An Bille um Cheartas Coiriúil (Cionta a bhaineann le Córais Faisnéise, 2016
Criminal Justice (Offences Relating to Information Systems) Bill 2016

Meabhrán Minitheach
Explanatory Memorandum
Purpose of the Bill
The main purpose of the Bill is to give effect to provisions of Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems which replaced Council Framework Decision 2005/222/JHA. For this and related purposes the Bill also amends the Criminal Damage Act 1991, the Bail Act 1997 and the Criminal Justice Act 2011.

Provisions of the Bill
Section 1 provides the necessary interpretation provisions and includes a definition of “information system”.

Section 2 provides that it is an offence to intentionally access an information system without lawful authority.

Section 3 makes it an offence to intentionally interfere with an information system so as to hinder or interrupt its functioning.

Section 4 provides that it is an offence to intentionally interfere with data on an information system.

Section 5 makes it an offence to intentionally intercept the transmission of data to, from or within an information system.

Section 6 provides that it is an offence to intentionally produce, sell, procure for use, import, distribute, or otherwise make available, a device, computer programme, password, code or data for the purpose of the commission of an offence under sections 2, 3, 4 or 5.

Section 7 provides for a search warrant to be issued to the Gardaí by the District Court in relation to the investigation of the suspected commission of offences under the Act. It also sets out the process involved, how the search warrant will operate and provides for related matters.

Section 8 sets out the penalties in respect of offences under the Act.

Section 9 clarifies that where an offence under the Act is committed by a body corporate, liability shall rest with the person acting on behalf of the body corporate as well as with the body corporate itself.

Section 10 establishes legal jurisdiction with regard to the commission of offences under sections 2 to 6 of the Act.
Section 11 relates to evidence of Irish citizenship in the context of legal proceedings relating to offences under the Act that are committed outside the State.

Section 12 relates to the legal concept of “double jeopardy” and provides that a person who has been tried for an offence outside the State shall not be proceeded against for an offence under this Act in respect of which the person has already been tried.

Section 13 amends the Criminal Damage Act 1991 insofar as it relates to computer data in the context of damage to property. The offences contained in the 1991 Act relating to computer data are being deleted and instead being covered and expanded on in this Act, which includes “data” within the definition of “information system”. This section also contains a transitional provision in respect of search warrants issued under the 1991 Act.

Section 14 amends the Bail Act 1997 to include in the Schedule to that Act the offences provided for under sections 2, 3, 4, 5 and 6 of this Act. The Schedule to the 1997 Act specifies serious offences in respect of which an application for bail may be refused by the court.

Section 15 amends Schedule 1 of the Criminal Justice Act 2011 to substitute references to offences relating to computer data under the Criminal Damage Act 1991 with broader offences relating to data under sections 2, 3, 4, 5 and 6 of this Act. This reflects amendments being made to the 1991 Act in section 13 of this Act. Schedule 1 to the 2011 Act specifies relevant offences for the purposes of that Act.

Section 16 provides that any expenses incurred by the Minister for Justice and Equality in the administration of the Act shall, to the extent sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Section 17 is a standard provision providing for the short title and commencement.

An Roinn Dlí agus Cirt agus Comhionannais,