**INSERT YOUR NAME AND ADDRESS HERE**

Date: **INSERT DATE**

Re: Extension of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021

Dear **INSERT TD NAME,**

As you will be aware, on the 15th of December 2021, the Dail and Seanad passed the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Bill 2021 - the purpose of this bill was to extend the period of application of certain emergency powers currently retained by the Government, namely under:

* Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020;
* Criminal Justice (Enforcement Powers) (Covid-19) Act 2020;
* Health (Amendment) Act 2020; and
* Part 2 of the Health (Amendment) (No. 2) Act 2021

(together referred to as the “**Extended Legislation**”)

The health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 provides that the Extended Legislation will continue in operation until 31 March 2022, with the possibility of a further extension of three months, by way of resolution in both Houses of the Oireachtas.

The purpose of this letter is to place on the record my firm disagreement with the extension of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 and to call upon you to **VOTE NO** to any such extension on or before 31March 2022 for the following reasons:

1. **Part 3 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020**

As you will be aware, the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 was passed by the Oireachtas in March 2020 and extended by way of resolution in October 2020. This act was thereafter extended by the Health and Criminal Justice (Covid-19) (Amendment) Act 2021 in May 2021, and by resolution again in October 2021. The provisions of this act were due to expire on 9 February 2022, however with the passage of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 in December 2021, the measures set out in the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 may continue in operation until at least 31 March 2022.

Having regard, in particular, to the long duration and very far-reaching extent of the restrictions, I consider the lockdown policy an excessive, unsustainable and disproportionate strategy. It is causing an unacceptable level of collateral damage and enormous suffering. The extremely harmful effects of the current restrictions are acutely felt in a variety of areas which are of crucial concern for quality of life and wellbeing, including in relation to physical and mental health and the livelihoods of many people. It is important also to highlight the particularly severe impact of lockdowns on children, young people, those with less economic security, and other vulnerable groups in our society. This should not be permitted to continue. Measures adopted should reflect a broader recognition of the range of aspects essential to human wellbeing.

When the restrictions were initially enacted, we were told that they were required until we “*flattened the curve”* in order the give the Government time to put in place measures to ensure the health system would not be over run - noting that this is consistent with the advice from the WHO, who in October 2020 stated: “*We in the World Health Organization do not advocate lockdowns as the primary means of control of this virus.” “The only time we believe a lockdown is justified is to buy you time to reorganize, regroup, rebalance your resources, protect your health workers who are exhausted, but by and large, we’d rather not do it.”[[1]](#footnote-1).*

I, along with many others supported the strengthening of the health services and was prepared to forgo some of my freedoms for a limited period in order to facilitate this. That said, the Government have been afforded **nearly two years** to put in place whatever measures they deem necessary; however, it must be assumed that the Governments failure in this regard has resulted in Ireland suffering some of the most stringent restrictions in the world[[2]](#footnote-2). To be clear, I am no longer prepared to forgo my basic human rights to mask the ineptness of this Government, particularly in circumstances where I fully believe that if Part 3 of the Act is extended, we will still be in lockdown this time next year.

1. **Part 2 of the Health (Amendment) (No. 2) Act 2021**

As you will be aware, the Health (Amendment) (No. 2) Act 2021 was passed by the Oireachtas in July 2021 and extended by way of resolution in October 2021, with its provisions due to expire on 9 January 2022, however with the passage of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 in December 2021, the measures set out in Part 2 of the Health (Amendment) (No. 2) Act 2021 may continue in operation until at least 31 March 2022.

First and foremost, it is worth noting that when Irish MEP’S voted in favour of the introduction of the Digital Green Certificate Regulation, through the European Parliament, in April 2021, many strongly assured us that any such vaccination certificate would **never be used for domestic purposes**, such as accessing gyms, restaurants etc. That said, many of us watching this vote feared that once this regulation was passed, member states (including Ireland) would endeavour to utilise the certification for domestic purposes also. Those who publicly expressed such sentiments were branded as absurd and dismissed as conspiracy theorists, however our worst fears were realised when in July 2021 the Health (Amendment) (No. 2) Act 2021 was passed by the Oireachtas. Thereafter the use of domestic vaccine passports has become so widespread both in areas legislated by the Government and areas where the Government have stipulated that public health advice requires the use of such passports for admission into venues, that few could deny the irreparable damage that has been inflicted on societies and families creating divides that may never be repaired.

To say that I am shocked and appalled that any TD would think it acceptable to make availing of goods/services conditional upon a person’s health status could not be overstated. The well-trodden mantra of “*My Body, My Choice*” no longer appears to apply to those of us who are unable or who have made the decision not to take the COVID-19 vaccine at all / at this time.

I call upon you to **VOTE NO** to the extension of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 for the following reasons:

***It is Discriminatory***

Section 5(1) of the Equal Status Acts stipulates that a person shall not discriminate in disposing of goods to the public generally or a section of the public. Section 3(2) of the Equal Status Acts, states that an act of discrimination occurs if a person is treated less favourably on the grounds of: -

(a) that one is male and the other is female;

(b) that they are of different civil status;

(c) that one has family status and the other does not or that one has a different family status from the other;

(d) that they are of different sexual orientation;

(e) that one has a different religious belief from the other, or that one has a religious belief and the other has not;

(f) subject to subsection (3), that they are of different ages;

(g) that one is a person with a disability and the other either is not or is a person with a different disability;

(h) that they are of different race, colour, nationality or ethnic or national origins;

(i) that one is a member of the Traveller community and the other is not;

(j) the victimisation ground.

An example of those in protected categories who may decline the COVID-19 vaccine (and as a result face discrimination) include:

* those in younger age groups (who are statistically proven not to be at a high risk from COVID-19);
* persons who express hesitancy on religious grounds;
* pregnant women – noting that it was confirmed by the Master of the Rotunda hospital in May 2021 that half of pregnant women attending the Rotunda and who were offered the COVID-19 vaccine, had, in fact, declined to take it. This is likely due to the fact that the COVID-19 vaccine was not tested on pregnant women during clinical trials.

Clearly, there are several protected grounds upon which a person may decline to accept the COVID-19 vaccine and to suggest that any such person should be refused equal access to goods and services is discriminatory in itself.

***It Amounts to Forced Vaccination, Thereby Violating the Right to Bodily Integrity***

**1. The Right to Bodily Integrity is an Unenumerated Right,** protected under Article 40.3.1 of the Irish Constitution which provides that:-

 “*The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.”*

In GLADYS RYAN v. THE ATTORNEY GENERAL it was pronounced that:-

 “ *I understand the right to bodily integrity to mean that no mutilation of the body or any of its members may be carried out on any citizen under authority of the law except for the good of the whole body and that no process which is or may, as a matter of probability, be dangerous or harmful to the life or health of the citizens or any of them may be imposed (in the sense of being made compulsory) by an Act of the Oireachtas.”*

Bodily integrity is the inviolability of the physical body and emphasizes the importance of personal [autonomy](https://en.wikipedia.org/wiki/Autonomy), [self-ownership](https://en.wikipedia.org/wiki/Self-ownership), and [self-determination](https://en.wikipedia.org/wiki/Self-determination) of human beings over their own bodies. In the field of [human rights](https://en.wikipedia.org/wiki/Human_rights), violation of the bodily integrity of another is regarded as an unethical infringement, intrusive, and possibly criminal.

**2. Compulsory Vaccination, as an Involuntary Medical Intervention, Constitutes an Interference with the Exercise of the right to the Integrity of the Person**

The Charter of Fundamental Rights of the European Union (Article 3) guarantees, in respect of medicine and biology, in particular:

* free and informed consent of the person concerned, according to the procedures laid down by law; and
* prohibition of eugenic practices.

**3. The Oviedo Convention** also upholds the principle that any medical intervention should be subject to a patient’s free and informed consent.

**4. Any Mandatory Measures in Sensitive Areas such as Health must be Strictly Lawful and Proportionate** (EU Charter - Article 52)

Unjustified differences in the treatment of people based on their health status could ultimately lead to discrimination under the EU Charter, the European Convention of Human Rights and the European Social Charter.

**5. Protection of Human Health** – the Treaty on the Functioning of the European Union in Article 168 provides that:

* A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.
* Union action (...) shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health.

**6. Vaccination CANNOT be mandatory (**Council of Europe - Resolution 2361 of 2021)

 “…*with respect to ensuring high vaccine uptake: ensure that citizens are informed that the vaccination is NOT mandatory and that no one is politically, socially, or otherwise pressured to get themselves vaccinated, if they do not wish to do so themselves; and ensure that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated*”.

**7. Protection of Bodily Integrity**

The European Court of Human Rights has emphasized that a person’s bodily integrity concerns the most intimate aspects of one’s private life.

***Any Form of Vaccine / Testing Passport Violates the Right to Privacy***

**1. The Right to Privacy was first recognised in Ireland** in McGee v Attorney General, Walsh J. in the Supreme Court held that “*Article 41 of the Constitution guarantees the husband and wife against……invasion of their privacy by the State*.”

In Kennedy and Arnold v Attorney General, Hamilton P held that the right to privacy was one of the unenumerated rights recognised by Article 40.3 of the Constitution which provides: -

 *“The state guarantees in its laws to respect, and as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.”*

**2. Article 8 of the European Convention on Human Rights** enshrines the right to respect for private and family life, as follows: -

 *“Everyone has the right to respect for his private and family life, his home and his correspondence.*

 *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

**3. The Right to Respect for Private and Family Life is also guaranteed by the International Covenant on Civil and Political Rights** (Article 17): -

 *“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.*

 *Everyone has the right to the protection of the law against such interference or attacks.”*

The Human Rights Committee has noted that states parties to the ICCPR have a positive obligation to *“adopt legislative and other measures to give effect to the prohibition against such interferences and attacks as well as to the protection of this right [privacy]”*

**4. Ireland is a signatory to the Universal Declaration of Human Rights** which at Article 12 provides that: -

 *“no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”.*

**5. The General Data Protection Regulations** which came into force on the 25th of May 2018 lay down rules relating to the protection of persons with regard to the processing of their personal data.

The recitals to the regulations state that: -

*“The protection of natural persons in relation to the processing of personal data is a fundamental right”.*

Information regarding a person’s vaccination status constitutes health data which is a type of special category data under the General Data Protection Regulations.

In order to lawfully process health data, a legal basis for the processing of such data under Article 6 of the Regulations must first be determined. In circumstances where a legal basis for the processing of health data under Article 6 can be determined, it should be noted that the processing of special categories of personal data is generally prohibited unless the data processor can avail itself of one of the exemptions under Article 9.

1. **Irish Council for Human Rights (“ICHR”) Survey on Discrimination and COVID-19**

As you may be aware, in July 2021, the Government launched a Consultation, seeking the public’s views on a review of the Equality Acts (Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015) (the **“Acts**”).

The purpose of this Consultation was to explore the possibility of adding new protected grounds to the Equality Acts, such as a socio-economic ground and gender identity.

The review also provided an opportunity to review other issues arising, including whether or not further additional equality grounds should be added, whether existing exemptions should be removed or modified.

In response to this Consultation the ICHR published a questionnaire asking members of the public to detail whether / the levels of discrimination they had suffered arising from issues such as face masks and / or vaccine passports. The ICHR received in excess of 26,000 responses to its survey within 16 days of publication, the findings of which include the following extract:

 *“26,473 people responded to the Survey, of this number approximately 40% were male and 60% female.*

 *48% of those who responded were aged between 36 and 49 years, it is also notable that 234 respondents were aged 18 years or less, while 1,189 respondents were older than 65 years.*

 *Those with children represented a majority of those who responded at 70%, while the vast majority of respondents (96%) were white or Caucasian, that said persons of other race were also represented in the Survey, with 126 black or African American, 132 being Hispanic or Latino, 119 Asian, and 466 being of another race.*

 *As one might expect a high percentage, 80% to be exact, of respondents were Irish, while the remaining respondents were English, Polish, Lithuanian, Romanian, Latvian, Brazilian, Spanish, Italian, French, German, Indian, American etc*

 *The first question of note in the Survey (Question 6) asked respondents to confirm whether they had suffered any form of discrimination, since March of 2020, arising from the Covid-19 pandemic. While it is unsurprising to the ICHR, we are still alarmed to record that 81% of respondents confirmed that they had suffered discrimination, with a further 13% confirming that they have not suffered discrimination because they avoid establishments that may potentially discriminate.*

 *Those who answered in the positive to Question 6 were asked to answer Question 7, which requested information on the grounds under which they had suffered discrimination. Again the ICHR is not surprised to record that 84% of respondents have confirmed that they have suffered discrimination since March of 2020 due to their Health Status (including immunisation status). It is also worth noting that only 0.17% of respondents recorded suffering discrimination on the basis of their gender identity. This is worthy of note considering that the Irish Government wishes to introduce a new protected ground of gender identity, not least given the very serious and marked difference in recorded levels of discrimination on the grounds of gender identity (at 0.17%) compared to health/immunisation status (at 83.79%).*

 *When respondents were asked (through Question 8) if they believed that discrimination in the provision of goods and services was on the rise since March of 2020, 95% confirmed that they did. Further to this, 90% of respondents confirmed that they have altered how they go about their daily lives as a result of this discrimination.*

 *It is also clear that parents are suffering great levels of discrimination with 50% of respondents confirming that they (as parents) have been prevented from attending school / sporting / entertainment / medical events, with or without their child, because of either of their health status (including immunisation status). This percentage is even more alarming when one considers that only 20% of respondents confirmed they had not suffered any such discrimination, with the remaining 30% advising that they are not parents and therefore the question was not applicable to them.*

 *The levels of discrimination illustrated through the Survey are having a detrimental effect on families and family life, with 87% of respondents confirming that the discrimination being suffered by members of these households is creating stress and tension in the home. It should also be noted that the discrimination being suffered by individuals and families has resulted in feelings of:*

 *• Suicide;*

 *• Depression;*

 *• Anxiety;*

 *• Fear;*

 *• Upset;*

 *• Isolation;*

 *• Stress;*

 *• Anger;*

 *• Humiliation; and*

 *• Intimidation.*

 *Perhaps the most telling and worrying result is the finding that 96% of respondents believe that discrimination has become more acceptable within society, since March of 2020, arising from the Covid-19 pandemic.*

 *Given the constant rhetoric being expelled by both the Irish Government and media suggesting that it is only right that those who exercise bodily autonomy are treated as second class citizens or less than (examples of which are set out below), it is fair and reasonable to place the burden of responsibility on such parties to remedy the legalisation of such discrimination and segregation.*

 *Examples as discussed above*

 *Malcolm Byrne FF: Referring to limiting services to unvaccinated people –*

 *“We need to ensure that we put the interests of people who are vaccinated first… but to those who are unvaccinated, who are being so selfish, I think the message from Government has to be, we’re going to stand up for those who are being responsible”.*

 *Gerry Horkan FG: Referring to expanding the use of Vaccine Passports –*

 *“And I think, like others have said, gyms, hairdressers, but why not supermarkets, why not public transport, I know it’s difficult to police some of these things but, really if you want to participate in society you need to be vaccinated, and if you don’t want to participate in society, okay… Stay at home, that’s your own business”.*

 *Sean Kyne FG: Referring to the masking of 9yr old children –*

 *“I heard a commentator compare masks in school to a form of child abuse, which is absolutely ridiculous and scandalous, and is an insult to anybody to has unfortunately suffered a form of child abuse. Masks are an inconvenience, they’re a bit of a pain, that’s it, that’s as much as they are… Most children will have no issue… They’ll see them as what grown-ups do, and wear, and have, they’ll probably enjoy it… and in many cases, it’s their parents that are the problem”.*

 *Leo Varadkar FG: Speaking on CNN –*

 *“We do have among the highest vaccinations rates in the world, around 94% of adults are fully vaccinated. Unfortunately, the 5pc that are not, are causing a lot of the trouble.”*

 *Fergus O’Dowd FG: Referring to limiting services to unvaccinated people –*

 *“This is the only way to proceed, we cannot allow unvaccinated people to take up services which are urgently required and not available to the population who are vaccinated”.*

 *It is clear in terms of:*

1. *the number of people who responded to the Survey in general;*
2. *the number of people who responded to the Survey in such a short space of time (16 days);*
3. *the results from the Survey; and*
4. *the thousands of individual accounts of recorded discrimination -*

 *that one could deduce Government policy in response to the Covid-19 pandemic, has created an entire new category of discrimination, based on a person’s health / immunisation status.*

 *At no time in recent memory has it been acceptable for the political establishment to create laws which segregate a large portion of the population based on their personal health decisions. Furthermore, the confidence with which the Irish Government suggest such discriminatory policies are acceptable, has given life to the idea that not only should such treatment be normalised but glorified.*

 *The evidence gathered through the Survey suggests that it has become a virtuous act to seek out the personal medical information of strangers through uncomfortable and public interrogation. The Survey results also suggest that it has become socially acceptable, and indeed celebrated, to mistreat members of the public who are found not to be complying with Government guidelines around Covid-19, irrespective of the reason for any such noncompliance. Such mistreatment comes in the form of verbal abuse and harassment, being denied basic services, and being ostracised from social events.*

 *Many of the written responses contained in the Survey, refer to the stress of everyday life being magnified at the prospect of performing the most mundane activities, like buying the weekly groceries or attending a school event with children.*

 *The prospect of being challenged and confronted over private medical information, at any time, by anybody, has left the majority of respondents to the Survey, feeling intense levels of undue stress and anxiety.*

 *Such conditions also put immense strain on the family, with parents feeling hopelessly limited by their choices for fear of receiving negative repercussions, which may affect them, but more importantly, their children.*

 *It is a repetitive theme throughout the Survey results, that such hostile living conditions would not have been made possible, but for the fact our political and media establishments, have helped to package and sell the idea, that those who do not adhere fully to all Covid-19 guidelines (irrespective of the reason), have only themselves to blame for the way they are being treated (including but not limited to discrimination). The Survey results confirm that there is a feeling among respondents that the Irish Government, and the Irish Media, have encouraged a change in acceptable behaviour and societal norms, through laws, guidelines, radical proposals, and hateful rhetoric – which has resulted in widespread discrimination being exercised against members of the public on the basis of their health / immunisation status.*

 *Considering the dominance Covid-19 has over everyday life, it is reasonable to suggest that the persecution and discrimination suffered by the vast majority of respondents, will not stop unless done so through legislative protection.*

 *We at the ICHR find the needless suffering of people abhorrent, and completely unacceptable, and expect the Irish Government to rectify the appalling increase in discrimination that has been made possible through their actions. “*

To say that I am shocked at the findings from this survey could not be overstated. You cannot reasonably deny that discrimination has become normalised through Government action and policy since the onset of the COVID-19 pandemic and in circumstances where you voted in favour of the introduction of domestic vaccine passports you have been complicate in the normalisation of such discrimination and in the creation of a two-tier society based on a person’s private medical information.

I fear that the divide in society may be irreparable, however, there can be no doubt that any further extension in the duration of laws which openly promote discrimination will add further to the hardship and suffering that persons and families are facing, it is therefore imperative that any such laws are not extended past 31 March 2022.

**Conclusion**

As representatives elected by the people, for the people, it is essential for TD’s to maintain meaningful respect for fundamental rights and civil liberties, even when doing so presents challenges.

For the avoidance of doubt, I confirm that when the next General Election takes place the paramount, decisive issue I will be concerned with is whether you did everything within your power to stop the extension of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021.

I await hearing from you with confirmation that you intend to **VOTE NO** to the extension of the Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021 and shall follow up upon this communication.

Yours Sincerely

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**INSERT YOUR NAME HERE**

1. https://www.youtube.com/watch?v=x8oH7cBxgwE&t=915s [↑](#footnote-ref-1)
2. https://data.humdata.org/dataset/oxford-covid-19-government-response-tracker [↑](#footnote-ref-2)