entered into the interim arrangements when the Government decision was made did so in the full knowledge that it was for a year. We also have to be very cognisant of those who did not enter into the interim arrangement who were civil and public servants as well. If we were to unwind that commitment, where would we start? Would we start at the Government's decision, the publication of the Bill or the passage of the Act? To be fair to those civil and public servants who did not enter into the interim arrangements when they reached 65, they took the Government's word in good faith as well and accepted the bona fides of the Government that this was an interim arrangement for one year. I did accept the amendment providing that we would have a report that would be brought before the Minister for Public Expenditure and Reform, laid before the House and published. I said that if there were remedies there, they could be legislative in nature. I also said that there might not be remedies to the issue at hand, given what we were trying to achieve, namely, to introduce a new age of retirement on 1 January.

**Deputy Michael McGrath:** Maybe the Minister of State could clarify what the report is examining. What does he expect it to address? Obviously he does not know what the content is but what are the issues that the report is examining? When does he expect it to be made available? We all understand what the legal position was prior to the enactment of this legislation. People had contracts of employment and were required to retire. As a concession, they were rehired for a period of one year. Deputies Cowen and Darragh O'Brien would know more about the amendment than me because they were directly involved. The spirit of the amendment was to see if there would be any way that those who wished to remain on beyond a year might possibly be accommodated and if they could avail of the principal benefit of the Bill. I am not getting the sense that there is any likelihood of that.

**Deputy Patrick O'Donovan:** I should not and do not want to pre-empt the content of the

report. That is not my job. The provision of section 3A(6) requires that the report covers public servants who were forced to retire between the dates of 6 December 2017 and the commencement of the Act. It is also very clear that the report is to cover all public servants who reached the compulsory retirement age in that prescribed period. It will also have to take into account those who did not avail of the interim arrangements. We have to be fair to everybody.

I am being as honest as I can and the Deputy can take me at face value in this. This was not a simple issue to resolve. Everybody in the House regretted the fact that it had gone on for so long. Everybody regretted that it took so long for the Bill to be brought before the Dáil and the Seanad. The Deputy knows that we do not control the business of the House. Every day that passed before the Bill was brought in here, another person entered the interim arrangements. Unfortunately for a lot of people, they entered the interim arrangements while the Bill was waiting to get a time slot in the House. That was beyond my control. I accepted a suggestion from Deputy Cowen that it be looked at. If there is a solution, it will certainly be considered but that has to be done in the context of what the Bill set out to achieve, namely, a new age of retirement on 1 January 2019 to allow people to work until they are 70.

### **Flood Relief Schemes Funding**

47. **Deputy Robert Troy** asked the Minister for Public Expenditure and Reform the flood defence measures which will be reprofiled. [10611/19]

51. **Deputy Barry Cowen** asked the Minister for Public Expenditure and Reform the specific impact of the reprofiling of the €3 million from the flood risk management programme in the Office of Public Works, OPW, to pay for the national children's hospital; the projects that will be affected by the reprofiling; and if he will make a statement on the matter. [10564/19]

**Deputy Robert Troy:** As a result of the vast overruns in the cost of building the children's hospital, the Minister himself confirmed at an Oireachtas committee last month that he would be cutting €3 million from his departmental budget in respect of flood defences. What schemes that are currently ready to go will now not proceed as a result of this cut?

**Deputy Kevin Boxer Moran:** I propose to take Questions Nos. 47 and 51 together.

Arising from the Government decision of Tuesday, 12 February 2019, in relation to capital re-allocations related to the cost overrun on the national children's hospital, the Office of Public Works is reviewing the most appropriate means of achieving the required capital savings of €3 million in the flood risk management area. Expenditure on any particular project or programme in any year is dependent on many variables related to the progress of the project and programme. I can assure the Deputy that all capital projects committed to will be delivered in the quickest possible timeframe.

**Deputy Robert Troy:** I heard that reply earlier and it does not answer the question I have asked. I am asking specifically about schemes that are ready to proceed. The Minister of State knows this area better than I do and he will know that the flood defence mechanisms in Athlone have been divided into eight cells. Of those eight cells, seven have already been approved for planning. The last cell has not yet gone through the planning process, while two of the seven have been substantially completed and two are under construction. However, there are three cells that have planning and are ready to proceed, being Deer Park, the Strand and the lower end

of Golden Island leading up to Carrickobreen. Given that those schemes have planning and are ready to proceed, can the Minister of State confirm that these schemes will go ahead this year and the €3 million cut, confirmed by the Minister of State earlier last month at an Oireachtas committee, will not result in a delay to the delivery of these schemes? What schemes will be delayed?

**Deputy Kevin Boxer Moran:** I assured the House earlier and also assured the Oireachtas committee the Deputy referred to that no capital schemes will be delayed. Some of them are still subject to planning approval. The Deputy questioned the situation in Athlone. He knows well that the division of Athlone into eight cells was deliberately done to speed up the planning process and to deliver the scheme for the people of Athlone. This has been questioned over the last number of weeks. I do not like it when people play politics with flood defences. I disagree with it. I have stated quite clearly that no schemes will be delayed, at Athlone or anywhere else around the country. If there are delays it will be because of the planning process. I wanted to be on the ground in Cork last summer, and it did not happen. I wanted work in south Ennis to have been commenced last year and it was not. That is out of my control. However, the delivery of schemes I have identified is continuing. We are now in the great situation where 90 schemes have commenced. We are working with local authorities up and down the country. I have visited most of the local authorities. We are providing them with the money to employ engineers. We were spending €2 million on minor works and we have now increased funding by €5.6 million compared to last year. That is a big jump in funding for flooding defences around the country.

**Deputy Robert Troy:** Nobody is playing politics. I acknowledged the Minister of State's commitment to the area and his superior knowledge on this matter. I am simply giving him an opportunity to speak on the record of the House about various flood schemes. The Minister of State said at a committee meeting that he did not want to mislead anyone and that there would be €3 million in cuts. He said that his officials did not want him to go to the committee meeting because he would have to deliver bad news. He was honest with the committee. I am asking him to put on the record of the House today the flood defence mechanisms that have planning permission in place which will be delayed this year. I acknowledge again, in case the Minister of State thinks I am playing politics, his superior knowledge of the situation in Athlone, but will there be any delay in completing the final three cells that have planning permission in place, namely Deer Park, the Strand and the lower end of Golden Island? If the Minister of State cannot give me an answer now perhaps he could come back to me with a definitive answer on when those schemes will start.

**Deputy Michael McGrath:** I assure the Minister of State that every line Minister contributing to the €99 million required in savings or cuts is being questioned about how it is going to be done. The Minister of State is not being singled out; perhaps he thinks he is.

**Deputy Kevin Boxer Moran:** I have no problem with what the Deputy has said.

**Deputy Michael McGrath:** To be clear, at the joint committee the Minister of State said that the €3 million cut or saving will not delay any project and that the savings will be achieved because projects were being delayed anyway. The Minister of State had a capital programme planned for 2019 and projects listed. Can he tell us what projects are delayed that will contribute to the saving he requires? I am not referring to the cuts. The Minister of State should be able to tell us what are those projects. They are not being delayed because of the cut, but are being delayed anyway. That delay will provide us with the €3 million in savings. I am sure the

Minister of State can tell the House what projects they are.

**Deputy Kevin Boxer Moran:** The reason I asked not to go to the committee was because the review had not been done yet. We were asked to find €3 million, and I did not want to mislead the committee. I wanted the correct answer. I did not cower away from the committee. I wanted to go to the committee and wanted to be accurate and correct.

The eight cells in Athlone are currently with the local authority. Permission for one of those cells is still pending. Work is starting on all of those sites. Deputy Troy, who visits Athlone on a regular basis, knows that it is well advanced. We are three quarters of the way through this. The Deputy said that I have advanced knowledge of all of this, so I am providing that knowledge to him.

**Deputy Patrick O'Donovan:** This is like the Westmeath county final.

**Deputy Kevin Boxer Moran:** I live in Athlone and work in it. Many leaders of this House have visited it, but nothing has been done. Work is now advanced in Athlone and all cells are going according to plan. If there is an issue I have no problem with informing the House about it, but there is no issue about Athlone.

Deputy Michael McGrath asked about the schemes affected. A scheme in his own neck of the woods, in Cork, has been delayed since the middle of last year, as he knows. I had hoped to be in Cork already and to have €4 million, €5 million or €10 million spent, but I cannot overcome the objections there. I am facing serious delays, and I am not being critical in saying that. I hoped that work would begin last summer. It did not happen; it was outside my control. However, I assure the House that I am delivering, via the capital programmes investments, flood defences for this country. I do not play politics when it comes to this issue.

### **Capital Expenditure Programme**

48. **Deputy Jonathan O'Brien** asked the Minister for Public Expenditure and Reform the capital projects to be delayed or deferred in 2019 to 2022 as a result of the cost overruns in the national children's hospital; when the details of these deferrals will be published; and if he will make a statement on the matter. [10630/19]

77. **Deputy Mattie McGrath** asked the Minister for Public Expenditure and Reform if an assessment has been conducted with respect to the implications for capital expenditure projects in view of the cost overruns associated with the new national children's hospital; and if he will make a statement on the matter. [7366/19]

**(Deputy Paschal Donohoe):** I propose to take Questions Nos. 48 and 77 together.

On 12 February, I published how the €99 million necessary this year for the timely provision of the national children's hospital will be accommodated with a minimum of disruption to the scheduled roll-out of key infrastructure projects under Project Ireland 2040. I also detailed reforms designed to ensure better project management across the whole of government.

In health, the scheduled drawdown of €24 million across both 2019 and 2020 will be amended to facilitate delivering the overall investment programme as set out in Project Ireland 2040. Even with this change, this will still leave a year-on-year increase of 25% in capital investment

in the health sector in 2019.

The remaining €75 million will be met by re-scheduling decisions around the A5 motorway, which is a project to which the Government remains completely committed; the re-scheduling of payments in relation to the National Forensic Science Laboratory; advance payment of a sum from the Department of Education and Skills in respect of higher education facilities at the national children's hospital; an updating of the scheduled drawdown of €16 million from the two Project Ireland 2040 funds; re-profiling of payments under certain programmes of investment in the Department of Communications, Climate Action and Environment; and €3 million from the re-profiling of investment under the flood risk management programme of the Office of Public Works, on which my colleague, the Minister of State, Deputy Canney, has just answered questions - I apologise, I meant to say the Minister of State, Deputy Moran. The spirit of candidness has dissipated and I will be in trouble for the rest of this session.

**Deputy Kevin Boxer Moran:** The Minister will not; me and-----

**Deputy Paschal Donohoe:** It will also be met by revision of the schedule for the drawdown of funding in the public expenditure and reform and finance group of Votes, totalling €3 million; and with €2 million through changes to the timing of payments for certain capital works undertaken by the Department of Culture, Heritage and the Gaeltacht. I have also outlined how we need to change processes in the future for projects such as the national children's hospital to reflect all of the issues that developed during the project. I have outlined how we will deal with accruing the €99 million needed for the project this year.

**Deputy Jonathan O'Brien:** I acknowledge that even with the cut, there is an increase in the Government's capital spend. The Minister has listed the items, some of which include the rescheduling of payments. I think only two are related to the subject we have just discussed - the flood relief scheme and the re-profiling of payments in the Department of Communications, Climate Action and Environment. Everything else involves a rescheduling of payments to achieve the sum of €99 million. I am seeking clarity, as is everyone else. No capital projects are being delayed or pushed out as a result of the need to find the €99 million. I am sure the Minister has heard in recent weeks that capital projects in Waterford or Limerick are being delayed as a result. Is he now saying none of them is being delayed as a result of the need to find the €99 million and that any delay is due to external variables related to the planning process, etc?

**Deputy Paschal Donohoe:** I have always said we will manage the issue primarily through rescheduling and changing payments for projects. I have shared a list with the House and have previously outlined it publicly. The vast majority are related to how we manage payments that we will make for projects. I have said there will be no delays on any major project as a result. I will work with Government colleagues throughout the rest of the year to ensure we end up with a rescheduling of payments without delays on projects, particularly major projects. I am confident that will happen. As is always the case, it is possible as we move through the year that savings will accrue owing to things happening such as those outlined by the Minister of State, Deputy Moran. We normally look at where we stand by the summer. We are simply doing that work far earlier than we have done it before.

**Deputy Jonathan O'Brien:** Will the same process need to be undertaken next year to find savings within the Department to meet the ongoing overrun or is this a once-off €99 million in 2019 and that is it? As the Minister knows the overrun on the paediatric hospital is €450 mil-



lion, leaving another €351 million. Is he saying this process will continue for a number of years or is this the only year? I seek clarity on that.

**Deputy Paschal Donohoe:** I will be able to provide clarity for the Deputy a little later in the year. As things stand, budget 2020 is a long way away. Decisions on the allocation of capital funding are many months away from being made. The focus of my efforts now is on ensuring the decision we have made on how we will manage the cost of the national children's hospital this year will not affect plans for 2019. I am working to do that and believe we will do it. The Deputy has been very considered and accurate in the issues he has raised with me in recent months. If I had come into the House and said we would increase our capital spending plans for this year by €100 million, the House would have been united in saying I had torn up the plans for budget 2019 a few weeks into it. I will not do that and will deal with decisions on what will happen in 2020 and beyond later in the year.

### **External Service Delivery**

49. **Deputy Bríd Smith** asked the Minister for Public Expenditure and Reform the proposed changes to the external workplace investigation service framework; the firms providing services; and the cost of such services since 2012. [10625/19]

**Deputy Bríd Smith:** I ask the Minister about the proposed changes to the external workplace investigation service framework, the firms providing services and the cost of such services since 2012.

**Deputy Paschal Donohoe:** The Office of Government Procurement, OGP, carried out a competitive tender process for the establishment of a framework agreement for the provision of external workplace investigation services available to Departments and other public bodies. The framework has been in operation since March this year and will expire at the end of March. The framework suppliers for the delivery of services under the framework are as follows: Acrux Consulting Limited; Collier Broderick Management Consultants and Raise A Concern Limited.

The OGP is facilitating competitions under the framework for both central government and non-central government public bodies. In that respect it acts in an advisory role, but the individual public bodies using it are accountable and responsible for the competitions under the framework and any subsequent contract.

The number of investigations undertaken by each company and the cost of each investigation are matters for the relevant contracting authority.

The Office of Government Procurement is conducting a competitive tender for the establishment of a new framework agreement for the provision of external workplace investigation services to replace the existing framework when it expires. The competition is being evaluated and the outcome of the tender process is awaited.

**Deputy Bríd Smith:** According to the Office of Government Procurement, it outsources the service because it offers benefits, including: "Competitive rates; Flexibility in draw-down process to enable end-users to tailor to their own particular requirements; User-friendly draw-down procedures with OGP support; [and] Standardised and improved workplace investigation quality". In common with much of the rhetoric on public procurement, the logic behind it is



that it delivers better value, is more efficient and will achieve an external workplace investigation service in a cheaper and fairer way. However, we know from experience with the national broadband plan, the national children's hospital project and CervicalCheck that the rhetoric of private sector efficiency is collapsing and that the neoliberal ideology that underpins it is expensive nonsense. This is another example of the Minister's rhetoric not matching reality. It is highly wasteful and I will give examples to show why I believe that is the case when I have a further minute to respond.

**Deputy Paschal Donohoe:** The Deputy referred to neoliberal ideology. I am not a neoliberal, but I believe there is a role in looking at how we can achieve value for money and ensure a variety of organisations will bid for particular projects. The Deputy referred to the national children's hospital. It is a State-funded project that will deliver services that will be available to citizens, young boys and girls. I would have thought that was the essence of the type of public service she would like to see improved, despite, I acknowledge, the great difficulties we have had in the latter part of that process. If she has particular concerns about the tendering process, I am sure she will share them with me now. There are many examples of public services - public transport, roads, primary care centres and schools - that have been really well delivered via the private sector through a tendering process. The Deputy may be suggesting the Government and the public sector should automatically proceed to build every project without a tendering process. I do not believe that is any more likely to lead to value for money than the processes that, by and large, work for us.

**Deputy Bríd Smith:** There are existing human resources capabilities within each Department and it is a role of the public service to provide human resources in each Department. We have the Workplace Relations Commission, WRC, which provides a human resources, HR, facility. The reason I am concerned is that I am aware of the firms involved, which the Minister has named. I am aware that one of them tells its customers, that is, the Department or the Government, that it guarantees satisfaction for employers. What does it say to workers that satisfaction is guaranteed for employers, but not for them, by a firm that is meant to be providing human resources services? I am aware of one case in which the investigation has been conducted for the past three years. The suspension of the staff involved has cost millions of euro and other staff are feeling highly aggrieved that the process is being dragged out. Moreover, for the individuals concerned, it is like "Run your claw along my gut", because it is not being brought to a conclusion by these very efficient, competitive, outsourced HR companies the Minister is about to re-engage. This is not very encouraging for workers in the public sector. Anybody undergoing an investigation or a possible dismissal is in dismay about this. Does the Minister intend to continue with this sort of an arrangement? What oversight on the costing is he doing to ascertain it is in any way efficient or the best way forward for the public sector and human resources?

**Deputy Paschal Donohoe:** Yes, I intend to continue with this process. It is worth emphasising that if these bodies and organisations win the tendering process, they must be in compliance with Government policy. The policy they operate will be Government policy on how employees or citizens are treated, not their own. What we want as an employer is for our employees, the employees of the State, to be treated fairly and impartially-----

**Deputy Bríd Smith:** It is not impartial to guarantee satisfaction for the employer.

**Deputy Paschal Donohoe:** -----and that this be done in a way that is in accordance with Government policy. That is the objective that we as an employer want to meet.

Every time I hear the Deputy talk about employers, I get a sense that she thinks that employers are always pitched in battle with their employees and trying to get-----

**An Leas-Cheann Comhairle:** We are going to move on.

**Deputy Paschal Donohoe:** -----maximum advantage from them. We, as an employer, want to treat people-----

**An Leas-Cheann Comhairle:** There are Members waiting.

**Deputy Paschal Donohoe:** -----who work for us well and the companies that are employed in doing this will have to implement Government policy.

### **National Children's Hospital Expenditure**

50. **Deputy Richard Boyd Barrett** asked the Minister for Public Expenditure and Reform his views on whether public procurement processes are fit for purpose in view of the cost overruns at the national children's hospital; and if he will make a statement on the matter. [10581/19]

**Deputy Richard Boyd Barrett:** I also want to discuss public procurement and the lessons that we may learn from the debacle of the national children's hospital. Has the debacle of going from an initial estimate of €400 million to an initial bid agreed for just over €600 million, all the way up to €1.7 billion or is it €1.4 billion or €2 billion, given the Minister pause for thought about the procurement process and whether we know how to scrutinise bids and how to do public procurement? Has it given him pause for thought, God forbid, that we might consider setting up something like a State construction company that might do this in a better, cheaper and more efficient way?

**Deputy Paschal Donohoe:** The latest review of the public sector spending code is currently under way in my Department. The technical economic parameters for use and appraisal have already been updated. Work is ongoing in updating the requirements as to the different stages involved in the process of selection, appraisal, approval and delivery of capital investment projects. This work will be done with the end of this quarter.

I already have outlined to the House and to the Deputy the different changes that I want to see happen with regard to procurement policy for very large projects. It is the case that the majority of projects we deliver within the State, all the way up to large projects, are delivered on budget and on time.

The Deputy made the point to me about a State construction agency. We already have in different parts of our economy or by policy area, bodies that are charged with the delivery of infrastructure projects. Transport Infrastructure Ireland, the National Transport Authority, NTA and Irish Water are semi-State bodies. There is a whole variety of different Government bodies, all of which deliver the majority of projects well inside their particular policy areas. That is why I am so frustrated with where we ended up on the national children's hospital.

**Deputy Richard Boyd Barrett:** Can I ask a simple question? Is profit included in the bid process? I presume BAM or anybody else would require a profit margin. Are these things examined? Does the Minister look at how its bid might compare with what the Government would do if the State did this work directly and did not require the taking of a profit and whether

that would work out cheaper and better?

When bids come in and, as in this case, the lowest bid is €170 million less than the next bid, does anyone say that perhaps we should probably take a look at this? If it was a difference of €10 million, €15 million or €20 million, one might think there was not too much to look at but when the difference between the lowest and the next highest bid is €170 million, somebody might suggest scrutinising in detail all the line items to see whether this bid was credible.

**Deputy Paschal Donohoe:** One point on which I am absolutely certain is that if we had found ourselves in a position where we had accepted a more expensive bid for the national children's hospital, we would now be facing many different charges regarding why that happened. Had the National Paediatric Hospital Development Board, the body that made the decision, decided to go ahead with a bid that was not the cheapest, I would now be facing questions about that as well. I am well aware of the public anger and disappointment with what went wrong with this hospital and we will do better on projects of that scale like that in the future, because we do very well on many other infrastructure projects for which we are responsible.

If I am going to take credit for what I believe we can do well, I will take responsibility for what goes wrong as well. That is the way I have handled this. I am under no illusion that if we had gone ahead with a project tender that was more expensive than the lowest one, then the Deputy would be raising that with me here today.

**An Leas-Cheann Comhairle:** I am anxious to facilitate others. I call Deputy Boyd Barrett.

**Deputy Bríd Smith:** That is not the question the Minister was asked.

**Deputy Paschal Donohoe:** I answered the Deputy's question.

**Deputy Richard Boyd Barrett:** I find it interesting that when doing this, it is completely outside the realms of consideration for the Minister to contemplate whether the State should do things directly itself. It would not require a profit motive, potentially would be able to get things cheaply in bulk and would be able to borrow money more cheaply. There are all sorts of possibilities as to why the State, when directly constructing projects might end up with a considerably cheaper cost. Moreover, there might be better oversight of it because there are layers upon layers when dealing with outsourced projects to the private sector.

Somebody who worked in industry, not particularly a socialist incidentally, made another point to me. He said that in his experience, the main contractor gives a certain price but is getting a much cheaper price from the subcontractor and is loading on the profit margin for the job. If one went to the subcontractor, who ends up doing the work in any event, before the main contractor went directly to them, one would find a much better price.

Then there are issues such as quality. How forensic is the comparison between tenders?

**An Leas-Cheann Comhairle:** I am allowing Deputy Jonathan O'Brien a short supplementary question.

**Deputy Jonathan O'Brien:** I disagree with the Minister's point that if he did not go with the lowest price, he would be criticised. If we had followed the legislation and had analysed the lowest bid and could prove that it was unable to fulfil the contractual obligations for that price and if the bidder was disqualified on the basis, I do not see how anybody could have criticised the Minister in such a scenario.

**Deputy Paschal Donohoe:** We will have to agree to differ as to what might have happened. I have not come across a case yet where if a Government body had been involved in not selecting the lowest price option, that this would not have been a cause of scrutiny and questions here. I believe that would have happened in respect of this project as well.

As to what Deputy Boyd Barrett has put to me and the early part of his question that I did not have the opportunity to answer, we have many situations in which the State directly builds projects itself. He should look at local authorities that are directly involved in building houses and our commercial semi-State sector that is directly involved in delivering infrastructure projects and the Office of Public Works, which is directly involved in building flood relief programmes. I am unsure of where the Deputy is getting the view-----

**Deputy Richard Boyd Barrett:** The housing projects are not built directly.

**Deputy Paschal Donohoe:** -----from that we have ruled out the State delivering projects, given that it does and we are supportive of doing that. I remind the Deputy that the one time we tried to set up a new State body whose only job it was to deliver infrastructure, that being Irish Water, he fiercely opposed it.

**Deputy Patrick O'Donovan:** The Deputy opposed it.

**Deputy Richard Boyd Barrett:** The councils were already doing that work.

*Question No. 51 answered with Question No. 47.*

### **Departmental Reform**

52. **Deputy Bernard J. Durkan** asked the Minister for Public Expenditure and Reform the extent to which he expects reform to feature in respect of policy affecting various Departments with particular reference to the need to ensure equity throughout all Departments; and if he will make a statement on the matter. [10629/19]

**Deputy Bernard J. Durkan:** This question is self-explanatory. To what extent do the reforms that were evident in recent years continue to be exercised across all Departments, without exception?

**Deputy Paschal Donohoe:** I thank the Deputy for his question. I launched the current framework for public service innovation and development, Our Public Service 2020, in December 2017. This plan is a whole-of-public service initiative that has been designed to build on the success of previous reforms, while also expanding the scope of reform to enable more collaboration, innovation and evaluation.

Ensuring equity and consistency in the application of reform across the entire public service is central to the framework. I expect this to be achieved through a robust and innovative governance structure, namely, the public service leadership board, PSLB, and the development of key indicators and metrics that are designed to track performance across our entire public service.

The PSLB was established to lead the delivery of Our Public Service 2020. For the first time ever, civil and wider public service leaders will share ownership and work jointly to drive the reform programme. This governance structure provides a platform for officials at the most

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senior level and from across the gamut of public services that we provide to ensure the even and consistent application of reform. Furthermore, Our Public Service 2020 contains an added focus on evaluation and the importance of building an evaluation culture. This will be achieved in part by developing indicators that support a focus on outcomes. For this reason, my Department established a reform evaluation unit to monitor and evaluate the reform outcomes and to create greater links between expenditure and reform.

Our Public Service 2020 seeks to deliver better outcomes for the public by ensuring that the citizen is at the centre of all policies and services that we deliver. There are always ways to do things better when it comes to the delivery of public services, but I am confident that my Department and those involved in the delivery of public services look to find ways to improve continually.

**Deputy Bernard J. Durkan:** I thank the Minister for his reply. Are Departments encouraged to compare their results with a view to achieving the best possible outcome for the taxpayer? Has that happened in the past? Can that be done and is it likely to be done in future?

**Deputy Paschal Donohoe:** They do that through the PSLB, a new organisation that we have put together. What is notable about it is that it involves leaders from our civil and wider public services. For example, it has the Garda Commissioner as a member in addition to the Secretaries General of Departments. This is the first time that we have brought leaders from across the entire public service together with a view to seeing what they can learn from one another. In the delivery of, for example, IT projects, there is a far greater sharing of knowledge and services across Departments than was the case previously. Local authorities are a leading example of this. A number of them have taken on responsibility for the discharge of particular services on behalf of all local authorities across the country. This is a good development.

**Deputy Bernard J. Durkan:** Given the obvious success of that policy during the downturn, does the Minister remain satisfied that the same benefits can accrue in a growing economy, as ours is? Will the reforms that are in place have the same effect or be even more beneficial in our current economic climate?

**Deputy Paschal Donohoe:** That is a relevant question. During the economic difficulties, there was a necessity for change in how we did things. Indeed, those difficulties provided a burning reason for why things needed to change quickly. It is fair to ask how we can maintain the same impetus for change when, thank God, we do not have those awful circumstances around us any more.

I am satisfied that there is the enthusiasm and drive to do this. That comes from two factors, the first of which is digitisation. There is a demand from citizens to be able to access services in a new way. Our public services must respond. The leading example of this is Revenue and the work it does in terms of the filing and use of tax information online. Second, those who provide our public services every day come into work and find ways to perform their jobs differently and better. There is an attitude for change there that will not go away.

**Deputy Bernard J. Durkan:** I thank the Minister.



## **Community Sector High Level Forum**

53. **Deputy John Curran** asked the Minister for Public Expenditure and Reform if the community sector high level forum has met recently; the progress in regard to pension provision for supervisors and assistant supervisors of community employment schemes; and if he will make a statement on the matter. [10450/19]

78. **Deputy Bríd Smith** asked the Minister for Public Expenditure and Reform if the total amount of providing pension entitlements to community employment supervisors in line with the Labour Court proposal has been costed; if funding will be made available in the coming period to deal with the issue; and if he will make a statement on the matter. [10622/19]

**An Leas-Cheann Comhairle:** I suggest that there be no introduction to these questions, with the Minister to respond. The Deputies will have 30 seconds each for just one supplementary question apiece.

**Deputy Paschal Donohoe:** I propose to take Questions Nos. 53 and 78 together.

As the Deputies will be aware, this issue relates to a claim by community employment, CE, supervisors and assistant supervisors who have been seeking to implement a 2008 Labour Court recommendation relating to the provision of a pension scheme. The matter was the subject of discussion at the community sector high level forum that was reconvened to examine certain issues pertaining to the CE sector and, in particular, to ensure that the matter was fully examined while having regard to costs and precedent.

A detailed scoping exercise was carried out by my Department in 2017 in order to examine and assess comprehensively the full potential implications of the issues under consideration. That exercise clearly illustrated that this matter presented significant issues for the Exchequer, with a potential cost to the State of between €188 million per annum and €347 million, depending on the size of the sector, which is difficult to ascertain, in respect of funding to enable an employer pension contribution in State-funded community and voluntary organisations. This excludes any provision for immediate *ex gratia* lump sum payments of pension as sought, which could, depending on the size of the sector, entail a further Exchequer cost of up to €318 million.

It continues to be the position that State organisations are not the employer of the particular employees concerned and that it is not for the State to provide funding for such pension scheme provision. The employees in question are, or were, employees of private companies, notwithstanding the fact that the companies concerned are, or were, in receipt of State funding.

**Deputy John Curran:** I thank the Minister for his reply. He knows that this issue has been around since the Labour Court recommendation of over a decade ago. The high-level forum that the Minister mentioned has been examining it. However, the matter must be resolved at some point. These people have spent years providing a significant service as supervisors and assistant supervisors, yet we are not making the level of progress that we should be.

I chair the Committee on Employment Affairs and Social Protection, which is examining the issue of bogus self-employment. There are parallels with what has been done to this group of people by saying that they are employed by private companies. They had no autonomy. Their sole funding came from the State. We must accept a level of responsibility and deal with the issue. It will not disappear.

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**Deputy Bríd Smith:** It is ironic that the Government is constantly warning about pension time bombs and the need to force or cajole workers into pension schemes, yet here it is refusing to acknowledge the State's responsibility to provide these workers with pensions despite effectively being the agency that hired and paid them. These workers have taken strike action as a last resort in an effort to persuade the Government to negotiate with them. Their claim for a pension has been supported by the Labour Court and Dáil Éireann, which passed a motion calling on the Government to put in place pension arrangements for these workers. The Minister is now saying that it will cost too much even though we do not know the size of the sector.

**Deputy Paschal Donohoe:** We do know the size of it. I have shared with the House on a number of occasions the different figures that are involved in this. The key point I would make to Deputy Curran in response to the points he made is that the Government is not the employer. These were companies and organisations that were formed to provide services to which the State made a contribution. I know that Deputy Curran, as Chairman of the Oireachtas Joint Committee on Employment Affairs and Social Protection, will appreciate the challenges involved here. As the Deputy knows, we are about to embark on a process in which we will be asking people, through the pensions master scheme and automatic enrolment, to forgo earnings to build up a pension in the future. However, we would face a great challenge were we to say that for another group of employees, we are going to do that retrospectively. How do we handle that issue for the citizens in our State? That is what is at the heart of this issue.

**An Leas-Cheann Comhairle:** I thank the Minister. The issue may require more time but that is the best I can do.

*Written Answers are published on the Oireachtas website.*

### **Estimates for Public Services 2019: Message from Select Committee**

**An Leas-Cheann Comhairle:** The Select Committee on Foreign Affairs and Trade, and Defence has completed its consideration of the revised Estimate for Votes 35 and 36 for the year ending 31 December 2019.

### **Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019: Committee Stage**

#### SECTION 1

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

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** May I speak to Part 1?

**An Leas-Cheann Comhairle:** Yes. Section 1 is in Part 1.

**Deputy Simon Coveney:** To be helpful, I wish to explain to Members the position with regard to Part 1. It is a well-worn phrase but there is no getting away from the fact that Brexit will bring real changes for all of us. This legislation is about how we respond to that in a worst-case scenario. I will briefly outline the purpose of Part 1. Section 1 of Part 1 is standard and

provides for the Short Title and collective citation and construction of the Bill. Section 2 of Part 1 provides for responsible Ministers to commence the relevant Parts of the Bill at the appropriate date and time. It ensures that, even when enacted, the legislation will not come into effect unless needed in the event of a no-deal Brexit. Obviously, we continue to hope that this will not be needed. As Minister for Foreign Affairs and Trade I have responsibility for commencing Parts 1 and 15. Part 15 is different in that it relates to an agreed Brexit. If the withdrawal agreement is ratified, then Part 15 will be commenced to deal with a specific issue arising during the transition period. Part 1 simply deals with the Short Title and commencement arrangements that are necessary for individual Ministers.

Why is the Leas-Cheann Comhairle throwing his hands in the air?

**An Leas-Cheann Comhairle:** I just thought that we were going to move quickly.

**Deputy Simon Coveney:** We will do so but I just wanted to give an explanation of what Part 1 achieves.

Question put agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos 1 to 3, inclusive, have been ruled out of order.

Amendments Nos. 1 to 3, inclusive, not moved.

Section 2 agreed to.

Section 3 agreed to.

#### SECTION 4

**An Leas-Cheann Comhairle:** Amendment No. 4 has been ruled out of order. Amendments Nos. 5, 8, 9, 20 and 21 are related and may be discussed together. Amendment No. 8 is a logical alternative to amendment No. 5, while amendment No. 20 is consequential on amendment No. 9.

Amendment No. 4 not moved.

**Deputy Stephen S. Donnelly:** I move amendment No. 5:

In page 9, lines 34 and 35, to delete line 34 down to and including “Reform,” in line 35 and substitute the following:

“75A. (1) (a) The Minister may”.

**Deputy Simon Coveney:** I am sorry to interrupt but the Minister for Health, Deputy Harris, is on his way to deal with the amendments related to health which are in Part 2. Obviously the Deputy can speak to his amendment but I just want to make sure that the House gets the respect of individual Ministers dealing with sections relevant to their Departments.

**Deputy Lisa Chambers:** The Minister should be here on time.

**Deputy Simon Coveney:** To be fair, we have moved pretty quickly thus far. I am impressed with the speed of the Leas-Cheann Comhairle.

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**Deputy Stephen S. Donnelly:** I am happy to wait for the Minister.

**Deputy David Cullinane:** Just to clarify, are we taking amendments Nos. 5, 8, 9, 20 and 21 together?

**An Ceann Comhairle:** Yes. We are on amendment No. 5 now.

**Deputy Stephen S. Donnelly:** Deputy Lisa Chambers and I have tabled amendments Nos. 5, 9 and 20 in this grouping. They refer specifically to the need for the Minister for Health to seek the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, should he or she wish to make any order or regulation. Section 75A relates to the sitting Minister for Health being able to make arrangements. It reads:

The Minister may, with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, make such order or orders as he or she considers necessary to continue in being or carry out any reciprocal or other arrangements in relation to health services which were in operation between the State and the United Kingdom immediately before the withdrawal of the United Kingdom from membership of the European Union.

Section 75B essentially says the same thing with regard to regulations.

Obviously there is a relatively complex and important set of relationships between Ireland and the United Kingdom in the realm of health care, whether that be using Altnagelvin Area Hospital in Derry or ambulance services moving north and south of the Border. In fact, the vast majority of cross-Border ambulance traffic comprises ambulances from Northern Ireland responding to emergency calls in the South and bringing citizens of the Republic to hospital. We also have the cross-border directive and the treatment abroad scheme. The relationship is very complex and the issues involved are very important. There are many people throughout this country who are waiting to have surgery carried out in one of the larger UK hospitals or waiting for UK doctors to come here to provide, for example, some very specialised paediatric services. Highly specialised surgeons and their teams regularly come from UK hospitals and spend a day or more in Irish hospitals, operating on patients.

My concern is that the sitting Minister for Health may need to be able to make quick decisions. Let us say a surgeon and his or her team are coming over to Crumlin hospital for two days of operations but something pops up. We will be living in a world of unintended consequences and complexities, not all of which we are able to foresee.

Some order is required from the sitting Minister for Health to make sure the team can come in, that the insurance policies are covered, to make sure the drugs they use are sanctioned and so on: it is a complex legal field. The way that 75A and 75B are written provide that any order, arrangement or regulation from the Minister for Health all require the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, currently held as one post, but after a reshuffle or a general election the roles could quite easily be back to two different posts.

I have two concerns. The first is that it slows things down and it does not allow the Minister for Health of the day make the decisions that he or she is entrusted by the Taoiseach to make. My second concern is on a democratic point. I do not believe it is appropriate that a Cabinet Minister should seek consent of the Minister for Finance.

I have tabled three amendments that say, very specifically, consent is required from the

Minister for Finance when the issue relates to taxation, and that consent is required from the Minister for Public Expenditure and Reform where there is an expenditure implication of the order. For taxation and expenditure it would be yes, but for everything else I do not believe it would be appropriate for a Minister for Finance to have that authority. It is not what they are doing day to day: they are not immersed in the world of healthcare.

I hope the Minister will accept the amendments. They are modest but important in making sure the Minister for Health of the day can move with the necessary speed. Sometimes these situations can move very fast. A surgeon and his or her team could be sitting in an airport ready to come to Ireland, or on arriving in Our Lady's Hospital for Sick Children in Crumlin they may need support from the sitting Minister. There is no reason why any Ministers for Finance or Public Expenditure and Reform should be involved, unless there are taxation or expenditure issues, in which case the amendments cover both of those. I hope the Minister will support the amendments.

**An Ceann Comhairle:** I should have said earlier that amendments Nos. 5, 8, 9, 20 and 21 are related and will be discussed together. Amendment No. 8 is a logical alternative to amendment No. 5. Amendment No. 20 is consequential on amendment No. 9.

**Deputy David Cullinane:** I wish to speak to the Sinn Féin amendments, which are part of the group of amendments under discussion. I am aware that the Fianna Fáil amendments that relate to the Minister would need to give permission for the provisions of the Bill to come into effect. Sinn Féin suggests that the Dáil could give consent. I put it to the Minister that while we support the passage of the Bill and many of the provisions of the Bill, including the provisions in this section, at the end of the day we believe it is important that there is proper oversight and that the Dáil has proper oversight. While we give the consent now all of this is being done on the basis that there may be a hard crash. While nobody wants to see a hard crash most of the provisions are on the basis of a no-deal Brexit and a hard crash scenario. In that case, if these provisions were to come into effect - the Tánaiste has quite rightly said that nobody wants the majority of these provisions ever to come into effect - we would believe it is important to have proper oversight and that the Dáil would have a say at that time. I do not wish to prolong the debate and I shall conclude by saying that our amendments are very obvious: we want the Dáil to be able to give its consent if and when these provisions were to come into effect.

**Deputy Brendan Howlin:** I support the Sinn Féin amendment. It cures a deficiency that in my Second Stage contribution I had asked to be addressed. In his response to our concerns at the end of Second Stage the Tánaiste will be aware that he said our concerns, which I had set out in my Second Stage contribution, had been addressed. The Tánaiste said:

Deputies have noted the range of measures in the Bill to facilitate in an operational way the shift to the UK being a third country. Deputy Howlin made two points relating to Parts 2 and 6. I reassure the Deputy that the Bill and all its Parts has been prepared in consultation with the Office of the Attorney General and on the basis of legal advice from that office. I am sure the Minister for Finance, Deputy Donohoe, and the Minister for Health, Deputy Harris, can address the Deputy's concerns in more detail, if necessary.

Saying that the Attorney General has looked at it is hardly a comprehensive response to the constitutional issue I raised. I would like to hear what his views were and why it is constitutional in the way it is asserted, which is obviously very important. The amendment suggested by Deputy Cullinane would cure that in as much as it would have to have the consent of the Dáil.



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Labour's concerns cannot be easily put into an amendment to cure that infirmity - I was trying to think of an amendment myself - on the legality of the section from a constitutional perspective. The relevant concern is that Labour believes there is a constitutional problem with Part 2 of the Bill. I had simply sought very clear advice to assuage those concerns.

The UK Brexit legislation has relied heavily on so-called Henry VIII clauses, which in the British system, with no written Constitution, allow ministerial orders to amend Acts of Parliament and these by-pass the legislature. I have looked at a number of other countries in this regard and new powers are being devolved to Ministers to act by decree in many jurisdictions because we do not know exactly what problems might arise. I can understand the administrative attraction of such a power that the Minister may act by decree without reference to primary legislation. We, however, have very clearly set out restrictions on the powers of Ministers to act without the consent of the Oireachtas.

Several judgments of the courts make it clear that such clauses are constitutionally prohibited, except where necessitated by EU membership, which has already been permitted by referendum of the people. In this section the Department of Health is seeking to create a Henry VIII type clause as part of our own Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019. In Part 2, the Government has proposed to give the Minister for Health power to "make such adaptations and modifications to the *Health Acts 1947 to 2019* or any regulations made under those Acts as the Minister considers necessary for the purpose of bringing those Acts or regulations into conformity with this Part." I believe this would clearly involve the Minister for Health changing primary legislation without the direct authority for that change being brought before the Dáil and provided by the Dáil. My legal advice is that this is not constitutional. The specific section where the power is described is in section 4, which proposes to insert section 75B(2)(c) into the Health Act 1970.

Under Article 15 of the Constitution, the "sole and exclusive" law-making power of the State is vested in the Oireachtas. As a result, regulations that modify primary legislation are necessarily beyond the power of any individual Minister and cannot be vested in any individual Minister. I read some of the legal judgments into the record during my Second Stage contribution so I will not revisit it here. In essence, this is a matter of substance. It is not a trivial matter. We need to have very clear assurances from the Minister that what he is doing is constitutional. We do not want a situation where the health co-operation between this jurisdiction and Northern Ireland becomes one of the most fundamental causes of concern. A person contacted me this week who was due to have a serious operation in April under the cross-Border health initiative. This person asked me if it was safe and would it go ahead. I do not want there to be any legal doubt about any authority that might vest in the Minister to make changes that could be challenged constitutionally or which could be infirm. I would welcome a very clear statement on the advice and considerations of the Attorney General on why he and the Government believe that vesting in the Minister for Health - what on the face of it is an unconstitutional power - is in fact constitutional.

**Deputy Caoimhghín Ó Caoláin:** I follow on from Deputy Howlin's point about seeking an assurance from the Minister for Health. The Tánaiste who is also in the House will recall attending a meeting of the working group of committee Chairmen a couple of weeks ago. The general scheme of the Bill was published on 24 January. In that regard, I speak as a former health spokesperson for 14 years and a Border Deputy. The Tánaiste will recall very well that at the meeting I referred to a quick perusal on my first sighting of the pledged intent in the withdrawal legislation in respect of health services. On publication of the Bill, however, I see that

none of the detail in the area of health has transferred from the general scheme. This is not the case in respect of the commitments relating to other Departments. The Ceann Comhairle will say I cannot address some of the amendments I proposed. Of course, in that regard, I would have argued for the inclusion of the word “shall”, rather than “may”. However, if the Minister is giving Deputy Howlin an assurance, I will ask for one also. Will he give me and those I represent an assurance on the critical commitments contained in the general scheme of the Bill? At the meeting of committee Chairmen I indicated to the Tánaiste that there were other things to which I could probably point, but in the listing the critical significant areas were covered, which I welcomed and the Tánaiste will confirm as much. I ask the Minister to confirm continuation for those cross-frontier workers who qualify for a full medical card under the current arrangements. I only use this as an example and do not intend to take up any more time than is necessary. It was the very first matter, but I could add a number of others that I have identified in the period since. We were able to secure some of them in our work at the Joint Committee on Health and Children, as it was then known. I ask the Minister for an assurance that the language now employed does not offer a way to recoil from them and reserve a right to say “No”. Our hope is the current situation that obtains in health services and healthcare entitlements on a North-South basis will continue under this legislation as the guarantee in the worst case Brexit scenario. I would appreciate it if the Minister responded to that question.

**Minister for Health(Deputy Simon Harris):** I thank Deputies for their contributions on this important section. Deputy Howlin is right to point out that healthcare is an issue citizens in the North and the Republic are watching very carefully. While a great deal of the conversation about Brexit pertains to issues related to trade, economic well-being and growth, all of which are terribly important, health will, on a human and practical level, be the sort of matter on which, as Deputies Howlin and Ó Caoláin articulate so clearly, people will want to know whether the *status quo* can continue post Brexit, regardless of how it ends up being composed. I assure not only the House but the people that it is the very clear intention of the Irish and British Governments to continue to provide health services between the jurisdictions on the North-South and east-west basis that obtains today. Only today the Cabinet approved the signing by the Tánaiste of a detailed memorandum of understanding with the UK Government to enable issues related to the common travel area to be addressed. I also met the HSE recently as part of our own Brexit preparations and was informed by it, to answer Deputy Ó Caoláin’s question directly, that there was no cross-Border health service available which would not be available post Brexit. That is an absolute tribute to the incredible individuals in the health services in the Republic of Ireland and Northern Ireland who have worked so hard to ensure that is the reality. As Deputy Ó Caoláin will know better than many Members, owing to his geographical location and representation of a Border county, the links between the health services and our peoples run very deep and have done so for a very long time. The commitment of all to maintain these links has been extraordinarily helpful. I provide the assurance for which Deputy Ó Caoláin asks and I am pleased to be able to do so.

Deputy Howlin asked a very specific question and I accept his sincerity and bona fides in raising it. He wants to know that this is the right way to go and me to assure the House that our legal advices are robust in that regard. I assure him that we have received advice from the Office of the Attorney General and liaised with the Office of the Parliamentary Counsel. All of the legal advice available to the Government is that this is an appropriate way to proceed and, in fact, is the most straightforward approach considering that it is emergency legislation. While it is legislation we hope we will never have to implement, we want to have it on the Statute Book should we end up in a crash-out.

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**Deputy Brendan Howlin:** How is that constitutional?

**Deputy Simon Harris:** The advice of the Attorney General is that it is constitutional.

**Deputy Brendan Howlin:** How?

**Deputy Simon Harris:** We rely on the advice of the Attorney General who has assured me that it is constitutional. I assure the Deputy that this approach and the drafting of the legislation have been fully guided by the Office of the Attorney General and the Office of the Parliamentary Counsel in providing enabling legislation in the first instance, with the detail to be provided in regulations. We should remind ourselves why we are doing this. We intend to do no more than maintain the *status quo* and ensure the Minister of the day will be able to continue that which is in place today. It is about maintaining the *status quo*, hoping we will never need to use this legislation but ensuring we can if we have to do so in the case of a no-deal Brexit.

I have considered the specific amendments very carefully. I take very seriously the point made by Deputy Donnelly and the rationale he outlined in putting forward his proposal. It is interesting in some ways that he suggests to the House that the requirement in the legislation is too onerous. I have heard clearly why he believes that to be the case. On the other hand, I also accept the sincerity of Deputy Cullinane who suggests for good reasons that it might be better to create more stringent provisions in providing an oversight role for the Dáil. That convinces me somewhat that the balance we are striking is right. The balance is to ensure the provisions are as robust as is necessary without accidentally putting obstacles in place. While I accept fully that this is not Deputy Cullinane's position, let us just say-----

**Deputy David Cullinane:** The Dáil is hardly an obstacle.

**Deputy Simon Harris:** It could be an obstacle if a situation were to arise while the House was in recess and, to take Deputy Donnelly's example, it took a number of days for it to reconvene. In that way it could be an unintentional obstacle. The purpose of the provisions is to enable the Minister of the day to facilitate the continued provision of the services already in place on a reciprocal basis. It is no more and no less than that.

I refer specifically to the amendments in the name of Deputy Donnelly, namely, amendments Nos. 5, 9, 20 which is consequential and 21. Section 75 will enable the Minister for Health, with the consent of the Ministers for Finance and Public Expenditure and Reform, to make the order or orders necessary to continue in being the reciprocal or other healthcare arrangements in place with the United Kingdom prior to its withdrawal from the European Union. Such an order or orders may specify the categories of persons and the health services to which they should apply. The current wording of the section reflects the exercise of discretion involved in the making of such orders by the Minister and will allow the Minister to make such orders, as required. I took to the Office of the Parliamentary Counsel specifically the point made by Deputy Donnelly about this construct. As constructed, the section refers specifically to the consent required from the Ministers for Finance and Public Expenditure and Reform and was drafted on foot of the advice of the Office of the Parliamentary Counsel which informed me that this was the conventional and established approach. The advice of the Office of the Parliamentary Counsel confirms that the appropriate legislative approach required to ensure there will be a comprehensive governance framework to underpin the regulations making power of the Minister for Health is in place. The office further advises me and I advise the House that adopting the approach proposed in the amendment would have the unintended potential to di-

lute the robust consent arrangements currently in place in this section of the Bill. In addition, the consequences of adopting the proposed approach outlined in amendments Nos. 5, 9 and 20 are unknown. It may impose unintended obligations on the Department of Health and possibly the Government generally in the general legislative process.

The Bill provides that the healthcare arrangements currently in place will be maintained to the greatest extent possible following the exit of the United Kingdom from the European Union. As the Bill seeks to maintain the existing reimbursement arrangements, it is not considered that additional expenditure implications arise. Accordingly, the policy decision has been taken that the making of the orders will require the consent of the Ministers for Finance and Public Expenditure and Reform. In keeping with the constructive approach everybody is taking to the Bill I sought legal guidance on Deputy Donnelly's amendments and the view I received from the Office of the Parliamentary Counsel was that the current wording was the conventional constructed wording and to do anything else would dilute it. That is the advice I wish to convey to Deputy Donnelly.

The consequence of adopting the approach outlined in amendments Nos. 8 and 21 would be to impose an additional obligation on the Minister for Health to lay such orders before the Dáil having already received that consent. Such an approach would introduce an additional layer of complexity to the legislative process which is not considered necessary or to be required considering what we are trying to do, which is just to maintain the *status quo*. In addition, the requirement for a positive resolution of the Dáil in the manner proposed would have the potential to act as a barrier and a delaying mechanism to the timely approval of the necessary legislation, for example, during times when the Oireachtas might not be sitting.

For the reasons I have outlined and taking into account the urgent and emergency nature of the legislation and the extremely limited timeframe for its enactment, I must decline to accept the amendments in this group owing to the legal advice available to me.

**Deputy Stephen S. Donnelly:** Before responding to the Minister, I have a question on the order for this session. Has it been agreed to guillotine this session?

**An Ceann Comhairle:** Yes.

**Deputy Stephen S. Donnelly:** Would it be possible to put the time on the clocks in order that we can keep an eye on it? If votes are called, what will the procedure be? Will there be time at the end of given periods to call votes or if we are in the middle of debate when we hit that time, will there be opportunities to call votes?

**An Ceann Comhairle:** The Deputy can call a vote at any stage.

**Deputy Stephen S. Donnelly:** The debate on each Part is being guillotined. Let us say we reach zero on the clock and are in the middle of debate, will the opportunity to call a vote or press an amendment be lost?

**An Ceann Comhairle:** It must be taken from the time permitted.

**Deputy Stephen S. Donnelly:** If we were to reach the end mid-debate-----

**An Ceann Comhairle:** Yes.

**Deputy Stephen S. Donnelly:** -----there would be no opportunity to press an amendment.

**An Ceann Comhairle:** No.

**Deputy Stephen S. Donnelly:** Thank you. I just wanted to check.

**Deputy Simon Coveney:** For the sake of clarity, if a vote is called, I presume the clock will be stopped while the vote is taking place. Is that right, or does it form part of the hour allocated?

**Deputy David Cullinane:** No. That is the reason we opposed the Order of Business.

**An Ceann Comhairle:** We will circulate a note to Members to clarify matters.

**Deputy Stephen S. Donnelly:** I have two questions, but I wish to make a point before asking them. The Minister for Health, Deputy Harris, stated unequivocally that the current health-care arrangements between the United Kingdom and Ireland would remain in place no matter what. That is what I heard and he is nodding in confirmation. I hope that is true, but it is a very brave thing to say. For example, the treatment abroad scheme is not an Ireland-UK arrangement but an EU programme. Can it not be the case that there is a Brexit in which the United Kingdom is no longer in the EU programme? How can we guarantee that whatever agreements are in place based on an EU programme that many Irish citizens use, under no circumstances will they not be available in the future? If that is the level of insight and foresight the Minister has, that is fantastic, but I would be very surprised if that was the case.

It is entirely possible that the United Kingdom will change regulations post Brexit. In fact, its parliament has stated repeatedly that it will be changing regulations in a variety of areas. If the United Kingdom were to change regulations on product safety for pharmaceutical and medical products, procedures and protocols for procedures, import and export protocols and professional qualifications, be it for consultants, nurses, midwives, physiotherapists, radiographers and the gamut of healthcare professionals, it is possible and quite likely that some combinations of qualifications, medicines, procedures, protocols, check backs, audits and so forth implemented in the United Kingdom would no longer be recognised by the European Union. Regardless of what happens or what changes the United Kingdom makes to its regulations, procedures, training, qualifications and so forth and even where the European Union states it no longer accepts a procedure or particular professional qualification and that while a particular drug is regulated for use for a certain purpose in the United Kingdom, the European Medicines Agency has not signed off on it and it is not useable here, the Minister has made a definitive statement that post Brexit no services will be impacted on in any way. That is great if it is true, but it does not sound right. He did not give a caveat in any way. Is there a caveat in that statement? If it is true, that is fantastic, but I do not see how the Minister can make such statements at this point.

The Minister has stated the consent of the Ministers for Finance and Public Expenditure and Reform will be needed is the legal advice he received. Of course, there is nothing conventional or established about the legislation we are considering. Putting aside the constitutional question about the Dáil which is an important one to be resolved, if the sitting Minister for Health must make a decision on a change to regulations for the training of radiographers in Northern Ireland, for example, or the delisting of a particular anaesthetic used in the NHS, why would that Minister ever need to ask the Minister for Finance for permission? To me, that sounds as if the Minister should also ask the Minister for Transport, Tourism and Sport or the Minister for Culture, Heritage and the Gaeltacht. The Minister for Finance has no role in dealing with such detailed regulatory issues. Why would the Minister need consent from the Minister for Finance before



making any change to arrangements or regulations in maintaining the *status quo* in healthcare?

**An Ceann Comhairle:** I call Deputy Bríd Smith.

**Deputy Bríd Smith:** Will the Minister answer that question first?

**An Ceann Comhairle:** No.

**Deputy Bríd Smith:** You want me to ask my question first.

**An Ceann Comhairle:** It is up to the Deputy what she wants to do.

**Deputy Bríd Smith:** The previous Deputy said it was a brave thing to say, but I accept it. I accept that it is the Minister's intention to have reciprocal arrangements, which is very welcome. It is an indicator that across the House no Member will welcome a hard border and that we want the *status quo* to continue. However, I am a little shocked that the Minister does not want to have any discussion on the floor of the House about the possibility of extending the provisions of the Health (Regulation of Termination of Pregnancy) Act to Northern Ireland.

**Deputy Simon Harris:** That is not my decision.

**Deputy Bríd Smith:** It would allow the women of Northern Ireland who showed so much solidarity to us throughout a hard campaign, to avail of a reciprocal arrangement. They would be able to avail of that service on the same basis as women here, but no such discussion is being allowed.

**Deputy Simon Harris:** That is not my decision.

**An Ceann Comhairle:** The Minister will have an opportunity to respond.

**Deputy Brendan Howlin:** I also warmly welcome the very firm assurance given by the Minister for Health that all services currently enjoyed by citizens of the Republic of Ireland in Northern Ireland and Great Britain will continue to be enjoyed, regardless of what form Brexit takes. That is an important issue.

I have a question about the new information the Minister for Health has given to the House that today the Cabinet approved the memorandum of understanding on the common travel area arrangements between the Republic of Ireland and the United Kingdom. The CTA is about far more than common travel arrangements. For the first time in the memorandum of understanding there is a codified body of reciprocal rights which in many instances amount to joint citizenship. They will allow Irish people to work, live, draw social welfare payments, receive full health benefits and vote in the United Kingdom. There will be the same rights for United Kingdom citizens living here. It is the anchoring document. When will we have sight of it? Now that it has been approved, when will it be signed by the British and Irish Governments and when we will have an opportunity to forensically examine it to see what precisely will be enduring rights for Irish and UK citizens post Brexit?

An important point was raised by Deputy Ó Caoláin in regard to the rights to medical cards that arise from EU membership. I refer in this regard to, for example, seafarers working out of Rosslare Europort. I take it from what the Minister for Health, Deputy Harris, has said that on the basis of the memorandum of understanding or on some other basis, UK citizens will continue to be able to access Irish medical cards if they are resident in the Republic of Ireland. In

other words, the *status quo* will continue.

I will return to the point I made about the constitutionality of the section in terms of the devolution of powers to the Minister for Health to alter law without reference to the Dáil. When I made my Second Stage contribution I was assured by the Tánaiste that I would get an explanation in that regard. I regret I got no explanation from the Tánaiste in his closing comments, other than, as I have already put on the record of the House, that the Attorney General is satisfied. I have been privileged to serve in a number of Governments. I remember being told by one Attorney General that something could not happen and being told by a successor Attorney General that it could. The opinion of a law officer of the State is just an opinion and it is challengeable. I want to ensure that what we are doing is robust.

I take more comfort in the final comment made by the Minister for Health, which, if expanded on, might provide me with more security. Am I correct that the Minister for Health is stating he is not seeking to make any primary law but, rather, that he is seeking to preserve what has already been determined by the Oireachtas, which is the *status quo*? If that is the explanation, it is a more robust explanation. It also is a limiting power. In changed circumstances, it would not be replicating the *status quo*. How do we deal in the future with changes that did not transpose what is happening now but were making something new, because of new circumstances? I believe Deputy Donnelly circled around this issue. If the constitutionality is explained as preserving what is already passed by the Oireachtas, then nothing new in changed circumstances could be done by the Minister for Health without reference to the House. Am I correct in my understanding in this regard?

**Deputy Denis Naughten:** Following on from the questions put by colleagues, I have a couple of specific questions for the Minister, Deputy Harris. Access to healthcare across the Border in Northern Ireland or in Britain is seamless at present because we are all members of the European Union and there are common travel area rights in regard to healthcare. My understanding is that these rights apply to only Irish and UK citizens. There are many EU citizens living here who are married to Irish citizens. Will they be able to avail of the common travel area healthcare provisions of which they can currently avail? What is the situation in regard to posted workers? This is another area that needs clarification.

The Minister, Deputy Harris, said in regard to the treatment abroad scheme, the European health insurance card scheme and the cross-Border health care directive that there will be a seamless transition beyond 29 March. Will he clarify that this remains the position and that it applies not only to Irish and British citizens but to all people legally resident here and EU citizens? Will he also clarify what the position will be on 1 January 2021, which is just 21 months away? I ask the latter question on behalf of people who are currently accessing healthcare in the UK for whom ongoing treatment will be required. For example, a young person receiving treatment in the UK for scoliosis will be returning to the UK for a number of years to access that service, well beyond 31 December 2020. People currently engaged with the health service in the UK need reassurance that they can continue to access that service beyond 31 December 2020.

My final question is related to the cross-Border health directive in terms of liability to the HSE and the treatment abroad scheme in terms of liability to Irish and EU citizens resident here. Currently, the HSE reimburses the health service in the UK for the cost of surgery under the cross-Border health directive. It also reimburses EU citizens legally resident here in respect of treatment in Northern Ireland or the UK under the treatment abroad scheme. These costs are

based on the public system in the UK. As we are all citizens from within the European Union, the billing is based on the public cost of the service, as it would be for a British citizen. Post Brexit on 29 March 2019 or 31 December 2020, this might no longer be the position. Will those hospitals continue to bill Irish and EU citizens resident in Ireland as they currently do, which is on the public hospital system basis, or will they charge them as overseas citizens? If so, the cost would be prohibitive. In practical terms, it would mean that people would no longer be able to access those services because they would not be able to make up the differential in terms of financial cost. It would put a huge financial burden on the HSE in regard to the cross-Border health directive as well.

**Deputy Simon Coveney:** I would like to respond to Deputy Howlin because he did ask me the question directly, following which I sought clarity on it. I will set out my understanding as to why this is not the issue the Deputy thinks it may be, legally. The proposed new section states:

The Minister may, with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, make such order or orders as he or she considers necessary to continue in being [which is the same as they are today] or carry out any reciprocal or other arrangements in relation to health services which were in operation between the State and the United Kingdom immediately before the withdrawal of the United Kingdom from membership of the European Union.

The powers in the provision relate to continuing into being beyond Brexit or maintaining services that were in place before the UK left the European Union. The distinction that we need to make is that it is about a Minister for Health introducing orders to maintain existing services beyond Brexit, not to add new powers or extra services beyond what is in place on the day that the UK leaves, which is why I do not think there is a constitutional issue. My understanding, based on the Attorney General's advice I received when I asked about the matter after the Deputy raised it, is that the purpose is to maintain existing services and pass the orders necessary to do that in a post-Brexit environment, where there is no deal and, therefore, no arrangements to facilitate the existing services to remain intact.

That is my understanding of the basis of the Attorney General's advice and I hope it gives the Deputy some reassurance. I can understand why maintaining the *status quo* does not involve any precedent, such as Henry VIII clauses or whatever. We are not introducing new laws to provide new services without going through the normal procedure to pass legislation. Rather, we are giving the Minister the power to introduce orders to maintain existing services in a no-deal, chaotic Brexit situation.

**Deputy David Cullinane:** That is also my understanding. On the orders that the Minister would make, however, am I correct that some of those orders would also need similar arrangements to be enacted in the British Parliament or at least the consent of the British Government? This issue permeates throughout the Bill because if we are making provisions for a continuation of services or for the *status quo* in some areas, it will be dependent on what the British Government does. What contact has there been between the Government and the British Government in respect of these provisions? If the Minister was forced by a hard Brexit to bring in these orders, what guarantee would we have that the British Government would do likewise, allowing the orders to come into effect?

**Deputy Simon Coveney:** The provisions will be reciprocal. We have a basis for agreement

in multiple sectors to protect and maintain the common travel area, including access to work, healthcare facilities and social welfare. Some of those commitments require primary legislation, while others can be provided through secondary legislation or ministerial orders. We have a commitment that the UK will fulfil its side of the bargain and we will do ours, which is what we are trying to do in the Bill. The totality of what we are doing, however, is not contained within the Bill. In terms of legal instruments, it is a combination of the Bill and the statutory instruments, which will also be ready by 29 March, that may be needed to protect and maintain these services.

**Deputy Simon Harris:** On Deputy Donnelly's amendments, I am following the legal advice of the Office of the Parliamentary Counsel. Although I take the Deputy's point, some of the examples that he used are probably not issues for the Minister of the day. For example, the delisting of a drug would be a matter for the Health Products Regulatory Authority, while the changes of qualifications would be a matter for the independent regulatory bodies. The issues that I or any of my successors will deal with will be issues that will ultimately result in various charges on the State or the issue of reimbursement, hence the involvement of the Minister for Finance and for Public Expenditure and Reform. While I note the Deputy's concern about the wording of the Bill, I am reluctant to deviate in the light of the legal advice.

On Deputy Bríd Smith's question about abortion and women from Northern Ireland, it was not my decision not to discuss the issue in the House but rather the amendment was ruled out of order. I have frequently discussed the matter on the floor of the House, usually with Deputy O'Reilly, and I am happy to do so again. Separate to the Bill, I am seeking the advice of the Attorney General as to how we might address the matter. I have certainly not given up on addressing the matter in any manner or means but, according to the House, this Bill is not the best vehicle for pursuing it.

My colleague, the Tánaiste, answered Deputy Howlin's question. The Bill is about the Minister of the day having the powers to preserve the *status quo* rather than making new and future arrangements above and beyond that. The extract from the Bill which the Tánaiste read into the record is clear in that regard.

To respond to the reaction to what I said about cross-Border services continuing, I made the comments because I have listened carefully to many members of the public calling radio programmes and commenting in the media. In particular, I remember two parents living in Northern Ireland, whose son had his first life-saving heart operation in Crumlin hospital and is due to have another shortly, ask on the radio whether their son will be able to have the operation post Brexit. I also have heard people from County Donegal ask whether they will be able to go to Altnagelvin hospital for their radiotherapy. I want our patients and citizens to know that the answer is "Yes". When I met representatives from the HSE and asked whether they were aware of any cross-Border service in place today that will not be in place post Brexit, their answer was "No". That is very different from suggesting that things may not be done in a different way or, as Deputy Donnelly has rightly pointed out, that the reciprocal arrangements we put in place may be different in their modality but the same in their impact on our patients, which is what we are trying to achieve in the Bill. Where there is an existing service, whether it is in place due to the common travel area or due to European law, the question is how can we ensure that service continues to be provided. My comments were based on the idea that services provided today will be able to be provided post Brexit. I do not mean to speak for the British Government but it is its clear and publically articulated position; it is certainly the position of the Irish Government and I know it is the position of all Deputies.

On Deputy Naughten's questions, the legislation should be seen through the prism of being emergency measures in the context of a no-deal Brexit. Based on Brexit discussions, one would presume that we will find ourselves in a place where we are having a discussion about future relationships and how the UK interacts with the EU and so on post Brexit. How future relationships will continue to evolve, therefore, is a question for another day, but these are emergency measures in place to fill any such gap. The Deputy asked an important question about the cost for the health service of treating a patient, and the answer is that he or she would be treated as though it was the cost for a UK citizen. We will recognise each other as though we were from the other country, which is an important development. On the issue of the cross-Border directive and any successors in that regard, I am informed by my officials that it is not done on the basis of citizenship but rather it depends on whether one works in that state or receives a pension in that state. The Deputy used an example of a Polish person living in Northern Ireland. If he or she works in Northern Ireland or in the Republic of Ireland, or if he or she is in receipt of a pension in Northern Ireland or the Republic of Ireland, he or she will qualify.

**Deputy Brendan Howlin:** The Tánaiste helpfully quoted from the new section 75A(1) in Part 2 of the Bill, which, as he noted, concerns maintaining the *status quo*. It states, "The Minister may, with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform, make such order or orders as he or she considers necessary to continue in being or carry out any reciprocal or other arrangements in relation to health services". The phrase, "continue in being" is the operative phrase in respect of the *status quo*. The part I referred to in my contributions both on Second Stage and in my contribution earlier today was a later part of the same proposed new Part IVA. It is section 75B, which is headed "Regulations to give full effect to this Part". On page 12 of the Bill, section 75B(2)(c) states that the regulations made by the Minister for Health under subsection (1) may "make such adaptations and modifications to the *Health Acts 1947 to 2019* or any regulations made under those Acts as the Minister considers necessary for the purpose of bringing those Acts or regulations into conformity with this Part." It is a debatable point but, *prima facie*, it gives authority to the Minister to amend the law under that section. The Tánaiste is telling me that it is in the shadow of the first Part, which states that it can only be by way of maintaining the *status quo*. If that is the understanding of the Tánaiste, I am happy to leave it at that if that has been fully tested. The Tánaiste might answer my other question about the memorandum of understanding. When will we have sight of it so that we can look at it and ensure, to our satisfaction, that all of the rights that we understand are available to Irish citizens in the UK now and to UK citizens here will be maintained in an enduring way?

**Deputy Simon Coveney:** The memorandum of understanding is not directly related to this Part but to the entire Bill in many ways. That memorandum of understanding has been ready to sign for some time. It was agreed by senior officials. For understandable reasons, we have decided not to sign it until now but I have approval now from Government to sign it with my counterpart in the British Government. We will do that, if necessary, before the end of March. This is a document that both Governments have contributed to so it is as much a British Government document as it is an Irish Government document. That is why it is helpful that it has not been published until both Governments are satisfied to sign it.

**Deputy Brendan Howlin:** When will we see it?

**Deputy Simon Coveney:** Members will see it as soon as it is signed because it is the interpretation of the two Governments of what the common travel area represents.

**Deputy Brendan Howlin:** Parliament might like to have a look at it.



**Deputy Simon Coveney:** I think Parliament will be able to judge it but it is not like passing of legislation. It is a memorandum of understanding. We made a deliberate decision not to have a bilateral treaty on the common travel area because changing a bilateral treaty means going through the legislative process, which takes months. We have instead a memorandum of understanding which can be changed much more easily and quickly if we have missed something. It would be useful to share it with party leaders to make sure we have not missed anything. This is not something that we are precious about but I do not want to turn that memorandum of understanding into a series of new asks. This represents what has historically been in place and needs to be sustained and protected in the context of Brexit. I could not really share it with the House without sharing it with my Government colleagues first, and we only did that today.

7 o'clock

**Deputy Aengus Ó Snodaigh:** I have two amendments, Nos. 8 and 21. I apologise if they have been addressed already. I was not here earlier. The intention was to have Dáil oversight, not to delay the passage of this Bill. There may be unforeseen circumstances and I understand that the Minister has already addressed this so I will not delay. There are a series of amendments which relate mostly to ensuring that at every stage of dealing with the consequences of Brexit, if it happens in the way that this Bill in some ways expects it to, the Houses of the Oireachtas will have some type of oversight of it. It is not intended to contradict the Bill. Based on what I have heard from the Minister, I will not press these amendments.

Amendment put:

<i>The Dáil divided: Tá, 30; Níl, 74; Staon, 1.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	<i>Broughan, Thomas P.</i>
<i>Browne, James.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Butler, Mary.</i>	<i>Brady, John.</i>	
<i>Byrne, Thomas.</i>	<i>Breen, Pat.</i>	
<i>Cahill, Jackie.</i>	<i>Brophy, Colm.</i>	
<i>Calleary, Dara.</i>	<i>Bruton, Richard.</i>	
<i>Chambers, Jack.</i>	<i>Buckley, Pat.</i>	
<i>Collins, Michael.</i>	<i>Burke, Peter.</i>	
<i>Curran, John.</i>	<i>Byrne, Catherine.</i>	
<i>Donnelly, Stephen S.</i>	<i>Cannon, Ciarán.</i>	
<i>Gallagher, Pat The Cope.</i>	<i>Carey, Joe.</i>	
<i>Harty, Michael.</i>	<i>Collins, Joan.</i>	
<i>Haughey, Seán.</i>	<i>Connolly, Catherine.</i>	
<i>Healy-Rae, Danny.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Lawless, James.</i>	<i>Coveney, Simon.</i>	
<i>Martin, Catherine.</i>	<i>Creed, Michael.</i>	
<i>Martin, Micheál.</i>	<i>Cullinane, David.</i>	
<i>McConalogue, Charlie.</i>	<i>D'Arcy, Michael.</i>	
<i>McGrath, Michael.</i>	<i>Deering, Pat.</i>	

*Dáil Éireann*

<i>Moynihan, Aindrias.</i>	<i>Doherty, Pearse.</i>	
<i>Moynihan, Michael.</i>	<i>Doherty, Regina.</i>	
<i>Murphy O'Mahony, Margaret.</i>	<i>Donohoe, Paschal.</i>	
<i>Murphy, Eugene.</i>	<i>Doyle, Andrew.</i>	
<i>O'Callaghan, Jim.</i>	<i>Durkan, Bernard J.</i>	
<i>O'Dea, Willie.</i>	<i>Ellis, Dessie.</i>	
<i>O'Keefe, Kevin.</i>	<i>English, Damien.</i>	
<i>O'Loughlin, Fiona.</i>	<i>Farrell, Alan.</i>	
<i>Rabbitte, Anne.</i>	<i>Ferris, Martin.</i>	
<i>Scanlon, Eamon.</i>	<i>Fitzgerald, Frances.</i>	
<i>Smith, Brendan.</i>	<i>Flanagan, Charles.</i>	
	<i>Funchion, Kathleen.</i>	
	<i>Harris, Simon.</i>	
	<i>Heydon, Martin.</i>	
	<i>Howlin, Brendan.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kenny, Martin.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lowry, Michael.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McGrath, Finian.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy, Catherine.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>O'Sullivan, Maureen.</i>	
	<i>Ó Broin, Eoin.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	

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	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Pringle, Thomas.</i>	
	<i>Quinlivan, Maurice.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Smith, Bríd.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Michael Moynihan and Stephen S. Donnelly; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

**An Ceann Comhairle:** Is the House willing to vary the order made earlier today in order that we will not deduct the time it takes to vote from the time allocated for section 4 of the Bill which relates to the important area of health? In other words, we will have the time allocated for the debate. Is that agreed? Agreed.

Amendments Nos. 6 and 7 have been ruled out of order.

Amendments Nos. 6 to 8, inclusive, not moved.

**Deputy Stephen S. Donnelly:** I move amendment No. 9:

In page 10, between lines 3 and 4, to insert the following:

“(b) When an order is made under subsection (1)(a) which involves the spending of public monies, the order must be made with the consent of the Minister for Public Expenditure and Reform.

(c) When an order is made under subsection (1)(a) which involves the raising of public monies, the order must be made with the consent of the Minister for Finance.”.

Amendment put and declared lost.

**An Ceann Comhairle:** Amendments Nos. 10 to 19, inclusive, have been ruled out of order.

Amendments Nos. 10 to 19, inclusive, not moved.

**Deputy Stephen S. Donnelly:** I move amendment No. 20:

In page 10, line 30, after “Reform,” to insert “when such consent is required in section 75A(1)(b) and (c)”.

Amendment put and declared lost.

Amendment No. 21 not moved.

**An Ceann Comhairle:** As amendments Nos. 22 to 25, inclusive, are related and amendments Nos. 23 and 24 are consequential on amendment No. 22, amendments Nos. 22 to 25, inclusive, may be discussed together.

**Deputy Louise O’Reilly:** I move amendment No. 22:

In page 12, between lines 22 and 23, to insert the following:

**“Review of the effectiveness of health services**

**75C.** The Minister shall publish a review into the effectiveness of the health services covered under section 75A and 75B of this Act one year after the United Kingdom has left the European Union.”.

This is a straightforward amendment. Obviously, none of us wants to be here talking about this issue. We hope a no-deal Brexit will not happen, but we have to be prepared for it in case it does. We do not think it would be any harm for the Minister to provide us with a report “one year after the United Kingdom has left the European Union” to see how the provisions are working. In fact, it would be quite sensible to do so as we are heading into uncharted territory. We can do our work here, but much of what we have been discussing is contingent on the British Government doing its bit. Therefore, it would be no harm to receive a full assessment of how the delivery of services is operating one year after Brexit has happened. We are looking for “a review into the effectiveness of the health services covered under [this Bill] one year after the United Kingdom has left the European Union”. Such a review would be of great benefit to policymakers, service users and medical and healthcare professionals.

**Deputy Denis Naughten:** Amendment No. 25 in my name relates specifically to what will happen from 1 January 2021. In my earlier contribution I flagged my concerns about people who were receiving ongoing treatment for particular conditions. I referred to the example of a child with scoliosis who was required to go back on a number of occasions to the United Kingdom under the cross-border directive or the treatment abroad scheme. People need reassurance on the treatment that will take place between now and 31 December 2020. They need a commitment that they will be able to continue that treatment in the same hospital or medical facility after 1 January 2021. If we do not provide such certainty, we will undermine the principle behind the Bill. This emergency legislation is being enacted to ensure that in the event that there is a hard Brexit on 29 March, people will continue to be able to avail of medical services of which they can avail today in Northern Ireland and Great Britain. If there is not an assurance that a medical procedure can continue beyond 31 December 2020, in effect, that particular right will be curtailed. I accept that it is difficult for the Minister to provide for that level of clarity today. As he has said, this is emergency legislation, but I think it is reasonable for him to be required to present a report to the House within three months to clarify the position and ensure continued treatment and support and access to the medical profession in the United Kingdom

will be provided in cases which involve ongoing medical procedures which were first accessed in advance of 31 December 2020.

**Deputy Simon Harris:** I thank Deputies for their amendments. The spirit in which I am approaching this section involves not disagreeing with what they are requesting, while arguing that it should perhaps not be included in the legislation. With my Government colleagues, I am happy to give a commitment on the floor of the Dáil to provide such important information for it, the health committee or any other appropriate forum within the Oireachtas. As Deputy Naughten acknowledged, the amendments provided for in the Bill are contingency steps that seek to minimise any disruption to current healthcare arrangements between Ireland and the United Kingdom. Obviously, the post-Brexit relationship between the United Kingdom and the European Union will be negotiated beyond these contingency steps. Amendments Nos. 22 to 24, inclusive, to which Deputy O'Reilly spoke, impose an obligation on the Minister of the day to publish a review of the effectiveness of the health services one year after the UK has left the European Union. Although, without wishing to be pedantic, we have a legal concern with words like "effectiveness" in terms of their legal meaning and place in the legislation, I have no difficulty in providing the Deputy with what she is looking for. I fully agree with the Deputy that it makes sense that we would be providing reports and updates to this House through the appropriate committee as well. I should reiterate that the objective of the current Bill is the maintenance of existing arrangements in respect of health services currently in operation between the State and the UK rather than an assessment of their effectiveness. All we are trying to do here, on which I think we are in agreement, is maintain the *status quo* as opposed to analysing the effectiveness of the *status quo* or indeed providing for new measures which we may decide, as an Oireachtas, are desirable to put in place in the future but which would not be covered under this Bill. This Bill is about preserving the *status quo*.

Amendment No. 25 from Deputy Naughten seeks to impose an obligation on the Minister to present a report on the continued provision of healthcare services in the UK from 1 January 2021. It should be noted, however, that if legislation is brought into force, there will be many opportunities for the arrangements provided for under the legislation to be reviewed. In addition, any arrangements between Ireland and the UK in respect of continued reciprocal access to health services after December 2020 will be subject to ongoing consultation and engagement between those two states once the UK leaves the European Union. Amendments of this nature can be considered further in that context. In terms of the review proposed, I can confirm that I am willing to attend the Oireachtas Joint Committee on Health. Deputies know that I enjoy attending it regularly. I am also willing to arrange for relevant officials to provide briefings at regular intervals and to attend and report as necessary. I fully agree with the spirit of the amendment although I am not in a position to accept it in this legislation. I will give a commitment to the House that the Government will provide such reports and information to Deputies at the opportune moments.

**Deputy Denis Naughten:** I do not think the amendment I am proposing is too onerous. It provides for a report to be made to the House. I am specifically looking at medical conditions that require ongoing treatment. The objective behind section 8 is to protect the rights people have today to access health services in the UK after the UK leaves the European Union on 29 March. If the UK leaves the European Union on 29 March, we are providing assurance to people right up to 31 December 2020. I accept that in the vast majority of cases, that level of clarity will be sufficient. I accept the Minister's assurances in that respect. However, where there are particular procedures that will require further surgery down the road, people need



reassurance now that access will be continued beyond 31 December 2020 to allow them to access that service next month or the month after. Clarity needs to be provided. Otherwise the legislation will undermine its specific objective of providing people with cross-border access in the United Kingdom after 29 March this year. As a Member of Parliament, I could not advise any family that a child with scoliosis who wants to avail of services in the United Kingdom should avail of those services. If they require further surgery down the road, they might have to transfer to another jurisdiction.

I accept that the Minister cannot provide this clarity today. That is why the amendment contains the very flexible provision that the Minister present a report to this House on a specific cohort of conditions and that, if the treatment has started before 31 December 2020, there be an ongoing commitment in respect of the treatment beyond that date.

**Deputy Louise O'Reilly:** The Minister says he agrees in principle with what I am saying because, clearly, it makes sense. However, he said that at the opportune time he would provide the report. I would be most grateful if he could firm up that proposal. We are saying within a year because, in the event that we have to enact this legislation, we are going to be in uncharted territory. It would be no harm, after 12 months, to have a look back at the effectiveness or otherwise of the provisions. We are relying on the British Government to uphold its end of this, notwithstanding any commitments the Minister can give.

**Deputy Simon Harris:** I am happy to provide a report within a year and perhaps even more frequently, perhaps every six months. Certainly it would be within a year and indeed as the need arises in addition to that commitment. I am more than happy to give that to the Deputy because, as she says, it is common sense.

Deputy Naughten and I are not in disagreement in terms of what we want to achieve. The only question is the insertion of the provision in this legislation in respect of the timeframe of 90 days and the like. I want people like those whose case the Deputy outlined to know that it is the intention of the Irish Government to ensure that such services can continue to be accessed. We are dealing with a period of time defined by emergency measures, cognisant of the fact that there will be a significant amount of engagement and negotiation in the years ahead, not just bilaterally between Ireland and Britain as neighbours and friends but also in the context of the future relationship that the UK will have with the European Union. I am more than happy to update the House and more than happy for a report to be given within three months and the like. I just do not wish to put those provisions in this Bill. I am very willing to work with the Deputy and the House to provide the assurances he is seeking.

**Deputy Denis Naughten:** With all due respect to the Minister, a former teacher of mine used to say that the road to hell is paved with good intentions. I do not doubt the Minister's intentions but, in my experience, when it is not written in black and white, it does not happen. I am accepting that for a three-month period we are curtailing the right to medical services in the UK. The Minister needs to be given that discretion. I am admitting that curtailment in this amendment and giving the Minister 90 days to provide clarity to us. I do not think it is acceptable for clarity not to be provided within those three months, nor is it acceptable that it is not set out in the legislation that this must be presented to the House so that we can report. I should be in a position to reassure an individual, or their family, who is availing of a medical procedure in the UK that will require continual ongoing care for more than 22 months that they will be able to avail of it. That is the very minimum that we need to provide if this legislation is to do what it proposes. We cannot curtail that right. I am accepting that we are curtailing it for 90

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days but we should not be curtailing it for any longer than that while we consider our intention from 31 December 2020. I accept that in respect of many procedures there is plenty of time. For procedures involving a continuing commitment of care for more than 21 months, however, we need to provide clarity now.

**Deputy Simon Harris:** I remind all of us that this legislation is to be enacted in the event of a no-deal Brexit. Along with Members from all sides of the House, I am genuinely hoping that this legislation need never be enacted although it is important to pass it in an efficient manner. I also point out that these Houses have an ability to order their own business, hold Members to account, request information and reports, and decide what to debate in Private Members' time, Topical Issue debates and committee hearings, and they do so very effectively and robustly. I do not think the Government intends to stipulate for a range of Ministers to provide a range of reports within 90 days. That is not because we are unwilling to provide such reports but because the back and forth of parliamentary accountability already deals with it.

I want to end as I started, by reassuring Deputy Naughten not just of my good intentions but of the absolute policy position of the Government that it wants to make sure these services can be provided into the future for exactly the sort of cases he outlined. This legislation is emergency legislation which is geared towards dealing with the here and now of a no-deal hard Brexit.

Amendment, by leave, withdrawn.

Amendments Nos. 23 and 24 not moved.

Section 4 agreed to.

#### NEW SECTION

**Deputy Denis Naughten:** I move amendment No. 25:

In page 12, after line 42, to insert the following:

**“Report on provision of health care services in the United Kingdom**

5. The Minister for Health shall within 90 days of the passage of this Act, present a report to Dáil Éireann on the continued provision of health care services in the United Kingdom from 1 January 2021, which were in operation between the State and the United Kingdom immediately before the withdrawal of the United Kingdom from membership of the European Union.”.

Amendment put and declared lost.

**An Leas-Cheann Comhairle:** Amendment No. 26 is out of order.

Amendment No. 26 not moved.

Sections 5 and 6 agreed to.

Amendments Nos. 27 to 29, inclusive, not moved.

Section 7 agreed to.

#### NEW SECTIONS

**An Leas-Cheann Comhairle:** Amendments Nos. 30 and 31 are related and may be discussed together.

**Deputy Denis Naughten:** I move amendment No. 30:

In page 17, after line 33, to insert the following:

**“Report on the provision of supports to maintain and grow employment**

**8.** The Minister for Business, Enterprise and Innovation shall within 90 days of the passage of this Act, present a report to Dáil Éireann on the provision of supports to maintain and grow employment in non-exporting indigenous local business.”.

I believe Sinn Féin is tabling a similar amendment. The only difference in principle between the two amendments is that I am tabling this on the basis that the report will be presented 90 days after the passage of this legislation, whereas I believe the Sinn Féin amendments proposes that it is presented after the enactment of the legislation. Of course, we hope that this legislation is never enacted. My amendment is different because I believe these supports are urgent and necessary for businesses that are not receiving supports at the minute. I accept that the Government has done a lot of work in engaging with businesses throughout the country. I know that is very challenging work. I have tried to do that myself to encourage businesses to be aware of the impact of Brexit. I am not talking about those which are directly affected by Brexit but those which might be indirectly affected. I made the point last week in this House that a company with ten employees or fewer will be supported by the local enterprise board. However, a company that has ten or more employees which is not exporting and does not have the potential to export has no State mechanism available to support it. Those types of companies are the bedrock of the business and economic activity in many smaller provincial towns in rural areas. I can think of quite a number of such companies. They may be providing services within that local community or providing services throughout the country. Brexit may indirectly impact upon those companies, yet there is no mechanism in place to support them at the moment.

I am sure the Minister will come back and say that the Government will not support this amendment, even though it is a valid point. I believe we must accept this amendment. It is imperative that we take action now, because regardless of whether the 29 March deadline leads to a hard Brexit, we are going to have Brexit within the next 21 months. These companies need to be prepared for that now. I accept that the focus until now has been on companies that are trading and that are directly impacted upon by Brexit. However, the focus must shift urgently to these companies which are the bedrock of rural communities in many parts of the country. They need a support mechanism. It is imperative that the Minister tells the House how these businesses will be supported. I have suggested that the local enterprise boards could have their criteria altered so that they could help and assist those companies.

Another urgently needed support required by local enterprise offices, LEOs, is a specific Brexit support. Enterprise Ireland has a support mechanism available to help exporting companies. InterTradeIreland has a support to help businesses which is specifically targeted at Brexit. However, the LEOs at the minute can offer no support for those companies that may require it in the context of Brexit. It is not just those companies that are exporting or trading with the UK. It might be a company that is supporting a business trading with the UK that will be indirectly affected by Brexit. I do not expect the Minister to be able to provide details on that today, but providing him with 90 days in which to come back to the House to outline how we can support

these companies is a very fair and reasonable proposal to put forward.

We urgently need to review the criteria of Enterprise Ireland. At the moment it is involved in encouraging exporting and supporting businesses that export already or that have the potential to export. We also need to look at import substitution, especially when our nearest trading partner is going to be outside the European Union. If we do not look at that, there might be additional costs for businesses and on the Irish economy. There is an opportunity to support domestic business to fill a potential void in imports that will be coming from a third country post Brexit. The criteria laid down in the legislation for Enterprise Ireland has to be looked at now. There is little point in looking at this on 1 January 2021. Now is the time to do it.

I am asking that this House be presented with a report within 90 days which outlines how we are going to protect, support and grow local businesses that to date have fallen through the support nets we have, and that are outside the local enterprise and Enterprise Ireland criteria. They might be companies servicing the local economy, the regional economy or the national economy. They might be companies involved in import substitution, particularly from a third country, which may be the United Kingdom after 31 December 2020 at the latest. It is important that we do not ignore those companies. They are the bedrock of the provincial towns and rural economies throughout this country, and they have to be supported.

**Deputy David Cullinane:** Sinn Féin will support amendment No. 30 as well as tabling its own amendment No. 31. These amendments concern the Brexit business supports contained in this Bill. The supports which will come into effect in the event of a hard crash are the absolute bare minimum. In fact, they do not even represent the bare minimum of what is necessary to support many businesses. Exporters are suffering as we speak because of currency fluctuations and due to the strength of the euro against the pound at the moment. There are certain sectors of the economy, including many manufacturing businesses, as well as exporters, which are also suffering as we speak because of the uncertainty of Brexit. People are concerned about their jobs. The agrifood sector needs support and yet there is very little in the Bill. Rather than tinkering around the edges in respect of research and development, existing supports and increasing the thresholds and the percentages for grants, there is not much by way of real practical additional supports that are necessary for many small and medium-sized businesses.

The Irish economy is the most exposed after Britain if there is a hard crash. However, the so-called additional supports presented here are not what the stakeholders are looking for. We have engaged with IBEC, ISME and the British Irish Chamber of Commerce, all of which have called for a suite of practical measures to be put in place. However, they are not contained in this section.

When we got the briefings from the Minister's office and we had officials from different Departments, we were astounded that some of the provisions of this section relating to grant supports were increasing the thresholds to allow the State to maximise the current state aid rules. We were flabbergasted that for many years, the State was not even availing of the state aid rules that apply. We were not even applying what was allowed in the state aid rules. This was happening throughout the post-Celtic tiger years when many businesses were in very severe difficulty. We were flabbergasted that that was the case.

We had several discussions with the Tánaiste and Taoiseach on state aid rules and the need for greater flexibility from the European Union for Ireland. Nothing in the Bill gives any flexibility from Brussels. We can see no additional flexibility in state aid rules to apply to Ireland

that do not apply to countries, such as Hungary and Poland, that will not be as affected by Brexit as Ireland will, which is outrageous. Europe has been very good in supporting Ireland on the backstop but it has not been as good in supporting the Irish economy and the many Irish SMEs that will need a raft of additional supports in the event of a hard Brexit.

We also argue that the provisions of this Bill and the additional supports, limited as they are, should come into play irrespective of whether there is a hard crash. In fact, businesses need them now. Why are we only providing for these additional supports, which are very weak, in the event of a hard crash? It misses the point of the uncertainty for these businesses, which might continue for months if there is an extension of Article 50. Why are these supports not being put in place now? Our amendments to make that happen were ruled out of order possibly because there was a cost to the Exchequer. However, the point stands that they should be in place irrespective of a soft or a hard Brexit. We have consistently made the point that there is no good Brexit, hard or soft. If it is hard and there is a hard crash, the impact on the economy will be more severe. Whatever Brexit we eventually have to deal with will have a chilling effect on the Irish economy and we need to be prepared.

The British Government announced a Brexit stabilisation fund. Our proposals contained a Brexit stabilisation fund that allowed for additional supports in capital investment, and additional supports for business, a job subsidy scheme and a subsidy fund to support the agrifood sector, and yet the Government has not provided for any fund. We tabled an amendment in this area to allow the Minister to set up a €2 billion Brexit stabilisation fund with the money coming from the rainy day fund - in both last year and this year €500 million has been put into that fund - and from the Ireland Strategic Investment Fund, ISIF. That €2 billion could be put to good use to invest in the economy in terms of capital spend and to give practical supports to businesses.

A small number of multinational companies avail of the existing research and development credit scheme. Many small and medium-sized businesses cannot get a look in and are not properly supported. We have called for that scheme to be streamlined but it is not in the Bill as far as I can see. The provisions for the Brexit loan scheme where there is some additionality is a bit of a joke when many businesses at the moment are not even taking up that scheme. There are obviously issues with it. Has the Minister spoken to the stakeholders such as IBEC, ISME and the businesses which need these supports? We believe that loan scheme needs to be overhauled. Before we start tinkering with this scheme, we need to examine why many of the businesses the scheme was designed to support have not taken up the scheme.

We have also called for an employment subsidy scheme for many micro and small businesses. It is not a provision in the Bill. It was put in place after the economic crash to support vulnerable sections of the economy, which had a long-term viability but in the short term may have had to lay off staff because of difficulties. Many businesses will now experience the same because of Brexit.

The biggest market distortion to affect some sections in the economy in this State will be Brexit. In whatever form it takes, it will be an enormous market distortion for many businesses. The State seems to be taking a minimalist approach in providing state supports and aids. It is almost as if we believe the market will sort out all of these problems. The market will not sort out problems. The Minister is shaking her head, but they are not in the Bill. The provisions in the Bill are very limited and will have little impact on the many businesses that need support. If the Minister listened to the business organisations and engaged with them as we would, she would have put much more on the table.



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I again make the point that the British Government made a Brexit stabilisation fund available. The Irish Government made no such fund available. It introduced this omnibus Bill with very limited supports for businesses that are concerned about the uncertainty of Brexit and the impact it will have on their businesses. It is not good enough by any means. We will be supporting the sections of the Bill. We will not oppose any of the measures the Government is putting in place. We would support any additional support, but what the Government has proposed is far too little and far too late.

As I said at the start of my contribution, why are the provisions of the Bill only being introduced in the event of a hard crash? Many businesses need those, irrespective of which Brexit they face. I do not see why these measures are contingent on a hard crash.

**Deputy Maurice Quinlivan:** As Deputy Cullinane has said, we will be supporting amendments Nos. 30 and 31.

Having read the business, enterprise and innovation section of the Bill, I am underwhelmed by the provisions for business. I have spoken to many business groups in recent weeks and they are not exactly enthusiastic about it either. Much more remains to be done on this issue.

However, I welcome the provisions to give more power to Enterprise Ireland to assist Irish businesses exposed to the consequences of Brexit. In the spirit of approaching this Bill on a cross-party basis, we tabled two constructive amendments in the business section. Unfortunately one has been ruled out of order, like a lot of the others, but I will outline the aim of the other in a few moments.

A large portion of the business, enterprise and innovation section is dedicated to providing new powers for Enterprise Ireland. I note that many of these were already planned and contained in the proposed industrial development (miscellaneous provisions) Bill 2017. These changes for Enterprise Ireland will see the jobs agency being given the power to provide loans to client companies, as opposed to the current situation where they can only offer financial support through direct equity stakes or grants for specific purposes.

Enterprise Ireland will also be authorised to make research and development grants for research that is, in part, carried out abroad if its purpose is to broaden a firm's export market beyond the UK. I ask the Minister to provide more clarity on this and give examples of how it would operate.

Enterprise Ireland has been an incredibly successful vehicle for supporting and creating jobs across Ireland, and helping many Irish SMEs to take the leap into exporting. We hope these additional functions will help Enterprise Ireland build on this success and continue to grow our exports to a wide variety of foreign markets.

I note the Bill aims to expand the caps on state aid that can be given to companies. It seems this is just raising the limits for what is already permitted under EU law. If this is the case can the Minister outline why this has not been done so far?

I wish to ask the Minister about the current Brexit business supports. The latest figures to date are very dismal with just three weeks to go until Brexit. Just 81 loans with a value of €17.3 million have been given out under the €300 million Brexit loan scheme, a tiny 6% of the total pot. Only 241 market discovery grants have been approved while just 156 Be Prepared grants have been sanctioned. The Minister will have to admit that this is an incredibly poor uptake of

these Government supports. These supports are of no help to businesses if they cannot access them. There is obviously a problem as to why companies are not accessing these supports which the Minister needs to address. I have asked the Minister on a number of occasions to review these current supports, to cut down on red tape and to widen the criteria where possible. Has the Minister done any of those things we have asked her to do in the past? Have the Department and the jobs agencies reviewed their performance? Is there any underlying reason as to why these are not performing?

I have a couple of points also on *Údarás na Gaeltachta* and I appreciate that it does not come under the Department of Business, Enterprise and Innovation, but due to the obvious job-creation role of *Údarás na Gaeltachta* in addition to its responsibility for the sociocultural development of Gaeltacht regions, the Department must engage with the *údarás* extensively. Jobs in our Gaeltacht areas are incredibly valuable to local communities and we must do all we can to protect current jobs located there and increase the number of businesses setting up in our Gaeltacht regions. On this basis, can the Minister outline if an examination has been undertaken to explore how exposed *Údarás na Gaeltachta* client companies are to Brexit? Has *Údarás na Gaeltachta* been contacted as to whether it feels it needs any additional powers, such as the new borrowing powers that are being extended to Enterprise Ireland, or additional funds for grants?

Amendment No. 31, a Sinn Féin amendment, seeks to instruct the Minister for Business, Enterprise and Innovation to compile a report on the effectiveness of the current Brexit business supports and to present this report to the Oireachtas Joint Committee on Business, Enterprise and Innovation. It is clear from the data that the uptake of current Government supports is not working. Something, as I said earlier, has gone seriously wrong - I mentioned the figures earlier. This is a shocking and poor uptake of the Government supports. Business supports may look good in the media and when they are announced at the Minister's press conferences, but they are no help to businesses if they cannot access them. I have asked the Minister to review the current supports, cut down the red tape and widen criteria where possible. As far as I am aware this has not happened to date. If passed, the review mentioned in the amendment would include but not be limited to examining why there has been such a low uptake of these Brexit business supports to date, identify barriers to businesses accessing these supports and offer solutions on how to make it easier for businesses to benefit from these supports.

I ask the House to support this amendment which I will press.

**Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys):** In addressing the amendments, I commissioned a wide-ranging review of the OECD countries on SME and entrepreneurship policies in March 2018. Part of this extensive review is examining the provision of supports for indigenous businesses and how they are assisted by Departments and agencies to grow. This report will examine the strategic framework and delivery system for SMEs and entrepreneurship policy in Ireland. The report will be published, for Deputy Naughten's information, in the third quarter of this year and we will await its findings and recommendations. I want to reassure the Deputy also that I am focusing on indigenous Irish companies and am very conscious that they also need to be supported on Brexit.

For that reason I take this opportunity to list the supports for non-exporting businesses. First, there is the Brexit loan scheme which is open to all businesses. It is a working capital facility that is available at an interest rate of 4%, repayable over three years. InterTradeIreland has a €2,250 Start to Plan voucher and one does not need to be an exporter to get this, but can be an indigenous Irish company. Regardless of the number of employees the company has it can

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apply for it. Yesterday, I launched the Start to Act voucher which is available through Enterprise Ireland which has a value of €5,650. InterTradeIreland has also received an additional €1 million from my Department in budget 2019, which was without the need for matching funding from Northern Ireland, because I knew that there was going to be an increased demand for its services in view of Brexit. For that reason it received an increase of 17% in its budget. It also has a complete suite of advisory services that are available to everybody, be it a tariff checker, or online customs training for those that are importing which can be availed of from InterTradeIreland which is providing a broad range of services.

The local enterprise offices, LEOs, are also marketing the InterTradeIreland schemes. This is available across the board, there is customs training, mentoring and business planning. They give out consultancy grants, with no limit as to employees, to companies of whatever size. They have lien grants and innovation supports through vouchers etc. All of the supports are available through local enterprise offices, regardless of the number of employees a company has or whether it is exporting or not. For that reason I increased the budget to local enterprise offices by €5 million in budget 2019, a 22% increase, to help them do exactly what the Deputy said, namely, indigenous Irish companies.

There is also Microfinance Ireland which has €25,000 available for lending to SMEs and the credit guarantee scheme. There are a lot of supports available to indigenous Irish SMEs which are not exporting and I want to make them aware of these again and I thank the Deputy for raising this issue because no matter how many times this is said, people may not be aware of the supports that are available.

The Deputy's premise as to the take-up of the Brexit supports is not correct. In fact, my information is that take-up has been quite robust. The Brexit loan scheme was launched in 2018 and I am pleased to say that there has been a steady stream of applications so far. The Strategic Banking Corporation of Ireland, SBCI, has received 462 applications under the Brexit loan scheme up to 22 February 2019. Some 413 of those applications have been deemed eligible for a loan under the scheme, and of those, 81 have been progressed to sanction at finance-provider level to a total value of €17.32 million. It is important to remember that this scheme is not a loan for businesses to carry on as usual. We are asking businesses to consider carefully what they need to do to address successfully their Brexit challenge through innovating, changing or adapting their business model in some capacity. These responses may include strengthening their product offerings, developing new markets to diversify their trade footprint, changing their organisational structure or developing new capabilities. Work continues on the long-term future growth loan scheme, which will help eligible businesses invest strategically in a post-Brexit environment. This scheme was announced as part of budget 2019 and is expected to launch very shortly. In 2018, Enterprise Ireland provided approval for funding of €74 million to 535 Brexit-exposed companies across a range of Brexit financial supports. In addition, there were Brexit interventions with over 1,000 companies which have significant exports to the UK. Over 1,000 companies have attended Brexit advisory clinics across the country, and 4,400 companies have completed the Brexit SME scorecard, and almost 1,000 have completed the Enterprise Ireland online customs insights programme since December. Visits to the *prepareforbrexit.ie* website, which contains information on a range of Enterprise Ireland, LEO and other agency supports, has increased ten-fold over the past 12 weeks and we have reached 90% of the SME audience with our Brexit supports communications. My Department has also allocated €8 million extra for Brexit staffing and supports across enterprise and regulatory agencies, the roll-out of new customs training through local enterprise offices and Enterprise Ireland, an Enterprise Ireland

guide to best practice on managing currency volatility - the Deputy mentioned about customers needing to hedge their currency risk - and €1 million in additional funding for InterTradeIreland.

All of our supports are kept under constant review and we have had no feedback to say there are gaps. We have dealt with any change that has been requested. For example, I regularly meet the business representative bodies. I have met the retailers and food importers to ensure the security of our food supply. I also meet all departmental agencies.

*8 o'clock*

A request regarding import VAT of 23% was brought to my attention. I raised the matter with the Minister for Finance, Deputy Donohoe, who has made changes in this Bill to address the issue of paying VAT at the point of import. It would have had significant cashflow implications for businesses, but the change will be of major benefit to them.

It is not necessary to legislate for a review of these supports. We review them constantly to determine whether there are gaps.

Regarding the Brexit stabilisation fund, we achieved agreement with the European Commission last week on increasing the rescue and restructuring safety net for SMEs to €200 million. We have close engagement with the Commissioner. She is well aware of the challenges facing this country and has assured us that the Commission will do everything it can to assist us.

I have covered most of the issues raised. For the reasons outlined, I cannot support these amendments. It is not necessary to insert in legislation the requirement to carry out a review. We work with all of the bodies involved and I meet businesses on a daily basis. For example, I attended an InterTradeIreland event yesterday. A large number of businesses were there. They are availing of the many supports that exist. I encourage people who have not yet engaged to do so. The Government is here to help and we want to help businesses in preparing for Brexit.

**An Leas-Cheann Comhairle:** I ask Deputies to observe the clock.

**Deputy David Cullinane:** The Minister's response was underwhelming. She did not deal with most of my points, including that on state aid rules. She stated that the Commissioner was aware that Ireland faced challenges and gave her assurances, but we need more than assurances from Brussels and the Commissioner. For a long time, we were told by the Tánaiste and other Ministers that a suite of bespoke solutions would be made available to this State beyond what would be available to other member states, as they would not be as adversely affected economically as us, given the close relationship between the Irish and British economies and how we are more exposed than any other member state. Nothing in these provisions strays outside of current state aid rules. There is no additionality that any other member state is unable to avail of.

The Minister is living in cloud cuckoo land if she believes that the different sectoral groups in the business community view the supports in place as adequate for a hard crash. We have met the groups as well. We have presented our proposals, which have been well received. The groups have sought significant changes to state aid rules. They recognise that we must increase capital spending at ports-----

**Deputy Heather Humphreys:** We are doing that.

**Deputy David Cullinane:** -----and investment in public transport if we are to make ourselves competitive. Nothing of any significance in that regard is being done.

**Deputy Heather Humphreys:** It is being done.

**Deputy David Cullinane:** I disagree with the Minister's analysis of the Brexit loan scheme. She stated that 430 companies had applied and 81 had been successful and would benefit. Only 430 companies have applied. What about those that have not? Businesses tell us that they cannot engage with the scheme because it is too cumbersome and needs to be overhauled. The Government has not dealt with that issue. Only 81 out of the 430 have progressed to the point of being able to avail of the scheme. That is not enough.

I can see nothing in this Bill for the agrifood sector apart from what is available for everyone else. There are no bespoke supports for it.

I am flabbergasted that we have debated supports for the SME sector and there has been no contribution whatsoever from Fianna Fáil. It is obvious that Fianna Fáil believes that the Government is doing a great job in supporting SMEs and that, if there is a hard crash, everything the Government is putting in place will be enough. Many SMEs will be disgusted that one of the larger political parties has offered no contribution to this debate on the additional supports that business requires. It is a dereliction of responsibility by Fianna Fáil.

That party might be keeping the Minister in her job, but she is the one responsible for putting in place a suite of measures for businesses. She has missed the point entirely. She rattled off the supports that were in place. I have already conceded that they are in place - we do not believe they are enough or adequate - but the additional supports being sought all have to do with a hard crash. She is missing that point. Businesses, in particular exporting SMEs that are most exposed because they have a strong trading relationship with Britain, need these supports now irrespective of a hard crash, yet the Minister is fiddling around the edges of most of these proposals without making substantive changes and is saying that these will only apply if there is a hard crash. Wake up and smell the reality. There are businesses that need these additional supports now.

No one wants to see a hard crash and I still believe it is unlikely, but if there is a hard crash, many businesses will be very exposed. They will be disappointed and sore that this is the best the Government can do. It is deeply ideological. It is Fine Gael once again saying that the market should solve these problems and interventions by the State should be as limited as possible. That is the problem. The Government does not see that the mammoth challenges facing the economy and businesses need State interventions and supports of a greater scale than the minimalist one it is proposing.

We will press the amendment to a vote and will view it as a vote of no confidence in the Government's support for business, which is what these amendments are concerned with. Much more needs to be done. The Minister does not realise that. If she believes that, by attending an InterTradeIreland event and speaking to a small number of businesses, everything is hunky dory, it is not. There are businesses that are struggling because of Brexit. When we meet them, they tell us that the Government is not doing enough.

**Deputy Maurice Quinlivan:** If I was not sure about pressing amendment No. 31 before, I am sure after the Minister's response. It was underwhelming. She stated that information had reached 90% of SMEs and then queried my figures on the uptake of business supports, yet she then cited the same figures herself. Just 81 loans with a value of €17.3 million have been given out under the €300 million Brexit loan scheme. That is 6%. People might be aware that the loan exists, but they are coming away from the events - I have attended a number of them and some have been quite good - still confused and unable to access the loan. That is clear.



I do not understand why the Department cannot revert to us with a review of the loans and of why the uptake rate is so low. That is the purpose of my amendment, which we will be pressing. We will also support amendment No. 30.

**Deputy Denis Naughten:** It is not my intention to divide the House on this, but my amendment is fair and reasonable. I have outlined to the Minister why we need this amendment. Local enterprise offices are calling for its provisions. They have met the Minister. They want to be able to support businesses of over ten employees. They want to be able to support companies that do not fall under the Enterprise Ireland criteria. That is the reality of it. These businesses will struggle. At the moment, all of the focus is on a hard Brexit in 24 days and, with all due respect, the Government had to focus on that. I fully accept that it had to focus on exporters and importers but regardless of whether it is a soft or a hard Brexit, within 21 months we will have Brexit in Ireland. This will not just impact on importers and exporters but also on small businesses throughout this country. They are not exporters because they do not have the opportunity to export but they are creating a lot of jobs in provincial towns and rural Ireland. However, they do not fall under any of the support criteria in place at the moment. We need to broaden the definition of the supports that are available through the LEOs. The LEOs themselves want to be able to assist these companies. We also need to broaden the definition of support provided by Enterprise Ireland, not just focusing on exports but also on import substitution, particularly when our nearest neighbour is going to be a third country. This will open up opportunities for import substitution and will allow Irish companies to fill that void.

The Minister made reference to a review report in quarter three of this year but to me, that is live horse, and get grass. These companies cannot wait that length of time. That is why I have laid out in my amendment that the report would be presented to Dáil Éireann within 90 days, regardless of whether we have a hard or a soft Brexit. The report should detail how we can support the non-exporting indigenous local businesses that are the backbone and bedrock of employment throughout this country. These companies must be supported but there is a gap in the system. As a State, we must put the mechanisms in place to support those companies in the context of Brexit. Regardless of whether it is in 24 days or 21 months, Brexit is happening and these companies need support.

**Deputy Heather Humphreys:** There are many supports available to non-exporting indigenous businesses, some of which I listed. We are looking at providing more supports through the future jobs initiative which I will be launching on Sunday. I have met all of the LEOs and assure the Deputy that they can provide a broad range of supports to non-exporting Irish companies. I have read out the list of supports. It is on the record of the House and I do not propose to go through it again.

In terms of state aid, the issue is looked at case by case. The EU's state aid approved rescue and restructure scheme is in place to deal with sudden shocks. Funding under that scheme has been increased to €200 million, which will provide an important safety net for Irish businesses. This increased budget is prudent as part of our overall contingency plan for Brexit. I was delighted with the recent announcement that the European Commission has given state aid approval for investment in an Irish cheese company, Carbery Foods Ingredients Limited. The fact that this company has received such funding is an indication that the supports are there. A wide range of supports are available and Deputy Cullinane should familiarise himself with the full range of supports that are available through Enterprise Ireland, IntertradeIreland, the LEOs and through-----

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**Deputy David Cullinane:** The Minister is inviting me to come back with a long list of what is not there.

**Deputy Heather Humphreys:** No.

**Deputy David Cullinane:** I am more than happy to do that. I could educate the Minister. I do not need to be educated on what is there.

**An Leas-Cheann Comhairle:** The Deputy will have another opportunity to contribute.

**Deputy David Cullinane:** I may take that opportunity if the Minister persists.

**Deputy Heather Humphreys:** To be fair, there is a long list of available supports. A total of 168 Be Prepared grants have been approved, 251 projects have been approved under the Enterprise Ireland market discovery fund, and 43 agile innovation projects have been approved under the aforementioned Enterprise Ireland fund. A total of 13 Brexit advisory clinics have been run with more than 1,000 in attendance and 190 act on plans have been completed. To date, 4,435 Brexit scorecards have been completed and-----

**Deputy David Cullinane:** Scorecards?

**Deputy Heather Humphreys:** -----722 LEO clients have completed a scorecard. The list goes on and on. In fairness, businesses are responding and seeking out these supports. We are here to help them and want to continue to do so. This is emergency legislation before us today but all of these supports have been in place for some time. Since 2016 we have been helping businesses to prepare for Brexit. Admittedly, some businesses asked initially what they should prepare for and left it until very late in the day. However, there has been a huge take-up of Brexit supports in recent weeks as the situation has crystallised. This legislation will give Enterprise Ireland more powers to enable it to provide more supports to businesses.

**Deputy Billy Kelleher:** At the end of the day we must all be conscious of the fact that we do not know what will transpire in the weeks and months ahead, in terms of the legislative flow from decisions made in this House and the impact that Brexit will have on the broader economy. While it could be argued that the non-exporting indigenous sector may not be immediately impacted by Brexit because it is not exporting, there is no doubt that there could be negative knock-on effects from a slowdown in the economy or a squeeze on credit, for example. In that context, the proposal by Deputy Naughten has merit. We are unsure and we must take imaginative steps to assess the potential impacts of Brexit in the time ahead. The Deputy's provision of a 90-day limit would bring a sense of urgency to the process undertaken by the agency tasked with carrying out the assessment of the non-exporting indigenous sector to see if there are pinch points affecting it. Credit and cashflow are issues in that regard. We have consistently said that small and medium businesses have serious difficulties in accessing funding from the pillar banks. Some companies may need cashflow carry over in terms of inventory, stock and so on, but the banks are very reticent about lending to the SME sector. In that context, there is a lot of merit in Deputy Naughten's proposal and I urge the Minister to give it serious consideration, especially as it does not do anything materially to undermine the legislation's aim of ensuring that there is a legislative bulwark against a hard Brexit.

Regardless of what type of Brexit transpires, it will have an impact. As the Taoiseach said, Brexit of whatever type is a lose, lose, lose. Who gains from Brexit? Nobody gains and in that context, even the indigenous, non-exporting sector could find itself in real difficulty. I urge the

Minister to give the proposal serious consideration. Beyond that, there is the fact that Enterprise Ireland is statutorily charged with dealing with companies that are exporting and which have more than a certain number of employees. There is a gap there in terms of indigenous non-exporting companies that may want to put out feelers *vis-à-vis* international markets. They may want to take that next step but there is a shortage of policy and supports in that area to enable those in the non-exporting indigenous sector to move into the exporting sector. It is a daunting task and while I know that toolboxes are available for assessing export markets and so on, it is still a big leap for smaller companies. This is an area that the Department should keep an eye on, given that these companies are the backbone of our economy. They are not often flagged and heralded but they provide the majority of employment throughout this State.

**Deputy David Cullinane:** I am glad that I have provoked some of the Fianna Fáil Deputies and that Deputy Kelleher has at least put something on the record for Fianna Fáil. Fair play to him for that. He is right in saying that businesses are unsure. We are all unsure as to what exactly is going to happen and that uncertainty is creating problems. The Government has not done enough. Fianna Fáil has not come forward with any plan whatsoever on Brexit with regard to any additional supports needed by businesses. I did not hear any plan in Deputy Kelleher's very short contribution. When the Minister responded earlier it was, again, a shocking response to the position businesses will find themselves in if there is a hard crash. The Minister, Deputy Humphreys, talked of clinics and scorecards. It is almost as if the Government is saying that businesses should Google responses. These are desktop supports rather than practical, financial supports that are necessary to support businesses.

**Deputy Heather Humphreys:** The supports are there.

**Deputy David Cullinane:** They are not there to any great degree.

**Deputy Heather Humphreys:** The supports are there.

**An Leas-Cheann Comhairle:** The Deputy, please, without interruption.

**Deputy David Cullinane:** The Minister can keep saying the supports are there and she can rattle off a lot of supports that are there, but there are not enough by far. If we consider what other countries are doing and the supports they are putting in place compared with what the Government is putting in place here, Ireland will not be half as effective. It is shocking. There are no supports in this for the agrifood sector. There are no additional supports with regard to state aid rules such as those that other countries can avail of.

**Deputy Heather Humphreys:** There are.

**Deputy David Cullinane:** There are not. We are not straying outside of existing state aid rules anywhere in this omnibus Bill. Nowhere. Will the Minister point to one area in the Bill that goes beyond current state aid rules? There is not one. The Minister said that I should familiarise myself----

**Deputy Heather Humphreys:** They are already there.

**Deputy David Cullinane:** Exactly. The Minister, however, misses the point entirely. The Irish economy needs bespoke additional support. There is no break with the state aid rules in this omnibus Bill. We are providing nothing that any other member state in the EU cannot provide to its businesses, even though Ireland is deeply exposed as an economy. Europe needs

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to step up to the plate. I welcome the €200 million rescue and restructuring fund but I ask the Minister, please, not to insult businesses by saying that businesses who go to clinics and fill out scorecards are being properly supported. There is a whole raft of additional supports they need which they are not getting. These businesses are experiencing real uncertainty and real challenges. It is not every sector of the economy. Some sectors are more exposed than others.

I challenge the Minister to read Sinn Féin's proposals and not just mine. I suggest she read the proposals submitted to all parties by the British Irish Chamber of Commerce, ISME, and by IBEC. The Minister should fact-check those proposals and evaluate them against what the Government does. She will see very quickly that the Government is falling short despite what she is saying, despite her spin and despite the bluster of her responses. It does not stack up with reality at all. I am very clear in my analysis that the Government is not doing enough. It is doing nowhere near enough. I will not be coming back in again and we will press the amendment.

**Deputy Denis Naughten:** I thank Sinn Féin and Fianna Fáil for their support for the amendment I tabled. I put it to the Minister that it is a helpful amendment. The objective behind it is to focus on this cohort of businesses, which are disproportionately represented within rural communities, in rural constituencies throughout the State and in the provincial towns in rural Ireland. We very much need to try to focus on them and provide these companies with support. Work has been done with regard to export and import companies but we now need to look at these businesses. Having a report back in the House in 90 days would allow us to look at this cohort of businesses specifically, especially given that we will have Brexit at the very latest within the next 21 months.

Amendment agreed to.

**Deputy David Cullinane:** I move amendment No. 31:

In page 17, after line 33, to insert the following:

**“Review of Brexit Business Supports**

8. (1) The Minister for Business, Enterprise and Innovation may undertake a review of the current Brexit business supports, including but not limited to:

- (a) the Brexit Loan Scheme;
- (b) the Enterprise Ireland Market Discovery Fund;
- (c) the Enterprise Ireland Be Prepared Grant;
- (d) the Enterprise Ireland Brexit Act On Initiative;
- (e) the Enterprise Ireland Agile Innovation Fund; and
- (f) the InterTradeIreland Brexit Start to Plan Voucher schemes.

(2) This review will include, but not be limited to; examining why there has been such a low uptake of these Brexit business supports to date, identify barriers for businesses accessing these supports and offer solutions on how to make it easier for businesses to benefit from these supports.

(3) The Minister will send the findings of this review to the Oireachtas Joint

Committee on Business, Enterprise and Innovation within two months of the enactment of this Act.”.

Amendment put:

<i>The Committee divided: Tá, 25; Níl, 45; Staon, 27.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Brady, John.</i>	<i>Bailey, Maria.</i>	<i>Brassil, John.</i>
<i>Broughan, Thomas P.</i>	<i>Breen, Pat.</i>	<i>Browne, James.</i>
<i>Buckley, Pat.</i>	<i>Brophy, Colm.</i>	<i>Butler, Mary.</i>
<i>Collins, Joan.</i>	<i>Bruton, Richard.</i>	<i>Cahill, Jackie.</i>
<i>Cullinane, David.</i>	<i>Burke, Peter.</i>	<i>Calleary, Dara.</i>
<i>Doherty, Pearse.</i>	<i>Byrne, Catherine.</i>	<i>Chambers, Jack.</i>
<i>Ellis, Dessie.</i>	<i>Cannon, Ciarán.</i>	<i>Collins, Niall.</i>
<i>Ferris, Martin.</i>	<i>Carey, Joe.</i>	<i>Curran, John.</i>
<i>Funchion, Kathleen.</i>	<i>Collins, Michael.</i>	<i>Donnelly, Stephen S.</i>
<i>Howlin, Brendan.</i>	<i>Corcoran Kennedy, Marcella.</i>	<i>Dooley, Timmy.</i>
<i>Kenny, Martin.</i>	<i>Coveney, Simon.</i>	<i>Harty, Michael.</i>
<i>Martin, Catherine.</i>	<i>D'Arcy, Michael.</i>	<i>Lawless, James.</i>
<i>Mitchell, Denise.</i>	<i>Deering, Pat.</i>	<i>MacSharry, Marc.</i>
<i>Munster, Imelda.</i>	<i>Doherty, Regina.</i>	<i>Martin, Micheál.</i>
<i>Murphy, Catherine.</i>	<i>Doyle, Andrew.</i>	<i>McGrath, Michael.</i>
<i>Naughten, Denis.</i>	<i>Durkan, Bernard J.</i>	<i>Moynihan, Aindrias.</i>
<i>O'Reilly, Louise.</i>	<i>Farrell, Alan.</i>	<i>Moynihan, Michael.</i>
<i>O'Sullivan, Maureen.</i>	<i>Fitzgerald, Frances.</i>	<i>Murphy O'Mahony, Margaret.</i>
<i>Ó Laoghaire, Donnchadh.</i>	<i>Flanagan, Charles.</i>	<i>Murphy, Eugene.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Harris, Simon.</i>	<i>O'Callaghan, Jim.</i>
<i>Pringle, Thomas.</i>	<i>Healy-Rae, Danny.</i>	<i>O'Dea, Willie.</i>
<i>Quinlivan, Maurice.</i>	<i>Heydon, Martin.</i>	<i>O'Keeffe, Kevin.</i>
<i>Smith, Bríd.</i>	<i>Humphreys, Heather.</i>	<i>O'Loughlin, Fiona.</i>
<i>Stanley, Brian.</i>	<i>Kehoe, Paul.</i>	<i>Rabbitte, Anne.</i>
<i>Tóibín, Peadar.</i>	<i>Kyne, Seán.</i>	<i>Scanlon, Eamon.</i>
	<i>Lowry, Michael.</i>	<i>Smith, Brendan.</i>
	<i>Madigan, Josepha.</i>	<i>Troy, Robert.</i>
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	



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	<i>Noonan, Michael.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Stanton, David.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies David Cullinane and Maurice Quinlivan; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

## SECTION 8

**An Leas-Cheann Comhairle:** Amendments Nos. 32 to 35, inclusive, are related and will be discussed together.

**Minister for Communications, Climate Action and Environment (Deputy Richard Bruton):** I move amendment No. 32:

In page 18, line 34, after “which” to insert “*Chapter 1* of”.

I will set out the background to this. The EU fluorinated greenhouse gas regulation No. 517/2014 requires people and companies working on fluorinated greenhouse gases, F gases, equipment to be certified. The type of equipment involved includes electrical switch machinery, fire suppression, solvents, refrigeration, air conditioning, heat pumps and motor vehicles. People and companies working on this in a range of areas are required to be certified. Traditionally, both individuals and companies have been certified in the UK by the competent authorities' certification bodies in the UK. The reason we are introducing this amendment is that we were advised by the Attorney General that it would be optimal to have primary legislation to provide for the form of recognition for these UK certified individuals and companies rather than leave it to secondary legislation.

Amendment No. 32 inserts the new Chapter 1 into the Bill. Amendment No. 33 provides the various definitions.

Amendment No. 34 provides that an individual who immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 5 of the Commission regulation of April 2008 in respect of an activity referred to in Article 1, which are the activities I mentioned earlier relating to refrigeration, air conditioning, heat pumps, motor vehicles, electrical switching and so forth, will be deemed to hold an equivalent certificate

which is to be recognised in Ireland under that relevant section. Subsection (2) of that section provides that persons or companies will be given six months during which they can continue to operate with the UK certificate as recognised, but during that six months they will be required within the first four months to apply to the relevant agency, or the Minister in the case of a company, to get Irish certification. During the six-month period they must apply within four months and the agency, which in this case will be the EPA, will issue a certificate to them validating and providing an Irish certificate within six months.

It is more restricted in the case of a company. This is in the area of refrigeration and fire suppressants. In their case the same rules will apply about the equivalency of a certificate from the UK. The companies will also have six months during which they can continue to operate, and during that period they will have four months within which to apply. They apply to the Minister for certification. They will also be required, as is the case under the present arrangement, to seek annual renewal from the Minister each year. That is the current recognised approach. The reason the Minister is the person to whom the application is made is that currently this type of vetting of certification is assigned to a private entity. It is up to the Minister to work out the contractual arrangements with that private entity, which will carry out the necessary vetting of applicants.

This is a legislative measure to get over a gap in mutual recognition. Currently, there is mutual recognition of certificates within the EU so a UK certificate is valid throughout the EU. However, if the UK crashes out of the EU and the certificates cease to be recognised under mutual recognition, we must put this provision in place to ensure that people working in these important areas have the necessary certification and that the public have that assurance with regard to those who will be doing that type of work.

I commend the amendments to the House.

Amendment agreed to.

Section 8, as amended, agreed to.

## NEW SECTIONS

**Deputy Richard Bruton:** I move amendment No. 33:

In page 18, after line 38, to insert the following:

### “CHAPTER 1

*Qualification to carry out activity relating to fluorinated greenhouse gases*

#### **Interpretation**

**9.** In this Chapter—

“Agency” means the Environmental Protection Agency;

“equivalent certificate” means an equivalent certificate referred to in *paragraph (a), (b), (c) or (d) of section 10(1) or paragraph (a) or (b) of section 11(1)*;

“equivalent training attestation” means an equivalent attestation referred to in *paragraph (e) of section 10(1)*;

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“Minister” means the Minister for Communications, Climate Action and Environment;

“relevant date” means the date of the withdrawal of the United Kingdom from membership of the European Union.”.

Amendment agreed to.

**Deputy Richard Bruton:** I move amendment No. 34:

In page 18, after line 38, to insert the following:

**“Equivalent certification, equivalent training attestation relating to individuals**

9. (1) (a) An individual who, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 5 of Commission Regulation (EC) No 304/2008 of 2 April 2008<sup>1</sup> in respect of an activity referred to in Article 2(1) of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(b) An individual who, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 3 of Commission Regulation (EC) No 306/2008 of 2 April 2008<sup>2</sup> in respect of an activity referred to in Article 1 of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(c) An individual who, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 3 of Commission Implementing Regulation (EU) 2015/2066 of 17 November 2015<sup>3</sup> in respect of an activity referred to in Article 1 of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(d) An individual who, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 4 of Commission Implementing Regulation (EU) 2015/2067 of 17 November 2015<sup>4</sup> in respect of an activity referred to in Article 2(1) of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(e) An individual who, immediately before the relevant date holds a valid training attestation issued by an attestation body in the United Kingdom under Article 3 of Commission Regulation (EC) No 307/2008 of 2 April 2008<sup>5</sup> in respect of an activity referred to in Article 1 of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent training attestation.

(2) An individual who holds an equivalent certificate or equivalent training attestation may carry out the activity to which the equivalent certificate or equivalent training attestation relates until the date that is 6 months from the relevant date or the date on which a certificate or training attestation is issued by the Agency under *subsection (3)*, whichever is earlier.

(3) An individual who holds an equivalent certificate or equivalent training attestation shall apply to the Agency not later than 4 months after the relevant date for the issue by it of a certificate or training attestation in respect of the activity to which the equivalent certificate or training attestation relates and such certificate or training attestation shall, subject to *subsection (4)*, be issued by the Agency not later than 6 months after the relevant date.

(4) The Agency shall issue a certificate or training attestation where an application is made in accordance with the procedures established by the Agency in that behalf.”.

Amendment agreed to.

**Deputy Richard Bruton:** I move amendment No. 35:

In page 18, after line 38, to insert the following:

**“Equivalent certification relating to companies**

9. (1) (a) A company which, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 8 of Commission Regulation (EC) No 304/2008 of 2 April 2008 in respect of an activity referred to in Article 2(2) of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(b) A company which, immediately before the relevant date holds a valid certificate issued by a certification body in the United Kingdom under Article 6 of Commission Implementing Regulation (EU) 2015/2067 of 17 November 2015 in respect of an activity referred to in Article 2(2) of that Commission Regulation is deemed, for the purpose of carrying out that activity, to hold an equivalent certificate.

(2) A company which holds an equivalent certificate may carry out the activity to which the equivalent certificate relates until the date that is 6 months from the relevant date or the date on which a certificate is issued by the Minister under *subsection (3)*, whichever is earlier.

(3) A company which holds an equivalent certificate shall apply to the Minister not later than 4 months after the relevant date for the issue by the Minister of a certificate in respect of the activity to which the equivalent certificate relates and such certificate shall, subject to *subsection (4)*, be issued by the Minister not later than 6 months after the relevant date.

(4) The Minister shall issue a certificate where an application is made in accordance with the procedures established by the Minister in that behalf.

(5) A certificate issued by the Minister under this section shall be valid until the end of the calendar year in which it is issued.”.

Amendment agreed to.

**Deputy Brian Stanley:** I move amendment No. 36:

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In page 18, after line 38, to insert the following:

**“Amendment of Schedule 1A of Electricity Regulation Act 1999**

9. Schedule 1A to the Electricity Regulation Act 1999 is amended by the insertion of the following new paragraph after paragraph 17:

“18. The SEM Committee will be cognisant of ensuring regulatory alignment to protect the single electricity market and will report to the Minister on actions taken with relevant bodies in other jurisdictions and aim to maintain the single electricity market.””.

The amendment is straightforward and inserts a new paragraph regarding the single electricity market, SEM, committee. We consider this very important. It is the only area in the Bill that is truly all-Ireland. We have discussed many times the benefits of the all-Ireland economy and particularly the single electricity market which was established under the Electricity Regulation Act 1999. In a post-Brexit situation it is important that the single electricity market is maintained if the benefits are to continue for householders and businesses North and South and, indeed, for the environment.

The amendment seeks to amend the Electricity Regulation Act 1999. The SEM committee was established under this Act. It is an all-Ireland body, with representatives from the regulator in Belfast, appointed by the regulator in Belfast, and representatives from the regulator in Dublin, which oversees the functioning of the all-Ireland electricity market that has been in place for over a decade. Nobody would argue that it has not been a success story. It has been of great benefit for both the North and the South, but particularly for the North in terms of the supply of electricity. The amendment provides that, in the event of a hard Brexit, the single electricity market committee, of which three members are appointed by the Minister, will deal with the new regulatory circumstances that will exist and will attempt to ensure regulatory alignment on the island. The new market rules for the integrated single electricity market, I-SEM, were launched last year. It is reported that they could cut energy bills for businesses and householders by up to €200 million per annum, which is what we all want to move towards given the economy of scale in terms of serving 6.6 million people. In order to ensure that we retain the single electricity market and all of the benefits it has brought to people, North and South, east and west, we believe this amendment is necessary. The Minister may say that this amendment is not necessary because the single electricity market committee comprises three people from the North. As the Minister will be aware, a lot of legislation is being passed here that is predicated on similar legislation being passed in Britain or by the Assembly, when up and running again, but we believe this needs to happen now in preparation for Brexit.

The Minister and I recently had a discussion in this Chamber on tariffs. He assured me then that the British Government would do the same as we proposed to do in regard to regulations relating to tariffs. Many of the actions we are taking are predicated on Britain taking corresponding actions from a legislative point of view. The intention of this proposal is to retain, maintain and strengthen the single electricity market.

**Deputy Richard Bruton:** I thank the Deputy for the amendment and for raising the issue of the single electricity market. As he outlined, we had a useful debate on the issue in committee and the House recognised the importance and value of the single electricity market. It is an all-island market that works satisfactorily. It has brought significant savings, North and South,



and it is a market that will continue in a jointly-operated single market with one transmission system even after a British exit. The single electricity market has been very valuable. It was set up with legislation, North and South. The single electricity market committee comprises the Commission for Regulation of Utilities, CRU, and the Utility Regulator of the North and it is independent under law. It does not report to the Minister. Rather, it reports directly to the Oireachtas.

There are a number of reasons it is not appropriate to accept this amendment. In the first instance, I am satisfied that the single electricity market committee has all the powers it needs. In the case of the CRU, these powers are set out in our Acts and there obviously is legislation underpinning the Utility Regulator in Northern Ireland. The Oireachtas cannot legislate unilaterally for the operation, North and South. It is beyond our jurisdiction to be seeking to legislate for the operation of bodies although they participate in the single electricity market committee. We are confident that it will continue to be jointly operated and that there is great support for it not only the North and the South but in the UK and the European Union.

This amendment is not necessary in the first instance. It would be inappropriate to seek to have an independent regulator report to the Minister. Under existing legislation, independent bodies report to the Oireachtas. It is open to the Oireachtas committee to call in the CRU at any time if it wants assurances about the continuing alignment and operation of the single electricity market. I am satisfied that the amendment, although tabled with the best of intentions, would not be an appropriate amendment to put into this legislation. I am also satisfied that if the committee wants to receive reassurances from the CRU as events develop, it will be in a position to report. We have just passed amendments giving additional powers to the CRU to modify licences in the event of anyone exercising market power that would serve to disrupt the operation of the markets. This is a purely precautionary power but it is one that the regulators wanted because they did not want to have to wait up to ten months to modify a licence. This power has been provided but it will be very much restricted in use to respect the operation of this market. It is a power in reserve for the CRU should it be necessary.

I regret that I am not in a position to accept the amendment.

**Deputy Brian Stanley:** I note the reasons the Minister has outlined for not being able to accept the amendment but there are a couple of things I would like to point out to him. This is essential to the provision of power on this island regardless of what type of Brexit happens, but particularly if it is a hard Brexit. This is not something that can be left to chance. On the issue of what way this would go down north of the Border, I do not see anybody there objecting to this because their electricity supply is on a knife edge. There are times when they do not have sufficient electricity. My information is that they are dependent on electricity from the Twenty-six Counties. As we move further away from fossil fuels, their position will be weakened further and they will very dependant on power from the Twenty-six Counties. I would argue that this is an important all-Ireland measure.

I take on board some of the points made by the Minister but I reiterate that a lot of what we are doing on Brexit is predicated on the British Government or, possibly, a future Northern Ireland Assembly, taking similar legislation actions and putting similar regulations in place. This is another necessary measure. If the Minister is concerned about this proposal being over-reaching in terms of what can be done north of the Border but he is open to reflecting on and tweaking the amendment to provide for what can be done in this State and to bringing it forward on Committee Stage in the Seanad, that is fair enough. If not, I will be pressing the amendment.

**Deputy Richard Bruton:** The regulation for the single electricity market is based on legislation, North and South.

It is not based unilaterally on legislation provided by the Oireachtas and, therefore, we cannot unilaterally introduce changes to the legislation that underpins this, which is what the Deputy seeks to do. He wants the Oireachtas to bind the operation of the committee, which has parent legislation both North and South, but that is not in accord with legislation. I think he knows and recognises that we cannot start legislating in the House for the operation of another jurisdiction and it would be very incorrect for us to seek to do so.

In the second instance, it is important to emphasise the independence of regulators both North and South who participate in the committee. They are not answerable to the Minister and, as required under EU legislation, they cannot be answerable to a Minister, which we are very conscious of. EU Directive 2009/72/EC stipulates that member states must guarantee the independence of their national regulatory authorities, which is what we are doing in the Bill. The provision in the Deputy's amendment, where he seeks to make the single electricity market report to the Minister, is inappropriate and not in accordance with European law. I reiterate that, as members of the Oireachtas joint committee, Deputy Stanley and other Deputies have the power, correctly exercised, to summon the regulator to assure the committee of the continuing operation of the market.

We are confident that the regulation of the single electricity market, as overseen by the single electricity market committee, is appropriately structured, has the necessary powers and does not need additional powers. It can oversee the operation of the market and is determined to do so. It operates as a single market with a single transmission system and, therefore, it is not a question of cross-Border trading. It is treated as a single market and is one of the few areas where we have a fully integrated market, operating jointly with joint oversight by regulators North and South. If the Deputy presses an amendment that is neither legally robust nor adds any protection, it will be inappropriate.

**An Leas-Cheann Comhairle:** Is the amendment being pressed?

**Deputy Brian Stanley:** Yes.

Amendment put:

<i>The Committee divided: Tá, 19; Níl, 74; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Brady, John.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Brassil, John.</i>	
<i>Collins, Joan.</i>	<i>Breen, Pat.</i>	
<i>Cullinane, David.</i>	<i>Brophy, Colm.</i>	
<i>Ellis, Dessie.</i>	<i>Browne, James.</i>	
<i>Ferris, Martin.</i>	<i>Bruton, Richard.</i>	
<i>Kenny, Martin.</i>	<i>Burke, Peter.</i>	
<i>Martin, Catherine.</i>	<i>Butler, Mary.</i>	
<i>Mitchell, Denise.</i>	<i>Byrne, Catherine.</i>	
<i>Munster, Imelda.</i>	<i>Byrne, Thomas.</i>	

*Dáil Éireann*

<i>O'Brien, Jonathan.</i>	<i>Cahill, Jackie.</i>	
<i>O'Reilly, Louise.</i>	<i>Calleary, Dara.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Cannon, Ciarán.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Carey, Joe.</i>	
<i>Pringle, Thomas.</i>	<i>Chambers, Jack.</i>	
<i>Quinlivan, Maurice.</i>	<i>Collins, Michael.</i>	
<i>Smith, Bríd.</i>	<i>Collins, Niall.</i>	
<i>Stanley, Brian.</i>	<i>Corcoran Kennedy, Marcella.</i>	
	<i>Coveney, Simon.</i>	
	<i>Curran, John.</i>	
	<i>D'Arcy, Michael.</i>	
	<i>Deering, Pat.</i>	
	<i>Doherty, Regina.</i>	
	<i>Donnelly, Stephen S.</i>	
	<i>Donohoe, Paschal.</i>	
	<i>Dooley, Timmy.</i>	
	<i>Doyle, Andrew.</i>	
	<i>Durkan, Bernard J.</i>	
	<i>English, Damien.</i>	
	<i>Farrell, Alan.</i>	
	<i>Fitzgerald, Frances.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Fleming, Sean.</i>	
	<i>Harris, Simon.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lawless, James.</i>	
	<i>Lowry, Michael.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	

5 March 2019

	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegard.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dea, Willie.</i>	
	<i>O'Donovan, Patrick.</i>	
	<i>O'Dowd, Fergus.</i>	
	<i>O'Loughlin, Fiona.</i>	
	<i>O'Sullivan, Maureen.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rabbitte, Anne.</i>	
	<i>Ring, Michael.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Smith, Brendan.</i>	
	<i>Stanton, David.</i>	
	<i>Troy, Robert.</i>	
	<i>Zappone, Katherine.</i>	

Tellers: Tá, Deputies Brian Stanley and Denise Mitchell; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

Sections 9 to 13, inclusive, agreed to.

#### SECTION 14

**An Leas-Cheann Comhairle:** Amendments Nos. 37 to 40, inclusive, are related and will be discussed together.

**Deputy Kathleen Funchion:** I move amendment No. 37:

In page 21, line 31, to delete “may” and substitute “shall”.

I am speaking to amendment No. 38 which we discussed briefly at the Joint Committee on Education and Skills. I spoke about it last week when we were discussing Brexit in this Chamber. The amendment proposes: “That the Minister may establish a specific section within the student support scheme of SUSI to address all potential post Brexit queries from students”. The

reasoning behind this is that if this Bill is intended to deal with a no-deal or crash-out Brexit, which nobody wants to see, it is extremely important that within Student Universal Support Ireland, SUSI, there is a special branch to deal with all the potential queries. I foresee many difficulties in this area. We are being told students are protected, there will be no changes and it will all be okay but I can envisage students telephoning SUSI and maybe getting a different answer. I mean no disrespect to SUSI but that is the way these things sometimes go. The amendment would allay many fears. It is not a very big request and it would be very positive for students and their parents to know that they would have a specific line where they could get all the relevant information.

**Deputy David Cullinane:** Amendment No. 37 proposes to change the word “may” to “shall”. This would allow the Minister to render people from the North and Britain eligible for the student support scheme, equivalent to EU students. Our party represents people in the North and people in Britain will be concerned about what level of access they will have to educational services. Can the Minister for Education and Skills explain why the word “may” is in the Bill and not “shall”? We believe this is a reasonable and necessary amendment to ensure guaranteed access. The Minister, however, might be able to address my concerns about why it is “may”. I support Deputy Funchion’s amendment No. 38 too because none of us knows exactly what will happen in a hard crash and SUSI already faces challenges with queries and processing grants. For years there have been delays in processing grants. We do not want a backlog to develop because of an avalanche of queries from people in the North and Britain. It makes sense to set up a new administrative office to deal with the queries. I support amendments Nos. 37 and 38.

Not wishing to be in any way confrontational, the Ministers who have spoken previously have been very helpful - maybe not in supporting amendments - and they have accepted some amendments and the spirit of others. I could be wrong but my understanding is that the Minister will support Fianna Fáil’s amendments Nos. 39 and 40 but will oppose Sinn Féin’s amendments Nos. 37 and 38. I am not sure if that is an outworking of the confidence and supply agreement or some backroom deal that was done with Fianna Fáil but all amendments should be considered and supported or not on their merits. Will the Minister clarify whether it is the case that he is accepting the two Fianna Fáil amendments but does not see fit to support the equally reasonable amendments tabled by Sinn Féin?

**Deputy Thomas Byrne:** Tá mise agus mo pháirtí tar éis na leasuithe seo a leagan síos ionas go mbeidh cinnteacht i gceist do mhic léinn ó Thuaisceart Éireann agus ón mBreatain i gcás na dtáillí a chaithfidh siad a íoc. Tá neamhchinnteacht maidir leis an gceist seo soiléir faoi láthair. Aontaím leis an Teachta Cullinane go mbraitheann an reachtaíocht seo ar an mBreatain ag titim amach as an Aontas Eorpach gan chonradh. Ag an am céanna, toisc go bhfuil neamhchinnteacht ann maidir leis na táillí a bheidh á n-íoc ag mic léinn ó Thuaisceart Éireann agus ón Bhreatain, tá sé i gceist ag níos lú daoine teacht ag staidéar in Éirinn amach anseo. Admhaím gur thug an tAire gealltanas dóibh siúd atá ag tosú i mbliana nach mbeidh táillí iasachta nó táillí neamh-Aontas Eorpach acu ar feadh tréimhse an chúrsa iomlán. Measaim go bhfuil sé tábhachtach go mbeadh cinnteacht ag na daoine a thiofadh ina dhiaidh sin agus iad ag teacht anseo, ionas go mbeidís in ann pleanáil a dhéanamh. Tá muidne ag rá go bhfuil na doirse oscailte dár muintir i dThuaisceart Éireann, dár muintir sa Bhreatain agus do mhuintir na Breataine uilig.

These amendments deal with an issue I have pressed before and the Minister has given certainty in respect of fees for students from the North of Ireland and from Great Britain starting this year and for the duration of their courses. I acknowledge that. The fact that there is uncertainty about the position of the State after that is damaging. It is saying that our doors



are closed. As Deputy Cullinane said, this is predicated on a no-deal Brexit. We need to be as certain as possible that, regardless of what happens, the free movement of students, North and South, east and west, continues and that we in this House do what we can to ensure that. We cannot control everything. We cannot control what the British are doing but I hope if this amendment is accepted by the House that there would be ongoing reciprocity on this. Perhaps the Minister could set out what discussions he has had on this issue with his British counterpart and with parties in the North.

If amendment No. 39 is accepted, I am not sure about amendment No. 40. I will consider that when I hear what the Minister says. It is really a belt and braces approach and I do not want to put extra work on civil servants in respect of producing reports, if that is unnecessary. It is important to give that certainty in legislation and do something practical for students from the North and from Great Britain. I accept that the details would have to be worked out by the Minister but if this amendment is agreed to at least we can say definitively to students from the North and from Britain that they can come here to study on the same basis as they have always done here. We have done it in respect of SUSI grants and now we are doing in respect of fees.

**Minister for Education and Skills (Deputy Joe McHugh):** Ba mhaith liom buíochas a ghabháil leis na Teachtaí fá choinne seans a thabhairt dom labhairt ar an reachtaíocht seo agus ar son na leasuithe. I welcome the contribution of my colleagues to this debate and acknowledge the time they have devoted to this. I have considered the four amendments objectively, as have the officials in the Department, and there is spirit in the amendments. I know what Deputy Funchion is trying to do in amendment No. 38 and I acknowledge the fact that she is looking for equal treatment, which is something I am very conscious of too. Whether a student is from Ballaghaderreen or Bangor, he or she will be treated equally as far as I am concerned. I know that the services and help provided by SUSI are available whether the matters are Brexit-related, Northern Ireland-related, Welsh-related, Scottish-related or English-related and that they are all treated as priorities. The purpose of my proposed amendment to section 14 of the 2011 Act is to allow the Minister to prescribe classes of persons after a detailed evaluation of factors has been assessed. The proposed new section 14A.(1) will give the Minister the power, where he or she “is satisfied to do so”, to prescribe a class of person after he has “consulted with the Higher Education Authority”, secured “the consent of the Minister for Finance” and considered the policies and principles set out in the proposed new section 14A.(2). The policies and principles in question include matters such as “whether there are reciprocal arrangements in place with the” third country, “the development of skills .... in sectors of the economy”, “the nature and level of the qualification”, the “resources available” and “any other matters which in the opinion of the Minister are proper .... having regard to the objective of enabling persons to attend courses of higher education”.

The use of the word “may” in the proposed new section 14A.(1) is appropriate in this context. The use of the obligatory word “shall” would require the Minister to prescribe every third country which reaches the threshold provided for in the legislation. Given the cost-increasing nature of any decision to prescribe a new class of person, it would be inappropriate for the Minister to be required to prescribe this in this way. It would also mean that the Oireachtas would not have a clear line of sight over the potential implications of what we are enacting and to which countries it could apply. Finally, there would be a clear conflict between the obligatory term “shall” and the governing policies and principles which the Legislature is using to curb the Minister’s powers. The final decision must be in our interests. The decision on the class of person must rest with the Minister of the day. It is important to point out that discussions on the

common travel area are at a very advanced stage. This means the arrangements we have today are the arrangements we will have post Brexit, regardless of whether there is a no-deal Brexit or a deal is reached. The common travel area will override any of this in that instance.

Amendment No. 38, in the name of Deputy Funchion, relates to the operational aspects of processing applications for payments delivered by an awarding authority such as SUSI, which is a business unit of the City of Dublin Education and Training Board. It is a memorandum of understanding. It is not underpinned by legislation. It is a service level agreement. There is already provision within the Student Support Act 2011 for SUSI to outsource certain functions. In this regard, the City of Dublin Education and Training Board has engaged the services of an outsourced provider, Abtran, which provides a call centre and document management services for SUSI. If the need arises, it will be possible to increase the resources provided by this company to meet any potential peak in demand. In addition, SUSI's staffing model provides a certain degree of flexibility regarding the recruitment of temporary staff to meet peak demands during the grant processing season. If the need arises, it will be open to SUSI management to reallocate resources to meet its operational needs.

I appreciate that the objective of the amendment is to ensure there are resources which must be in place to deliver very clear messages to all applicants for SUSI supports, and specifically for those who are seeking to study in the UK or UK citizens who are seeking to study in Ireland. I agree fully with this. I am particularly conscious that any changes in the area of student finance can lead to uncertainty. Clearly, I want to avoid that. My Department will continue to consult SUSI to ensure adequate resources are in place to deal effectively with the level of queries that may arise from students who feel they will be affected by Brexit. As I said earlier, the option remains to adjust resources if required. If there is any weakness with regard to the equal treatment of the existing arrangements, obviously we have a duty to make sure it does not persist.

The Government is very committed to clear and precise communications on all aspects and impacts of Brexit. The Department of Foreign Affairs and Trade recently updated its content on Brexit, and specifically on the common travel area. In addition to using its own social media and communications outlets, the Department of Education and Skills will update materials on its website on specific educational issues as they arise. In seeking to reassure the Deputy, I want to communicate very clearly that Irish students will continue to be eligible for SUSI supports while they study in the UK and in the North, and that Northern and UK students will continue to be eligible for SUSI grants while they study in Irish higher education institutions. I assure the Deputy that in line with the spirit of the amendment, I take her intervention very seriously. If there are any weaknesses or shortcomings in this service, or if resources are required to ensure information is provided through a helpline, I have already spoken to my officials and we remain vigilant in that regard. I have confidence in the services provided by SUSI. It is already providing a very professional service. When it was first established - I think it was in 2012 - there were many complications. Everyone in this House was trying to figure out how it would work. We are not talking about SUSI as much as we used to because it is providing an absolutely excellent service. I want to acknowledge it for that.

Tá leasuithe Uimh. 39 and 40 curtha chun cinn ag an Teachta Thomas Byrne. Tá mé cinnte go mbeidh leanúnachas i gceist i ndiaidh an common travel area. Nuair a bheidh an aontú sin déanta, beimid in ann socruithe cinnte maidir leis na blianta i ndiaidh 2020, 2021 agus 2022 a dhéanamh. Ní bheimid ar ais san áit ina bhfuilimid ag smaoineamh ar céard a tharlóidh an bhliain seo chugainn agus an bhliain ina dhiaidh sin. Mar atá ráite ag an Teachta, tá sé déanta

don bhliain 2019-20. Tá mé i gcónaí ag labhairt le mo chomhghleacaithe sa Roinn Oideachais agus Scileanna mar gheall ar an gcinnteacht atá i gceist sa réimse seo. Tá an comhaontú idir an Bhreatain agus an tír seo ar son an common travel area thar a bheith tábhachtach. Táimid ag éirí níos cóngaraí i gcónaí. Tá an comhartha ar deireadh an líne maidir leis an gcomhaontú foirmiúil atá i gceist fosta.

I welcome Deputy Thomas Byrne's contribution on leasú Uimh. 39. While the SUSI scheme is statutory and is distinct from the free fees initiative, which is an administrative scheme, I acknowledge that the two are inextricably linked and share common eligibility criteria, including residency and nationality criteria. Amendment No. 39 would have the effect of preserving an entitlement to access the free fees initiative, with UK residency continuing to be counted and UK citizens treated similarly to those in other EEA countries, including Switzerland. Amendment No. 40 would require the Minister to produce a once-off report at the end of this year on the position of UK or Irish students who are resident in the UK or Northern Ireland regarding the free fees initiative. Deputy Byrne mentioned the thinking of the officials. With regard to timing, if it comes at the end of the year, it will be very close to the start of the new academic year in September. Having said that, it could be argued that neither amendment to the Bill is strictly necessary given that the free fees initiative is administrative in nature. I recognise that the overriding objective of the amendments is to provide long-term clarity for all concerned.

D'ardaigh an Teachta Thomas Byrne an cheist sin sa Teach seo cúpla mí ó shin. Ba mhaith liom cé chomh tiomanta is atá sé i dtaobh an ábhair seo a aithint. Nuair a bhí mé i mBéal Feirste cúpla mí ó shin, chas mé le cúpla tuismitheoir a bhí ag iarraidh orm céard a tharlóidh i mí Mheán Fómhair na bliana 2020 nó 2021. Glacaim leis go bhfuil leanúnachas agus cinnteacht thar a bheith tábhachtach. I have made it clear from the outset that the common travel area will address many of the concerns in the education sector. This includes the question of SUSI grants and the maintenance of the current EU fees system for Northern Irish and UK students. Agreements between my Department and the UK Department for Education on these principles, as well as wider policy issues at other levels of education, have been reached. Discussions are now focusing on framing these agreements within a memorandum of understanding. I hope that a meeting between the Secretary of State for Education and me will be convened in the next few weeks with a view to signing the memorandum of understanding. I am also happy to commit to the publication of a report by the end of the year. Neither amendment is contrary to Government policy. They reflect our desire to maintain the *status quo* post Brexit. Given that amendments Nos. 39 and 40 do not conflict with our approach, I intend to propose their acceptance by the House.

**Deputy Thomas Byrne:** Cuirim fáilte roimh an tacaíocht ón Rialtas don dá leasú atá curtha os comhair na Dála agam. Tá mé sásta go bhfuil an tAire ag rá go bhfuil siad ag teacht le polasáí an Rialtais. Ní raibh mé in ann a leithéid de ráiteas a fháil ón Aire aon uair a chuir mé ceist air. Tá mé sásta go bhfuil sé ráite ag an Aire anois. Tá mé buíoch den Rialtas go bhfuil siad ag tacú leis an mholadh seo agus go mbeidh sé sa dlí. Má éiríonn le leasú Uimh. 39, beidh mé sásta gan dul ar aghaidh le leasú Uimh. 40 mar ní bheadh aon ghá leis an tuarascáil sa chás sin toisc go mbeadh an dlí athraithe. Chuir mé leasú Uimh. 40 isteach ar eagla nach mbeadh leasú Uimh. 39 glactha. I welcome the Minister's announcement that it is Government policy that Northern Irish and British students would continue to have the same rights. I welcome and am very grateful for the support he has given for the amendment. However, when I have asked this question before, the Minister has not set out Government policy quite so clearly. I am glad that he has done so today and am delighted this will be included in the legislation. We will support

every effort the Minister will make to ensure the continued free flow of students North, South, east and west. It is something Fianna Fáil has put forward, as have I as education spokesperson. We would do this anyway and give the commitment. I felt a long-term commitment was needed on this so that people who are in the UK equivalent of transition year or fifth year now, when they are making their plans, would not be put off coming to this jurisdiction because of this. I am hoping for and looking forward to hearing of the British reciprocating on this through the Minister's negotiations. It is very important.

It is one of the tragedies of Brexit that the young people and students, and those who have been educated, have been denied the exercise of their rights as EU citizens by the Brexit vote. Those who have had a higher education are much more likely to have voted to remain and their futures have been blighted by Brexit. Some aspects of this Bill, particularly my amendment, will contribute significantly to ensuring the continuance of their rights in this area, despite the fact that Britain is unfortunately leaving the EU.

**An Ceann Comhairle:** Níl éinne eile ag ofráil ar an ábhar seo. Gabhaim buíochas leis na Teachtaí as ucht na díospóireachta.

Amendment, by leave, withdrawn.

**Deputy Kathleen Funchion:** I move amendment No. 38:

In page 22, after line 34, to insert the following:

“(5) That the Minister may establish a specific section within the student support scheme of SUSI to address all potential post Brexit queries from students.”.

Amendment put:

<i>The Dáil divided: Tá, 17; Níl, 69; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Brady, John.</i>	<i>Aylward, Bobby.</i>	
<i>Broughan, Thomas P.</i>	<i>Bailey, Maria.</i>	
<i>Buckley, Pat.</i>	<i>Brassil, John.</i>	
<i>Cullinane, David.</i>	<i>Breen, Pat.</i>	
<i>Doherty, Pearse.</i>	<i>Brophy, Colm.</i>	
<i>Ellis, Dessie.</i>	<i>Browne, James.</i>	
<i>Ferris, Martin.</i>	<i>Bruton, Richard.</i>	
<i>Funchion, Kathleen.</i>	<i>Burke, Peter.</i>	
<i>Mitchell, Denise.</i>	<i>Butler, Mary.</i>	
<i>Munster, Imelda.</i>	<i>Byrne, Catherine.</i>	
<i>O'Brien, Jonathan.</i>	<i>Byrne, Thomas.</i>	
<i>O'Reilly, Louise.</i>	<i>Cahill, Jackie.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Calleary, Dara.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Cannon, Ciarán.</i>	
<i>Pringle, Thomas.</i>	<i>Carey, Joe.</i>	
<i>Quinlivan, Maurice.</i>	<i>Chambers, Jack.</i>	
<i>Stanley, Brian.</i>	<i>Collins, Michael.</i>	

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	<i>Collins, Niall.</i>	
	<i>Corcoran Kennedy, Marcella.</i>	
	<i>Coveney, Simon.</i>	
	<i>Curran, John.</i>	
	<i>D'Arcy, Michael.</i>	
	<i>Deering, Pat.</i>	
	<i>Doherty, Regina.</i>	
	<i>Donnelly, Stephen.</i>	
	<i>Donohoe, Paschal.</i>	
	<i>Dooley, Timmy.</i>	
	<i>Doyle, Andrew.</i>	
	<i>Durkan, Bernard J.</i>	
	<i>English, Damien.</i>	
	<i>Farrell, Alan.</i>	
	<i>Fitzgerald, Frances.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Harris, Simon.</i>	
	<i>Heydon, Martin.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lawless, James.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McGrath, Michael.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Moynihan, Michael.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Dea, Willie.</i>	



	<b><i>O'Donovan, Patrick.</i></b>	
	<b><i>O'Dowd, Fergus.</i></b>	
	<b><i>O'Sullivan, Maureen.</i></b>	
	<b><i>Phelan, John Paul.</i></b>	
	<b><i>Rabbitte, Anne.</i></b>	
	<b><i>Ring, Michael.</i></b>	
	<b><i>Rock, Noel.</i></b>	
	<b><i>Ross, Shane.</i></b>	
	<b><i>Scanlon, Eamon.</i></b>	
	<b><i>Stanton, David.</i></b>	
	<b><i>Zappone, Katherine.</i></b>	

Tellers: Tá, Deputies Kathleen Funchion and David Cullinane; Níl, Deputies Seán Kyne and Tony McLoughlin.

Amendment declared lost.

Section 14 agreed to.

#### NEW SECTIONS

**Deputy Thomas Byrne:** I move amendment No. 39:

In page 22, after line 34, to insert the following:

#### **“Free Fees Initiative**

**15.** In respect of the Free Fees Initiative for third level education in the State, periods of residency in the United Kingdom shall be treated similarly to periods of residency in the EEA and citizens of the United Kingdom shall be treated similarly to citizens of the EEA.”.

Amendment agreed to.

Amendment No. 40 not moved.

Sections 15 to 22, inclusive, agreed to. SECTION 23

Question proposed: “That section 23 stand part of the Bill.”

**Deputy Michael McGrath:** For the measures that are dealt with in the legislation here, I ask the Minister to highlight if there are changes to the *status quo*. My understanding is that in essence these sections are about the retention of the *status quo*.

In the event of a no-deal Brexit, the enactment of these provisions essentially provides that the current arrangements with the UK, treating it as a member state, will continue. However,

from the perspective of the European Union, is that for a defined period or will it be allowed to continue in perpetuity?

In general, if we are coming to individual items where there is a change to the *status quo* and it is dealt with here, I ask the Minister to bring that to our attention. Obviously, we know what the situation is with taxation measures that are not dealt with here.

**Deputy Pearse Doherty:** On Second Stage, I indicated that my party may have particular concerns about some of the taxation policies in this legislation. However, given that they are the continuation of existing policies, we are not raising objections to them now because this is about maintaining the *status quo* in the event of a no-deal Brexit. We do not object to any of these sections on the basis that the advice we have been given is that this only maintains the *status quo*. As Deputy Michael McGrath said, we also ask that any deviation from that be signalled, although I understand there is no deviation.

If I understood him correctly, Deputy McGrath asked a valid question about the continuation of this policy. I understand this will continue indefinitely. However, does the Department intend to review some of these policies? For example, we just dealt with those in Britain who will still benefit from the artist exemption. Should that continue two or three years down the line? Is a general review of some of these measures intended after a sufficient period?

**Minister for Finance (Deputy Paschal Donohoe):** I apologise to the Deputies for not being here for the start of the section but I believe I heard the points that were put.

The first question was whether all of these sections seek to maintain the *status quo* and the answer is that they do. I believe all Deputies have been briefed on that point.

I was also asked if these policies would apply indefinitely. In the event of a disorderly Brexit at the end of March, these policies will be introduced to maintain the *status quo*, but, of course, they would be subject to review at any point either through the annual mechanism we have through the finance Bill or through the many Bills my Department introduces to the House each year. There would be opportunities then to look at the application of this policy and see if either I or any of the Opposition parties believe that any further amendment is needed.

**Deputy Michael McGrath:** If I understand the Minister correctly, he is saying that all these provisions will be reviewed in the normal way as the Oireachtas would do through the budgetary process and the finance Bill. However, from the point of view of the EU giving its imprimatur to these measures, which for the purposes of continuing with these reliefs allows Ireland to essentially recognise the UK as remaining within the Union or tantamount to being within the Union, the EU has not put any time limit on the continuation of all these reliefs in the case of a disorderly Brexit. Is that what the Minister is saying?

**Deputy Pearse Doherty:** From our point of view, we are proceeding on the basis of our understanding and the Minister has clarified that. I ask him to answer a further question which will bring additional clarity. Is the Department aware of any other taxation measure that is not contained in this legislation where an assessment was made not to continue the *status quo*? Is this the full suite of taxation measures identified by the Department? Can he confirm there was no decision not to continue something of which we are not aware because we have not seen it here?

**Deputy Paschal Donohoe:** Any tax measure to which I am contemplating making a change

is contained in this Bill. I am not considering any further measure beyond what has been indicated here.

Deputy McGrath asked about the European Union. The vast majority, if not all, of the different measures contained in the Bill are through exercise of our national sovereignty in the tax area. The Union is aware of the changes we are making. Where relevant, we have had some consultation with it, particularly on some of the amendments we have introduced. I am satisfied that what we are introducing is absolutely compliant with the application of EU law. I am not contemplating any further tax measures beyond those indicated in the Bill.

**Deputy Pearse Doherty:** I understand the Minister is not contemplating anything further than this. However, does the Department have a list of taxation measures that exist because Britain is part of the European Union, which are not accommodated in this legislation, meaning that after Brexit there would be a change in taxation on A, B, C, D, E and F? If there is such a list in the Department, can it be shared with Opposition Members to see what is not being continued and what parts of the taxation code will not continue?

**Deputy Paschal Donohoe:** We do not have that list. Any measure that we believe we need to change in our tax policy to maintain the *status quo* is contained in this Bill. I am trying to be helpful and I am doing my best to answer the Deputy's question, but it is a fundamental one. I understand both Deputies are saying that, on the basis of good faith, they will facilitate the passage of these sections. If I am not answering a question that the Deputy has put to me to the best of his satisfaction and he would like further clarity, I will do my best to deal with it.

**Deputy Pearse Doherty:** I accept the Minister's good faith in this regard. In the assessment of this legislation, has the Department identified taxation measures, which British residents or companies enjoy as a result of the UK being a member of the European Union, that after the passage of this Bill and a no-deal Brexit they will no longer enjoy? Have we decided that we do not want to maintain the *status quo* on any such matters?

**Deputy Michael McGrath:** I wish to put my understanding of what the Minister said on the record. My interpretation is that what has been captured here is exhaustive from the perspective of the Department and that the Minister is not aware of any further changes that fall out of this by omission. If that is the position, it covers an awful lot that we could go into in greater detail.

**Deputy Paschal Donohoe:** That is the case. Anything that is not contained in this Bill is not by an act of omission. It is because if we find ourselves dealing with a tax policy issue in the aftermath of a disorderly Brexit, it will be because something has happened that we did not anticipate or were not aware of. Any knowledge that we have of any tax matter that needs to be dealt with in the event of Brexit taking place in a number of weeks is included in the Bill.

Question put and agreed to.

Sections 24 to 52, inclusive, agreed to.

#### NEW SECTION

**An Ceann Comhairle:** Amendments Nos. 41 and 42 are related and will be discussed together.

**Deputy Paschal Donohoe:** I move amendment No. 41:

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In page 35, between lines 3 and 4, to insert the following:

**“Amendment of section 58 of Act of 2010**

**53.** Section 58(2) of the Act of 2010 is amended—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) the supply of a traveller’s qualifying goods, where the total value of that supply of goods, including tax, is more than €175, and”,

and

(b) by the insertion of the following paragraph after paragraph (iii):

“(iiia) has, in respect of a traveller whose domicile or habitual residence is in the United Kingdom, proof that—

(I) the goods have been imported into the United Kingdom by or on behalf of the traveller, and

(II) value-added tax and duties of customs and excise, chargeable by virtue of the law of the United Kingdom, have been paid on the importation of those goods.”.

This amendment amends section 58 of the Value Added Tax Consolidation Act which relates to the retail export scheme. Two amendments are proposed. The first amendment provides that the value of qualifying goods must exceed €175 in order to be eligible for a refund under the scheme. This monetary limit will apply in respect of all third country travellers who apply for a refund under the scheme post the commencement of the section.

The second amendment introduces a new requirement of proof of importation of the goods into the UK and the associated proof of purchase, where applicable, of relevant UK VAT and duties for the goods purchased under the scheme. The retail export scheme enables travellers who are resident outside the EU to benefit from VAT relief on goods purchased in Ireland and subsequently exported outside the EU. The UK’s status as a third country will render UK residents eligible for VAT refunds on purchases of qualifying goods under the scheme post Brexit.

The purpose of the amendments to the operation of the scheme is to provide a legal basis to control and minimise the scope for abuse and also to minimise the possibility of diversion in retail consumption from Ireland to the UK post Brexit. This is as a result of the volumes of passenger traffic between the UK and Ireland.

To date the UK has not publicly confirmed its intentions on the availability of a VAT retail export scheme to EU passenger traffic post Brexit. The amendment to the Bill is, therefore, a precautionary measure which will be subject to a commencement order. The amendments provide Ireland with the legislative basis to trigger a reciprocal protectionary measure should the UK publicly commit to not applying a VAT retail export scheme in the coming weeks. If the UK proceeds with applying a VAT retail export scheme to UK-EU passenger traffic, then Ireland will not commence the sections.

**Deputy Michael McGrath:** I thank the Minister for these amendments. On amendment No. 42 on duty free, as I understand it, if the Minister did not bring in this amendment then the

default position would be that duty free would be reintroduced if and when the UK leaves the European Union at the end of March. The Minister is, therefore, bringing forward this amendment which, if enacted, allows him by commencement order to have no duty free between Ireland and the UK. I would like to clarify the Government's policy position. Is it the Government's policy position that if the UK does not introduce duty free in that scenario, Ireland will not do so either but, conversely, if it does - I understand the UK is saying it will make its intentions known after the meaningful vote next week, depending on how that goes - we will do likewise? Is the position of the Government that we will be acting in concert with the UK Government on the question of duty free? If that is the case, how will the Minister address the point that has been made by some of our airports and ports that this scenario could put them at a disadvantage *vis-à-vis* other European airports and ports? If duty free was introduced in those countries, Irish ports and airports would be at a disadvantage.

Is there an agreed European position on this? We know what the default legal position is. If the UK leaves the European Union, duty free applies. Has this been the subject of discussion with other countries at EU level, that an agreed position would be arrived at? Could it be the case that Ireland and the UK do not introduce duty free, but that other countries have duty free? What would be the consequences of that?

Can the Minister clarify the situation on cross-Border shopping if duty free was to be introduced by the Government or if it were to happen by default by the Government not bringing in this amendment, or not signing the commencement order? What would be the practice on the ground for consumers and what would be the implications for the Exchequer?

**Deputy Pearse Doherty:** Many of the points I wished to raise were covered by the Deputy McGrath. If I understand the Minister correctly, he is saying that he is not aware of what the British Government is planning to do in this regard. Could the Minister outline his engagements with his counterpart and where they are at this point in time in relation to this issue? This issue would also affect the North of Ireland and it has a major potential implication. It is surprising, given the focus on the Border on the island of Ireland, that we still do not know if the British authorities are going to reciprocate in this regard. That would mean the *status quo* would remain. If that is not the case, there would be changes and questions on how this would be monitored and supervised.

Will the Minister outline the engagements he has had with his counterpart, where they are at and when the UK is likely to make a determination on this issue? If the UK decides not to reciprocate, this will not be commenced. What will be the impact on the island of Ireland in that scenario?

**Deputy Paschal Donohoe:** On a point of order, most of the questions the Deputies put to me refer to amendment No. 42 to section 61, which is the following amendment, but I can answer the questions-----

**Deputy Michael McGrath:** The amendments are grouped.

**An Ceann Comhairle:** Amendments Nos. 41 and 42 are grouped.

**Deputy Paschal Donohoe:** On the questions put to me, Deputy Michael McGrath's interpretation of the amendment is correct. We will be making a decision and triggering what we are going to do when we are clear on what the United Kingdom is actually going to do. On Deputy Pearse Doherty's question, what the UK has said publicly so far is that it is not planning to bring



in a duty free scheme. The UK will have to legislate to deliver that objective. That is why I am introducing an enabling provision whereby, in the event of that happening, the Government can respond with a commencement order. The UK's view, as publicly stated to its Parliament, is that it is not planning to introduce a duty free scheme. That would require legal change. I am just introducing a precautionary measure to deal with that.

Regarding the question of whether there has been other engagement with or contemplation by other member states on this matter, as far as we are aware, there has been little consideration of it because it is not as much of an issue for other countries as it is for us, given the volume of passenger traffic between the UK and Ireland.

As to the question on Northern Ireland, we anticipate that this scenario can only develop at ports and airports. Currently, we do not judge the duty free consequences of this measure across the Border as significant. That is one of the many reasons we believe we are better off having in place the legal ability to allow us to respond to different issues that may arise.

**Deputy Pearse Doherty:** Will the Minister outline the legal status? He stated that the duty free consequences across the Border were not deemed to be significant, but what would the legal status be in that scenario if the British Government did not reciprocate or a commencement order was not given to this section?

**Deputy Paschal Donohoe:** There are two levels to this. Current EU directives do not permit duty free shops on the land frontier. Ireland may not, therefore, operate a duty free shop on a land frontier. This is why I told the Deputy that, if this scenario developed, it would do so at ports and airports under EU law.

The next question relates to what the policy framework would be if we found ourselves in a situation where that did not apply. The policy framework operates on the basis of the World Customs Organization, WCO, which currently recommends that duty free shops operate at ports and airports and not on land frontiers. The UK is a member of the WCO. For these reasons, we believe it is unlikely that we will see the development in any way of a duty free centre or operation on the frontier between Ireland and what will then be a third country.

**Deputy Michael McGrath:** On the policy point, is it the Government's position that, notwithstanding what other European countries may do on the question of duty free, it intends to align its position with the UK's? Is that the thinking at this point?

**Deputy Paschal Donohoe:** Yes, that is my current position in light of the significant passenger traffic between the UK and Ireland. That is what I will plan to do, but I wish to indicate that this section will be subject to a commencement order.

**Deputy Michael McGrath:** If this scenario comes to pass, will the Minister be open to further assessment and evaluation of the question and the ramifications? What we have from his Department is just a one-page note that extrapolates the revenue forgone based on 50% of passengers travelling between Ireland and the UK buying tobacco and spirits. To make a policy decision, one would need a much more detailed analysis of what the overall consequences would be for the Exchequer, the ports, the airports and so on. Before a final decision was made in such a scenario, would the Minister be willing to undertake a deeper analysis of the consequences?

**Deputy Paschal Donohoe:** We have enough of an evidence base to know that, in the absence of this decision, there would be a significant tax base risk. It would not be appropriate for

me to give an indication now, but if the UK were to decide to move into a duty free environment, the consequences for us would be so significant that my intention would then be to reciprocate. As is the case with any measure, we would then review its impact and policy consequences. It is important that I be clear with the House, though. If we found ourselves in a situation where for some reason the UK decided to bring in such a regime, it would create a significant issue for me and the Exchequer. I would look, therefore, to respond through the measures outlined in this amendment but I emphasise that they are precautionary. The chancellor of the British Government has indicated that it is not planning to do this and we have every reason to expect that will be the case. We are just noting that it would require legislative change by the UK.

**Deputy Pearse Doherty:** I wish to return to the issue of the island of Ireland and the Minister's statement that duty free shops would be at airports and ports. In the context of a no-deal scenario, our island would have a European frontier, and on this island there are well-established ferry crossings, for example, Greencastle to Magilligan in Derry, Carlingford to Portaferry and Omeath to Warrenpoint. I am referring to ports that would be deemed to be in different jurisdictions from one another. Could a duty free scenario not arise in respect of those points of crossing?

**Deputy Paschal Donohoe:** That would be dependent on whether any business interest or operator wanted to deal with any of those places.

**Deputy Aengus Ó Snodaigh:** Booze cruises.

**Deputy Paschal Donohoe:** That in turn would require authorisation from the Revenue Commissioners. A process would have to be gone through whereby the Revenue Commissioners would need to form an assessment.

**Deputy Pearse Doherty:** Would that necessarily be done by our Revenue Commissioners? Could it be done by the British authorities? The Minister referred to the reduced potential of the cross-Border element, but the scenario in question could be deemed an opportunity. One could set up a duty free shop right on the Border if one had the authorisation of the customs officials in London.

**Deputy Paschal Donohoe:** In that kind of scenario, the customs authorities would need to work together to form a view on the matter.

Amendment agreed to.

Section 53, as amended, agreed to.

Sections 54 to 60, inclusive, agreed to.

#### NEW SECTION

**Deputy Simon Coveney:** I move amendment No. 42:

In page 38, between lines 8 and 9, to insert the following:

“CHAPTER 8

*Excise*

**Amendment of section 104 of Finance Act 2001**

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**61.** Section 104 of the Finance Act 2001 is amended, in subsection (1)(e), by the insertion of “, other than the United Kingdom,” after “destination”.”.

Amendment agreed to.

Section 61, as amended, agreed to.

Sections 62 to 66, inclusive, agreed to.

## SECTION 67

Question proposed: “That section 67 stand part of the Bill.”

**Deputy Michael McGrath:** The financial services area is a topic we have discussed at length in recent months in the context of Brexit preparedness. These sections essentially provide for a temporary run off regime so that existing policies and contractual obligations will continue to be recognised for a period of three years but no further new business can be written by firms that have not changed their regulatory structure, which is fair enough. I ask the Minister to provide an update on the major insurance providers in Ireland and the Central Bank’s or the Department’s assessment of their preparedness. In the context of policies written in Ireland, to what extent have firms that rely on the passporting provisions changed their regulatory structure so that this section will not apply to them or is this still a concern? On Second Stage the Minister referred to the fact that some UK prudentially regulated insurance firms and some that are prudentially regulated in Gibraltar have not made the necessary changes. It may well be precautionary, but this is why the three year temporary run off is provided for. Presumably there are still firms that have not done it. What will prevent such firms from writing new business in a scenario where they are no longer permitted to do so but are continuing to operate here? The policyholders in that scenario would be exposed because those policies would not be valid. Pre-existing policies would be valid for a three year period but any new policies would not have the status of regulatory protection.

**Deputy Pearse Doherty:** In terms of section 67, and section 66, which is similar, is there any consumer risk to an individual who has a policy written by one of the insurance companies that is subject to the provisions of these two sections? Is there any risk to an individual in terms of a delayed claim or having fewer rights than the customers of a company that is currently authorised and will continue to operate and write insurance here? I ask the Minister to explain why a period of three years was chosen. Companies will not be allowed to write new policies from the date of Britain leaving the EU. Why is three years deemed appropriate? What percentage of policies does the Department estimate will be captured by these two sections? Are we looking at 3% or 10% of the market that is unlikely to be writing new insurance products into the future?

**Deputy Paschal Donohoe:** In reply to Deputy Michael McGrath’s question, the Central Bank has the power to stop any insurance company from issuing new products. It is well aware of this issue and I am confident that it will deal with any insurance policies being issued that does not have full consumer protection and a legal underpinning.

Deputies Michael McGrath and Pearse Doherty asked about our assessment of readiness in the industry and the products that are not covered by this legislation. I have discussed this issue with the Central Bank whose judgment is that the overwhelming majority of insurance companies have now taken all the necessary steps to reorganise their affairs, if they had not already

done so, in order to be compliant in the event of a very hard Brexit taking place in a number of weeks. However, a very small minority of companies may still not have taken the necessary action.

Deputy Pearse Doherty asked for an indication of the size of the market represented by these companies and the estimate is that they equate to 2% of the Irish gross written premium that was written by UK and Gibraltar insurers between 2011 and 2017. It is a very small share that we judge might not yet be ready but, of course, even if the share of business is low, that is of no solace to consumers who might find themselves in a very difficult situation.

On the question of consumer risk, if and when the Oireachtas ratifies this section, we do not believe there would be a consumer risk. Our analysis is that we will have dealt with the potential for a consumer risk to develop. Deputy Pearse Doherty also asked why we opted for a three year period. We were just trying to get the balance right. We wanted to provide enough time for consumers who have policies that they bought in good faith to allow those policies to conclude and to get new policies to replace them. We felt that three years was enough time to allow consumers to get their affairs in order but not so long that it might offer an inducement for no change by consumers.

**Deputy Pearse Doherty:** What requirements, if any, will be on these companies to inform consumers, if any? Is that going to be left up to the Central Bank? If people are not following the ins and outs of this and do not know whether their insurance company is covered or if they have a long-term policy, will there be an onus on the insurance company to inform them so that they have the necessary time to make any required arrangements?

**Deputy Paschal Donohoe:** The Central Bank will have to be notified by an insurance company and my expectation is that it will publish some form of index or other publication detailing the companies that have not taken sufficient action. This is why we have a run off period of three years. If the Central Bank were to form the view that there is not adequate consumer awareness of this issue then a three year run off period provides ample time to make sure that consumers are aware of any potential risks they may face. That said, consumers have a responsibility to ensure that they are adequately insured. We are talking about a very small number of businesses as a percentage of the total and that is why we have put a three year run off period in place.

**Deputy Pearse Doherty:** If a customer is not aware that a company is not authorised after the three year period, is there a risk there in the context of a potential claim during or after the three year period? Is there a risk given that the company no longer operates in the European Union? Is the consumer's ability to enforce a claim lessened? I am a little concerned that the Minister did not talk about individual contact and the responsibility of the companies and the Central Bank to contact the individual policyholders as opposed to organising awareness campaigns.

**Deputy Paschal Donohoe:** Assuming this provision is enacted, there will be no issue in this period in relation to claims or the operation of policies. The whole purpose of this section is to ensure the maintenance of the *status quo*. However, this section is somewhat different from others in the Bill in that it contains a time limit. I will take on board what Deputy Pearse Doherty said about consumer notification. That might be something we can consider in the aftermath of the operation of this section in the event of a disorderly Brexit taking place. Our focus and that of the Central Bank is on maintaining continuity of consumer protection, which

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we will do through this section. Later on in the year, if we find ourselves in such an awful situation, I will consider asking the Central Bank if it could give notice to a small number of consumers that they have a run-off period in place, at the end of which they will need to replace their current product with a new product. It is entirely possible that during that period the company may reorganise its affairs to be fully compliant with the requirements of the Central Bank. However, given that we are making all of these changes to try to avoid a consumer protection issue, it is fair to suggest that consumers be made aware of what is under way and what change they might need to make. I will speak to the Central Bank about that.

Question put and agreed to.

Sections 68 to 71, inclusive, agreed to.

## SECTION 72

**An Ceann Comhairle:** Amendments Nos. 43 to 45, inclusive, are related and may be discussed together.

**Deputy Aengus Ó Snodaigh:** I move amendment No. 43:

In page 48, line 25, to delete “may” and substitute “shall”.

The amendments in the group are similar. I will not press this one to a vote but the reason behind these amendments is to make it compulsory for the Minister for Transport, Tourism and Sport to carry out functions under section 5A.(2)(a) and (b), by replacing “may” with “shall”. Section 5A.(1) provides that “the Minister may grant an exemption”. Similar to an earlier amendment, the purpose of this amendment is not to hinder the Minister or prevent him or her from carrying out his or her duties. It is to try to ensure there is some type of democratic accountability beyond the passage of this legislation and that we have the assent of the Dáil to bring it back here at some stage.

As I stated, I will not press the amendment. I am making the point that this Chamber is where laws are made and passed. This is an exceptional situation and the passage of this legislation through the Houses of the Oireachtas gives Ministers many additional powers contingent on it being in the best interests of the country to do so and that we take at face value the commitments that are being given because we know the urgency involved and the difficulty we are facing. In cases where the Minister makes the order, he or she should revert to the Dáil to obtain its assent. These are not the orders that will automatically kick in but will apply in certain contingencies.

**Deputy David Cullinane:** I support amendments Nos. 43 to 45, inclusive. While they are technical, they also impose a requirement on the Minister by replacing the word “may” with “shall” in the section. We had a similar debate with the Minister for Health on health provisions. I take this opportunity to raise the important issue of the insurance green card, which we raised on Second Stage and Committee Stage with the Minister for Transport, Tourism and Support, Deputy Ross, and the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Simon Coveney. I understand from a previous response from the Minister that this issue is an EU competency and also that it is a matter for the industry to respond. The difficulty is that we need assurance that the issue will be addressed for the people affected. It is not appropriate to simply say it is up to the industry to resolve the matter. People need to be made aware of the requirements. What has the Government done to make people aware of them? We all accept



that the insurance green card would be required in the context the UK leaving the EU with a hard crash. People with motor insurance need to know if their insurance will cover them when they cross the Border into the North or the South. This is an extremely important issue for people. While some insurance providers are preparing for this eventuality, are all of them doing so? We do not want some people to be left high and dry and potentially caught out by this issue. We need greater clarity. I am not comforted by the notion that the industry alone should resolve this issue. While I accept the Tánaiste's assertion that this is an EU competency, there is a responsibility on the State to ensure people are at least made aware of these issues.

**Deputy Pearse Doherty:** To follow up on the point made by Deputy Cullinane, many people are very angry at the idea that a green card will be required and they will have to hold on their vehicle an international insurance certificate to cross the Lifford Bridge. People are simply saying they will not do it and there is no way they will be required to have documentation to cross a bridge they have crossed every day of their lives in certain scenarios.

My insurance company emailed all of its policyholders about one and a half months ago telling us we needed to apply for a green card one month in advance of Brexit. I wanted to know what the process was and whether there would be a charge so I called the company to inform it that Brexit was one month away. I was told to call back in two weeks. When I pointed out that the company had emailed its customers telling us all to apply one month in advance of Brexit, the response was that the company did not really know what was happening. I replied that it should join the rest of us because we did not know what was happening either. However, it had told policyholders we needed a green card if we wanted to be insured while crossing the Border. I was told the company would issue green cards to all those who request them after 29 March when it knew better what the position was. I asked what would happen to me if I was driving in the North on 29 or 30 March as my car could be impounded and I could be in breach of the law. The company then took my name on the basis that it would try to get a green card out to me beforehand.

Most people in Donegal have very little awareness that this is the position and they are not applying for this insurance green card. One issue that aspect really annoys me, and one which the Tánaiste or Minister might bring some clarity, is that the website of the Motor Insurers Bureau, the authority in Britain that issues green cards, states clearly that a person does not need a green card for any European jurisdiction. That position will clearly change after Brexit. It also states that a green card is not required for Andorra, Serbia and Switzerland, which are covered. As such, there are countries outside the European Union to which the green card does not apply. We have known for more than two years that Brexit will happen and we knew there was potential for a hard Brexit. For the life of me, I cannot understand why the issue of drivers being required to carry in their vehicles an international travel document was not resolved beforehand. This is a very serious issue and it works both ways. Telling people travelling from the Bogside to Buncrana that they need to carry such a document is anathema to them. They are not happy with it and they will not accept it. It is not right.

This is an area on which the Government, particularly the line Department, should receive genuine criticism for not having its homework and preparations done. This issue should never have arisen given that we can see that drivers in other countries are exempt from the requirement to carry a green card. We are told this is an industry issue or a matter for the European Commission. Citizens of many other countries do not need to display the green card. Why the hell was the North of Ireland not part of that? We have been talking about the Good Friday Agreement and the Border in the Brexit context for the past two years. Now, every motorist

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who crosses the Border will need to hold an international travel document. It is not acceptable, it is very poor and the Government must get its act together before 29 March.

**Deputy Fergus O'Dowd:** Deputy Troy kindly arranged for the Motor Insurers Bureau of Ireland to address Oireachtas Members. The bureau was very clear that it is not clear on who does what. The Deputy is quite right. It seems each motor insurance company is following its own rules. There is no united front and there is no clarity. What is true, as I understand it, is that the European Union can reach a consensus or agreement with the British Government and ourselves that in the event of Brexit, cards will not be required. In the meantime, tens of thousands of these green cards are being printed and the whole thing is an appalling mess. I ask that the Minister use his good offices as a matter of urgency seek to ensure that the cards are not required. I appreciate he might not have that answer by tomorrow. If the cards are required, I ask that each motor insurance company send them to every motorist. That is the only way out of it as I see it. Either everyone does it or no one does. In the worst-case scenario, cars will be impounded north of the Border and, in theory, they could be impounded south of it too. That is something no one wants. It is sheer madness at this stage that it is not clarified. I urge the Minister for Transport, Tourism and Sport to address it as a matter of urgency. It is for the EU to use its good offices to do the deal. EU consent is required in order for this decision to be made. It would save a great deal of bother and it would be much easier for people and insurance companies.

**Deputy Imelda Munster:** I support what my colleague, Deputy Pearse Doherty, said and note my disappointment that the Sinn Féin amendment on green cards was not accepted. However, that is not surprising. A couple of weeks ago, the Minister for Transport, Tourism and Sport was before the transport committee and I have never witnessed anything like it. He knew damn all or had damn all information to impart when we asked him questions. He was not sure how many green cards would be required or whether there would be a charge for them and he did not know if people would be covered in the event of a crash. He seemed to be slipped pieces of paper by his officials every time we asked a question. The most disappointing thing, albeit it was not surprising, was that he had made no effort to seek a dispensation for people living on the island of Ireland. It would have been one thing if he tried, but he did not even try, which is shocking. What that has done is contribute to the confusion and uncertainty people are now experiencing.

While 1 March has come and gone, I have not heard of anyone who has applied or even knows how to apply for a green card. There is uncertainty as to whether on 29 March people can travel the two miles from south Armagh into Louth without a green card. What is the story there? The failure of the Minister to seek a dispensation from the EU is horrific when one considers the confusion this will cause and how problematic it will be for people who cross the Border every day. The very fact of having to carry a green card to prove that one has insurance in one's own godforsaken country is a shame. No effort was made given the common travel area to negotiate well in advance to have this set aside for the people living on the island of Ireland. I am disappointed that the Government did not accept the amendment, but I can see why given the lack of effort that was put in. I do not know if the Minister has any idea of the uncertainty, confusion and gross inconvenience this is going to cause.

**Deputy David Cullinane:** Incompetence.

**Deputy Imelda Munster:** That goes without saying.

**Acting Chairman (Deputy Bernard J. Durkan):** The ruling on the amendment was made by the Chair. It was not the Minister's decision.

**Deputy Simon Coveney:** I will leave the line Minister to respond on the substantive transport matters. To clarify the position for the House, it is currently the case that cars driven from Ireland to other parts of the European Union are covered by the EU's motor insurance directive. The directive allows one to drive anywhere within the Single Market while having one's home insurance certificate recognised under the EU system. If the United Kingdom leaves the European Union on 29 March without a plan or deal, Northern Ireland will no longer be in the European Union and the EU directive will not apply in that jurisdiction. The insurance industry made it clear some time ago, in the context of its own contingency planning, that to facilitate continued travel by cars from the Republic of Ireland into Northern Ireland, which will be a drive out of the European Union notwithstanding our dislike of that fact, proof of insurance cover will have to be provided. A green card, which is slightly unfortunately named in the context, will provide that proof of insurance cover where a car has driven from the Republic into Northern Ireland and is stopped. It is not that people will be stopped on the Border to allow green cards to be checked and it should not be painted as that.

While there is a way to resolve this issue, Ireland cannot do it on its own. The European Commission must resolve the matter on a bilateral and reciprocal basis with the UK. The reason the UK has potential arrangements in place with other countries is that it can make bilateral deals with those countries. However, it does not have a bilateral arrangement with the EU on this. While the Commission has put contingency plans in place in many areas, including aviation and other areas people are aware of, no contingency plan is in place yet to facilitate access here without proof of motor insurance. That may materialise between now and 29 March if we continue to move towards a no-deal Brexit but we will know a great deal more about that next week. In my view, it is unlikely that we will continue in that direction, but it is not possible to say for sure. While the insurance industry has printed and issued hundreds of thousands of green cards as of now to act on this contingency, it would be more helpful if a bilateral arrangement were in place between the UK and EU on a contingency basis while a long-term solution is worked out. The Government and the Minister could not have resolved this problem even if they wanted to because the EU must resolve it collectively. The European Commission must. The Deputies opposite can shake their heads all they like, but that is the legal position.

**Deputy Pearse Doherty:** There is a common travel area. We can travel across the Border but we cannot take our cars-----

**Deputy Simon Coveney:** One can.

**Deputy Pearse Doherty:** -----without getting additional documentation.

**Deputy Simon Coveney:** One can take one's car across but there will need to be proof that insurance cover is in place.

**Deputy Pearse Doherty:** That is the point. This should have been dealt with along with the common travel area.

**Deputy Simon Coveney:** This prevents no one. Green cards are freely available, as the Deputies opposite know.

**Deputy Pearse Doherty:** People cannot get their hands on them.

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**Acting Chairman (Deputy Bernard J. Durkan):** I ask the Minister to move the adjournment. There will be 41 minutes left to deal with this section when the debate resumes tomorrow.

Progress reported; Committee to sit again.

The Dáil adjourned at 11 p.m. until 9.30 a.m. on Wednesday, 6 March 2019.