



**SEANAD ÉIREANN**

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**AN BILLE UM RIALÁIL CUMARSÁIDE (LEASÚ) 2007  
COMMUNICATIONS REGULATION (AMENDMENT) BILL  
2007**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

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## AN BILLE UM RIALÁIL CUMARSÁIDE (LEASÚ) 2007 —AN CHOISTE

### COMMUNICATIONS REGULATION (AMENDMENT) BILL 2007 —COMMITTEE STAGE

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*Leasuithe  
Amendments*

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*\*Government Amendments are distinguished by an asterisk.*

#### SECTION 4

1. In page 9, subsection (3), line 37, to delete “rule-making” and substitute “instrument-making”.  
—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

#### SECTION 8

2. In page 14, line 39, to delete “repealing” and substitute “deleting”.  
—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

#### SECTION 14

3. In page 20, line 35, to delete “repeatedly”.  
—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

#### SECTION 15

- \*4. In page 22, line 4, to delete “Schedule 1” and substitute the following:

“Schedule 1 (inserted by *section 19* of the *Communications Regulation (Amendment) Act 2007*)”.

- \*5. In page 22, line 6, to delete “act” and substitute “act, or provision of an act,”.

- \*6. In page 22, line 10, to delete “may” and substitute “may, by regulations,”.

7. In page 22, to delete lines 11 and 12.  
—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

- \*8. In page 22, line 13, to delete “subsection (5)” and substitute “subsection (6)”.

- \*9. In page 22, between lines 20 and 21, to insert the following:

“(2) If regulations specified in Part 2 of Schedule 1 that give effect to a provision of the treaties governing the European Communities, or an act, or provision of an act, adopted by an institution of those Communities, prohibit or require the doing of an act, the Minister may, where he or she considers it necessary for the purpose of giving effect to the provision or act, make regulations amending the first-mentioned regulations—

[ SECTION 15 ]

- (a) to provide that a contravention of the prohibited act, or a failure or refusal to perform the required act, is an offence,
- (b) to provide for the offence to be triable—
  - (i) summarily, or
  - (ii) on indictment, if the Minister considers it necessary for the purpose of giving effect to the provision or act concerned, and
- (c) subject to subsection (6), to make such provision as the Minister considers necessary for the purpose of ensuring that penalties in respect of the offence are effective and proportionate, and have a deterrent effect, having regard to the acts or omissions to which the offence relates.”.

\*10. In page 22, to delete line 21 and substitute the following:

“(3) The Minister may make regulations for the”.

\*11. In page 22, line 24, to delete “act” and substitute “act, or provision of an act,”.

\*12. In page 22, to delete lines 33 to 41.

\*13. In page 22, line 42, to delete “subsection (2)” and substitute “subsection (3)”.

\*14. In page 22, lines 49, to delete “subsection (2)” and substitute “subsection (3)”.

\*15. In page 23, to delete lines 1 to 6 and substitute the following:

“(a) provide for an offence under those regulations to be triable—

- (i) summarily, or
  - (ii) on indictment, if the Minister considers it necessary for the purpose of giving effect to the provision or act referred to in subsection (3),
- and”.

\*16. In page 23, to delete lines 15 to 28 and substitute the following:

“(6) The maximum fine that may be provided for in regulations under this section shall—

- (a) in respect of the conviction on indictment of a body corporate of an offence under the regulations, not be greater than—
    - (i) €4,000,000, or
    - (ii) if 10 per cent of the turnover of the body is greater than that amount, an amount equal to the said 10 per cent,
- or
- (b) in respect of the conviction on indictment of any other person of such an offence, not be greater than €500,000.”.

\*17. In page 24, to delete lines 10 to 13 and substitute the following:

“(9) In this section—

[ SECTION 15 ]

‘European Communities’ and ‘treaties governing the European Communities’ have the same meanings as they have in the European Communities Act 1972; and

‘turnover’ means, in relation to a body corporate, the turnover of the body in the financial year of the body ending immediately before the financial year in which the offence of which the body has been convicted was committed.”.

**18.** In page 24, line 39, to delete “or any part”.

—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

SECTION 21

**19.** In page 37, line 46, to delete “under” and substitute “in accordance with”.

—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

SECTION 29

**\*20.** In page 40, to delete lines 34 and 35 and substitute the following:

““(13) To the extent that a cooperation agreement entered into under this section is inconsistent with a cooperation agreement to which section 47G (inserted by *section 31 of the Communications Regulation (Amendment) Act 2007*) applies, the second-mentioned cooperation agreement shall prevail.”.”.

SECTION 31

**\*21.** In page 44, line 40, to delete “information provided” and substitute “information is provided”.

**\*22.** In page 44, line 42, to delete “is of the kind referred to in subsection (2)(a)” and substitute “to which this section applies”.

SECTION 32

**\*23.** In page 44, before section 32, to insert the following new section:

“32.—Schedule 1 to the Competition Act 2002 is amended by—

(a) the deletion of the item of the Schedule relating to the Director of Telecommunications Regulation, and

(b) the substitution—

(i) in column (1), of ‘Commission for Communications Regulation’ for ‘Director of Telecommunications Regulation’, and

(ii) in column (2), of ‘Minister for Communications, Marine and Natural Resources’ for ‘Minister for Public Enterprise’ wherever it occurs.”.

[*Acceptance of this amendment involves the deletion of section 32 of the Bill.*]

[ *NEW SECTIONS* ]

NEW SECTIONS

**24.** In page 44, before Schedule 1, to insert the following new section:

“Recording of calls. 33.—That no telephone call from a private subscriber either to another private subscriber or to a commercial or State concern may be recorded without the permission of the caller.”.

—*Senator David Norris.*

**25.** In page 44, before Schedule 1, to insert the following new section:

“Line rents. 33.—That the Government shall make provision analogous to that under which house owners were facilitated in buying out ground rents to allow telephone subscribers to buy out the telephone line to their address.”.

—*Senator David Norris.*

SCHEDULE 1

**26.** In page 48, in the third column, between lines 19# and 20#, to insert the following:

“(2) In this section a message sent by electronic mail or text message is deemed to be sent by telephone.”.

—*Senators Kathleen O'Meara, Brendan Ryan, Derek McDowell, Joanna Tuffy, Michael McCarthy.*

[#Note: A printing error has resulted in incorrect line references in page 48 of the Bill. The line references in this amendment relate to the actual number of lines of text contained in page 48 of the Bill.]