



# **DÁIL ÉIREANN**

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**AN BILLE UM CHOSAINN SONRAÍ, 2018  
DATA PROTECTION BILL 2018**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM CHOSAINN SONRAÍ, 2018 —ROGHCHOISTE

### DATA PROTECTION BILL 2018 —SELECT COMMITTEE

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#### *Leasuithe Amendments*

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#### SECTION 2

1. In page 11, between lines 19 and 20, to insert the following:

“ “scientific research purposes” means scientific research carried out by research staff who have full autonomy in determining both the object of study and the methods of inquiry;”.

—Clare Daly, Mick Wallace.

#### SECTION 3

2. In page 12, line 2, to delete “shall be deemed” and substitute “shall, other than for the purposes of *sections 103(3)\* and 139(2)\*\* and (3)\*\**, be deemed”.

—An tAire Dlí agus Cirt agus Comhionannais.

[\*This reference is correct if amendment No. 134 is accepted]

\*\*These references are correct if amendment No. 185 is accepted]

3. In page 12, lines 8 and 9, to delete “shall be deemed” and substitute “shall, other than for the purposes of *sections 103(3)\* and 139(2)\*\* and (3)\*\**, be deemed”.

—An tAire Dlí agus Cirt agus Comhionannais.

[\*This reference is correct if amendment No. 134 is accepted]

\*\*These references are correct if amendment No. 185 is accepted]

4. In page 12, between lines 10 and 11, to insert the following:

“(3) For the purposes of this Act and the Data Protection Regulation—

- (a) where a designation by the relevant appropriate authority under *subsection (1)* is not in force, a civil servant in relation to whom that authority is the appropriate authority shall be deemed to be its employee and, where such a designation is in force, such a civil servant (other than the civil servant the subject of the designation) shall be deemed to be an employee of the last mentioned civil servant,

[SECTION 3]

- (b) where a designation under *subsection (2)* is not in force, a member of the Defence Forces shall be deemed to be an employee of the Minister for Defence and, where such a designation is in force, such a member (other than the officer the subject of the designation) shall be deemed to be an employee of that officer, and
- (c) a member of the Garda Síochána (other than the Commissioner of the Garda Síochána) shall be deemed to be an employee of the Commissioner of the Garda Síochána.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 6

5. In page 12, to delete lines 35 to 38, and in page 13, to delete lines 1 and 2 and substitute the following:

- “(2) Every regulation made under a provision of this Act, other than under *sections 48, 57 and 70* shall be laid before each House of the Oireachtas as soon as may be after it is made.
- (3) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which a regulation is laid before it under *subsection (2)*, annul the regulation.
- (4) The annulment of a regulation under *subsection (3)* takes effect immediately on the passing of the resolution concerned, but does not affect the validity of anything done under the regulation before the passing of the resolution.
- (5) A regulation may be made under *section 48, section 57, and section 70* only if—
  - (a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and
  - (b) a resolution approving the draft has been passed by each House.”.

—Clare Daly, Mick Wallace.

SECTION 7

6. In page 13, line 17, to delete “The enactments specified” and substitute “Subject to *subsection (4)*, the enactments specified”.

—An tAire Dlí agus Cirt agus Comhionannais.

7. In page 13, to delete lines 19 and 20 and substitute the following:

- “(4) The repeals and revocations effected by this section shall not apply for the purposes of *subsection (2)* of *section 8*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 8

8. In page 13, lines 22 to 24, to delete all words from and including “(1) Subject” in line 22 down to and including line 24 and substitute the following:

- “(1) Subject to *subsection (2)*, the Act of 1988 shall, on and from the date on which this section comes into operation, cease to apply to the processing of personal data other

[SECTION 8]

than the processing (within the meaning of that Act) of such data for the purposes of safeguarding the security of the State, the defence of the State or the international relations of the State.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 12

9. In page 15, between lines 5 and 6, to insert the following:

“(3) The Commission is designated for the purposes of Chapter IV (Mutual assistance) of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data done at Strasbourg on the 28th day of January 1981.

(4) The Minister may, following consultation with the Commission, make any regulations that he or she considers necessary or expedient for the purpose of enabling Chapter IV (as referred to in *subsection (3)*) to have full effect.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 14

10. In page 15, to delete line 37 and substitute the following:

“(4) Any and all investigations ongoing or commenced by the Data Protection Commissioner shall continue under the aegis of the Data Protection Commission as of the establishment day without interruption.”.

—Donnchadh Ó Laoghaire.

SECTION 15

11. In page 16, to delete lines 14 to 16, and substitute the following:

“(5) Subject to *subsections (6) and (7)\**, the Public Appointments Service shall recommend a person for appointment as Commissioner following an open selection competition held by the Service for that purpose.”.

—Jim O’Callaghan.

[\*This is a reference to the subsection proposed to be inserted by amendment No. 14]

12. In page 16, line 15, after “following” to insert “an open competition and”.

—Clare Daly, Mick Wallace.

13. In page 16, between lines 16 and 17, to insert the following:

“(6) The Service shall, subject to *subsection (7)*, appoint a selection panel.

(7) Of the members of the selection panel, one of them shall be nominated by the European Data Protection Supervisor.”.

—Clare Daly, Mick Wallace.

14. In page 16, between lines 20 and 21, to insert the following:

“(7) Of the members of the selection panel, one of them shall be nominated by the Chair of the European Data Protection Board.”.

[SECTION 15]

—Jim O'Callaghan.

15. In page 16, between lines 27 and 28, to insert the following:

- “(9) A vacancy on the Commission shall be advertised publicly and shall include details of the agreed selection criteria for the filling of the vacancy and the process to be implemented in respect of the filling of that vacancy.
- (10) A person shall not be recommended for appointment by the Government under this section unless the person is, in the opinion of the Service and the Government agrees, suitably qualified for such appointment by reason of his or her possessing such relevant experience, training or expertise as is appropriate having regard in particular to the functions conferred on the Commission by or under this Act.”.

—Clare Daly, Mick Wallace.

16. In page 16, line 34, to delete “and”, where it secondly occurs.

—An tAire Dlí agus Cirt agus Comhionannais.

17. In page 16, line 36, to delete “business.” and substitute “business, and”.

—An tAire Dlí agus Cirt agus Comhionannais.

18. In page 16, between lines 36 and 37, to insert the following:

- “(d) cease to be a Commissioner on reaching the age of 70 years, but where the person is a new entrant (within the meaning of section 2 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) the requirement to cease to be a Commissioner on grounds of age shall not apply.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 18

19. In page 18, between lines 17 and 18, to insert the following:

**“Acting Commissioner**

18. (1) Where one Commissioner only stands appointed for the time being under *section 15*, the Minister may authorise a member of staff of the Commission to perform the functions of a Commissioner during any period when that Commissioner is absent from duty or absent from the State or is, for any other reason, unable to perform the functions of a Commissioner.
- (2) Where a vacancy occurs in the office of Commissioner and no Commissioner stands appointed for the time being under *section 15*, the Minister may authorise a member of staff of the Commission to perform the functions of a Commissioner during the period of that vacancy, but an authorisation under this subsection shall cease upon the appointment of a Commissioner under *section 15* whether or not such appointment was made for the purpose of filling that vacancy.
- (3) An authorisation under *subsection (2)* shall not remain in force for a period of more than 6 months unless the Minister is satisfied that it is not reasonably practicable for an appointment under *section 15* to be made within that period, in which case he or

[SECTION 18]

she may extend that period by such further period as he or she is satisfied is a period within which it is reasonably practicable for an appointment to be made under that section.

- (4) The Minister may at any time terminate an authorisation under this section.
- (5) A member of staff of the Commission in respect of whom an authorisation under this section is in force may perform the functions of a Commissioner under this Act, and, for that purpose, references to a Commissioner in this Act (other than in *sections 15(3), 17(2) to (8) and 22*) shall be construed as including references to such member of staff.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Acceptance of this amendment involves the deletion of section 18 of the Bill.*]

SECTION 20

20. In page 19, between lines 26 and 27, to insert the following:

**“Assignment and transfer of staff to Commission**

20. (1) Every civil servant who, immediately before the establishment day, stands assigned to act as a member of staff of the Data Protection Commissioner shall, on the establishment day, stand assigned to act as a member of staff of the Commission.
- (2) The Minister may, as he or she considers appropriate, designate in writing such and so many persons who stand assigned under *subsection (1)* to act as members of staff of the Commission to become and be members of staff of the Commission on and from such date as the Minister may specify in the designation (in this section referred to as the “effective date”).
- (3) A member of staff designated in accordance with *subsection (2)* shall become and be a member of staff of the Commission on and from the effective date.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Acceptance of this amendment involves the deletion of section 20 of the Bill.*]

SECTION 22

21. In page 20, line 10, to delete “a scheme under *subsection (1)*” and substitute “a scheme made under *subsection (1)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

22. In page 20, line 13, to delete “a scheme under *subsection (1)*” and substitute “a scheme made under *subsection (1)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

23. In page 20, line 16, to delete “A scheme under *subsection (1)*” and substitute “A scheme made under *subsection (1)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 22]

24. In page 20, line 22, to delete “A scheme under *subsection (1)*” and substitute “A scheme made under *subsection (1)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 23

25. In page 21, between lines 5 and 6, to insert the following:

- “(3) Subject to *subsections (4), (5) and (6)*, *subsections (1) and (2)* shall cease to have effect on the date of the coming into operation of *section 165*.
- (4) The Commission shall, in respect of the period specified under *subsection (6)*, prepare final accounts of the Commission.
- (5) The Commission shall submit the final accounts prepared under *subsection (4)* to the Comptroller and Auditor General for audit not later than 3 months after the date of the coming into operation of *section 165*.
- (6) For the purposes of *subsection (4)*, the Minister may specify a period that is longer or shorter than a financial year of the Commission.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 30

26. In page 23, between lines 14 and 15, to insert the following:

**“Data-harvesting, micro-targeting and profiling of children for financial gain**

30. It shall be an offence under this Act for any company or corporate body to collect, collate, or store data pertaining to a child as defined by *section 29*, for the uses of profiling or micro-targeting, for the purposes of financial gain. Such an offence shall be punishable by an administrative fine under *section 139*.”.

—Donnchadh Ó Laoghaire.

27. In page 23, line 16, to delete “13 years” and substitute “16 years”.

—Sean Sherlock, Róisín Shortall, Catherine Murphy, Jim O’Callaghan.

28. In page 23, line 19, after “services” to insert “, listed in the register maintained by Tusla for the purposes of this section”.

—Clare Daly, Mick Wallace.

29. In page 23, between lines 19 and 20, to insert the following:

- “(3) It shall not be lawful for a data controller to process the data of a child for marketing purposes, when the child is under the age of 16.
- (4) It shall not be lawful for a data controller to process data in relation to the parents, guardians or family members of a child, without the consent of the person to whom the data pertains, save for age verification purposes, when the child is under the age of 16.”.

—Clare Daly, Mick Wallace.



[SECTION 31]

SECTION 31

30. In page 23, between lines 23 and 24, to insert the following:

**“Profiling of children**

31. It shall be unlawful for a data controller to profile the data of a child for marketing purposes when that child is under 16 years of age.”.

—Róisín Shortall, Catherine Murphy.

31. In page 23, line 25, to delete “encourage” and substitute “require”.

—Clare Daly, Mick Wallace.

32. In page 23, line 31, to delete “and”.

—An tAire Dlí agus Cirt agus Comhionannais.

33. In page 23, line 33, to delete “Article 25.” and substitute “Article 25, and”.

—An tAire Dlí agus Cirt agus Comhionannais.

34. In page 23, after line 33, to insert the following:

“(e) the processing of the personal data of children for the purposes of direct marketing and creating personality and user profiles.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 33

35. In page 25, lines 2 to 4, to delete all words from and including “, and” down to and including “subsection” in line 4.

—Clare Daly, Mick Wallace.

SECTION 35

36. In page 25, line 12, after “include” to insert “in particular the following”.

—Clare Daly, Mick Wallace.

37. In page 25, lines 14 to 32, to delete all words from and including “purposes,” in line 14 down to and including line 32 and substitute the following:

“purposes, and

(b) having regard to the state of the art, the context, nature, scope and purposes of data processing and the likelihood of risk to, and the severity of any risk to, the rights and freedoms of data subjects—

(i) logging mechanisms to permit verification of whether and by whom the personal data have been consulted, altered, disclosed or erased,

(ii) in cases in which it is not mandatory under the Data Protection Regulation, designation of a data protection officer,

(iii) where the processing involves data relating to the health of a data subject, a requirement that the processing is undertaken by a person referred to in

[SECTION 35]

*section 49(2),*

- (iv) pseudonymisation of the personal data,
- (v) encryption of the personal data,
- (vi) measures to ensure the confidentiality, integrity, availability and resilience of processing systems and services related to the processing of personal data, including the ability to rapidly restore availability and access in the event of a physical or technical incident,
- (vii) technical and organisational measures to ensure that processing complies with the Data Protection Regulation and processes for testing and evaluating the effectiveness of such measures, and
- (viii) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.”.

—Clare Daly, Mick Wallace.

**38.** In page 25, between lines 32 and 33, to insert the following:

“(2) Where a requirement that suitable and specific measures be taken to safeguard the fundamental rights and freedoms of data subjects in processing personal data of those subjects is imposed by this Act or regulations made under this Act, those measures shall include—

- (a) limitations on access to the personal data undergoing processing within a workplace in order to prevent unauthorised consultation, alteration, disclosure or erasure of personal data,
- (b) strict time limits for the erasure of personal data and mechanisms to ensure that such limits are observed, and
- (c) specific targeted training for those involved in processing operations.”.

—Clare Daly, Mick Wallace.

**39.** In page 25, line 35, to delete “*paragraphs (a) to (e) of subsection (1)*” and substitute “*subsection (1)(a) and (b) and subsection (2)\**”.

—Clare Daly, Mick Wallace.

[\**This is a reference to the subsection inserted by amendment No. 38.*]

**40.** In page 26, line 1, to delete “*(a) to (e)*” and substitute “*(a) and (b)*”.

—Clare Daly, Mick Wallace.

**41.** In page 26, lines 9 to 13, to delete all words from and including “*projects,*” in line 9 down to and including line 13 and substitute “*projects.*”.

—Clare Daly, Mick Wallace.

**42.** In page 26, line 14, to delete “*may*” and substitute “*shall*”.

—Clare Daly, Mick Wallace.

[SECTION 35]

43. In page 26, to delete lines 23 to 27 and substitute the following:

“(a) the Minister, provided that—

- (i) the Minister has consulted with such other Minister of the Government as he or she considers appropriate,
- (ii) the Minister has consulted with and sought the advice of the Commission, and
- (iii) the Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, laid a written rationale for his or her proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee,

or

(b) any other Minister, provided that—

- (i) that Minister has consulted with the Minister and such other Minister of the Government as he or she considers appropriate,
- (ii) that Minister has consulted with and sought the advice of the Commission, and
- (iii) that Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, caused to be laid before the Oireachtas Committee on Justice and Equality and any other relevant committee a written rationale for his or her proposed regulations.”.

—Clare Daly, Mick Wallace.

44. In page 26, to delete lines 35 to 38.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 37

45. In page 27, to delete lines 27 to 29.

—Clare Daly, Mick Wallace.

46. In page 28, line 7, to delete “may” and substitute “shall”.

—Clare Daly, Mick Wallace.

47. In page 28, to delete lines 8 to 12 and substitute the following:

“(a) the Minister, provided that—

- (i) the Minister has consulted with such other Minister of the Government as he or she considers appropriate,
- (ii) the Minister has consulted with and sought the advice of the Commission, and
- (iii) the Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, laid a written rationale for his or her

[SECTION 37]

proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee,

or

- (b) any other Minister, provided that—
- (i) that Minister has consulted with the Minister and such other Minister of the Government as he or she considers appropriate,
  - (ii) that Minister has consulted with and sought the advice of the Commission, and
  - (iii) that Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, caused to be laid before the Oireachtas Committee on Justice and Equality and any other relevant committee a written rationale for his or her proposed regulations.”.

—Clare Daly, Mick Wallace.

48. In page 28, line 16, to delete “and” and substitute the following:

- “(c) storage periods,
- (d) purpose limitations,
- (e) processing operations and processing procedures, including measures to ensure lawful and fair processing,
- (f) such other conditions (if any) as the Minister considers appropriate to impose on such processing, and”.

—Clare Daly, Mick Wallace.

49. In page 28, between lines 19 and 20, to insert the following:

- “(6) Regulations made under *subsection (4)* shall—
- (a) respect the essence of the right to data protection, and
  - (b) enable processing of personal data only in so far as is necessary and proportionate to the legitimate aim pursued.”.

—Clare Daly, Mick Wallace.

*Section opposed.*

—Donnchadh Ó Laoghaire.

SECTION 38

50. In page 28, between lines 35 and 36, to insert the following:

**“Communication with data subjects by political parties, candidates for and holders of certain elective political offices**

38. (1) A specified person may, in the course of that person’s electoral activities in the State, use the personal data of a data subject for the purpose of communicating in writing

[SECTION 38]

(including by way of newsletter or circular) with the data subject.

- (2) Communicating in accordance with *subsection (1)* shall, for the purposes of Article 6(1)(e), be considered to be the performance of a task carried out in the public interest.
- (3) In this section, “specified person” means—
  - (a) a political party,
  - (b) a member of either House of the Oireachtas, the European Parliament or a local authority, or
  - (c) a candidate for election to the office of President of Ireland or for membership of either House of the Oireachtas, the European Parliament or a local authority.
- (4) In this section and in *sections 45, 55 and 56*, “electoral activities” includes the dissemination of information, including information as to a person’s activities and policies, that might reasonably be of interest to electors.”.

—An tAire Dlí agus Cirt agus Comhionannais.

51. In page 28, between lines 35 and 36, to insert the following:

**“Processing of personal data and special categories of personal data by elected representatives**

38. (1) For the purpose of enabling an elected representative to perform his or her functions as such a representative, the processing of personal data and special categories of personal data of a data subject by or on behalf of that representative shall be lawful where he or she receives a request or representation from the data subject or where, in accordance with *subsection (2)*, he or she receives a request or representation from another person on behalf of the data subject.
- (2) A person may make a request or representation on behalf of a data subject where the data subject—
    - (a) has given his or her consent to the making of the request or representation, as the case may be, or
    - (b) is, by reason of his or her physical or mental incapacity or age, unable to make a request or representation on his or her own behalf.
  - (3) In processing special categories of personal data under *subsection (1)*, an elected representative shall impose limitations on access to that data to prevent unauthorised consultation, alteration, disclosure or erasure of that data.
  - (4) For the purpose referred to in *subsection (1)* and to the extent that disclosure is necessary and proportionate to enable an elected representative to deal with a request or representation referred to in that subsection, subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of the data subject, it shall be lawful for a person to disclose to the representative or a person acting on his or her behalf personal data and special categories of personal data of a data subject who makes the request or representation, or on whose behalf the request

[SECTION 38]

or representation is made, as the case may be, to enable that representative respond to that request or representation.

(5) In this section, “elected representative” means—

- (a) a member of either House of the Oireachtas,
- (b) a member of the European Parliament,
- (c) a member of a local authority.”.

—An tAire Dlí agus Cirt agus Comhionannais.

52. In page 29, line 2, to delete “and special categories of personal data”.

—Clare Daly, Mick Wallace.

53. In page 29, line 4, after “that” to insert “, having regard to the fundamental rights and legitimate interests of the data subject,”.

—Clare Daly, Mick Wallace.

54. In page 29, line 6, to delete “preventing, investigating” and substitute “preventing, detecting, investigating”.

—An tAire Dlí agus Cirt agus Comhionannais.

55. In page 29, line 6, to delete “preventing, investigating or prosecuting” and substitute “avoiding prejudicing the prevention, investigation or prosecution of”.

—Clare Daly, Mick Wallace.

SECTION 39

56. In page 29, between lines 7 and 8, to insert the following:

**“Processing of special categories of personal data**

39. Without prejudice to the processing of personal data for a purpose other than the purpose for which the data has been collected which is lawful under the Data Protection Regulation, the processing of special categories of personal data for a purpose other than the purpose for which the data has been collected shall be lawful to the extent that such processing is, having regard to the fundamental rights and legitimate interests of the data subject, necessary and proportionate for the purposes—

- (a) of preventing a substantial threat to national security, defence, or public security,
- (b) of avoiding prejudicing the investigation or prosecution of criminal offences,
- (c) set out in *paragraphs (a) or (b) of section 44.*”.

—Clare Daly, Mick Wallace.

[SECTION 41]

SECTION 41

57. In page 30, between lines 2 and 3, to insert the following:

**“Application to access data**

41. (1) No application to access data processed for journalistic purposes may be made by any party, including, for the avoidance of doubt, an authorised officer, An Garda Síochána, the Garda Síochána Ombudsman Commissioner, the Revenue Commissioners or the Defence Forces, except by way of application to the High Court by motion and affidavit and on notice to the journalist data processor.
- (2) In determining whether to allow access to data processed for journalistic purposes, the High Court shall have regard to the importance of freedom of expression in a democratic society and to the importance of confidential sources of information to the right of freedom of expression.
- (3) The High Court may permit access to data processed for journalistic purposes, including for the purpose of identifying confidential sources of information, only where the journalist processor whose data is sought is the subject of investigation for suspected commission of a serious criminal offence or for unlawful activity which poses a serious threat to the security of the State.
- (4) (a) In exceptional cases, where the security of the State is under immediate threat or where it is suspected that a serious criminal offence is likely to be committed in the immediate future, an application may be made *ex parte* to the High Court for access to data processed for journalistic purposes.
- (b) Where an *ex parte* application under this section is made, the journalist processor whose data is the subject of the application shall be notified of the application by, and given the opportunity to make representations before, the High Court as soon as practicable.
- (5) An appeal shall, by leave of the High Court, lie from a determination of that Court under this section on a question of law to the Court of Appeal.”.

—Donnchadh Ó Laoghaire.

58. In page 30, to delete lines 4 to 6 and substitute the following:

- “41. (1) For the purposes of Article 86, personal data may be disclosed where a request for access to a record is granted under and in accordance with the Act of 2014 pursuant to an FOI request, a request for access to environmental information is granted under and in accordance with the Regulations of 2007 pursuant to a request for environmental information or a request to release documents for re-use is granted under and in accordance with the Regulations of 2005 pursuant to a request.”.

—Donnchadh Ó Laoghaire.

59. In page 30, line 4, to delete “contained in a record”.

—Donnchadh Ó Laoghaire, Jim O’Callaghan.

[SECTION 41]

60. In page 30, line 6, after “request” to insert the following:

“, a request for access to environmental information is granted under and in accordance with the Regulations of 2007 pursuant to a request for environmental information or a request to release documents for re-use is granted under and in accordance with the Regulations of 2005 pursuant to a request”.

—Jim O’Callaghan.

61. In page 30, between lines 8 and 9, to insert the following:

“ “document” has the same meaning as it has in the Regulations of 2005;

“environmental information” has the same meaning as it has in the Regulations of 2007;”.

—Donnchadh Ó Laoghaire, Jim O’Callaghan.

62. In page 30, between lines 10 and 11, to insert the following:

“ “Regulations of 2005” mean the European Communities (Re-Use of Public Sector Information) Regulations 2005 to 2015;

“Regulations of 2007” mean the European Communities (Access to Information on the Environment) Regulations 2007 to 2014.”.

—Donnchadh Ó Laoghaire, Jim O’Callaghan.

SECTION 42

63. In page 30, between lines 13 and 14, to insert the following:

**“Processing of special categories of personal data**

42. Subject to compliance with the Data Protection Regulation and any other relevant enactment or rule of law, the processing of special categories of personal data shall be lawful to the extent the processing is—

(a) authorised by *section 38* and *sections 43* to *51*, or

(b) otherwise authorised by Article 9.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*Acceptance of this amendment involves the deletion of section 42 of the Bill.*]

SECTION 43

64. In page 30, line 23, to delete “any right or obligation” and substitute “specific rights or obligations”.

—Clare Daly, Mick Wallace.

SECTION 45

65. In page 30, after line 33, to insert the following:

“45. Subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects, the processing of personal data shall be lawful where the processing is carried out—



[SECTION 45]

- (a) by an Oireachtas member, or
- (b) by an elected member of a Local Authority,

in the exercises of a function of either House or of the Local Authority.”.

—Jim O’Callaghan.

66. In page 31, between lines 12 and 13, to insert the following:

“(2) This section does not permit the sharing or processing of personal data revealing political opinion with or by any private company, as defined under section 2(1) of the Companies Act 2014 without the consent of the data subject even when that private company has been contracted by the actors or entities specified under paragraphs (a), (b) or (c).”.

—Donnchadh Ó Laoghaire, Mick Wallace.

*Section opposed.*

—Clare Daly.

SECTION 47

67. In page 31, line 24, after “subjects,” to insert “and subject to *subsection (2)\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the subsection proposed to be inserted by amendment No. 66.]

68. In page 31, to delete lines 26 and 27.

—Clare Daly, Mick Wallace.

69. In page 31, to delete lines 29 and 30, and substitute “arrangement.”.

—Clare Daly, Mick Wallace.

70. In page 31, between lines 30 and 31 to insert the following:

“(2) The processing of data regarding health under this section can be carried out without the consent of the data subject only if, in addition to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects—

- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
- (b) the controller is not aware of the data subject withholding consent.”.

—Clare Daly, Mick Wallace.

SECTION 48

71. In page 31, between lines 30 and 31, to insert the following:

**“Processing of special categories of personal data and Article 10 data for reasons of substantial public interest**

48. (1) Processing of special categories of personal data shall be lawful where the processing is carried out in accordance with regulations made under *subsection (3)*.

[SECTION 48]

- (2) Article 10 data may be processed where the processing is carried out in accordance with regulations made under *subsection (3)*.
- (3) Regulations may be made authorising the processing, where necessary for reasons of substantial public interest, of either or both of the following—
  - (a) special categories of personal data, and
  - (b) without prejudice to the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, Article 10 data.
- (4) Without prejudice to the generality of *subsection (3)*, regulations made under that subsection shall identify—
  - (a) the substantial public interest concerned, and
  - (b) the suitable and specific measures to be taken to safeguard the fundamental rights and freedoms of data subjects in processing the personal data which is authorised by the regulations.
- (5) For the purposes of *subsection (4)(b)*, *subsections (2) to (6) of section 35* shall apply in like manner to regulations made under *subsection (3)* as they apply to regulations made under *section 35*.
- (6) Regulations may be made under *subsection (3)* by—
  - (a) the Minister, following consultation with such other Minister of the Government as he or she considers appropriate and the Commission, or
  - (b) any other Minister of the Government following consultation with the Minister, such other Minister of the Government as he or she considers appropriate and the Commission.
- (7) The Minister or any other Minister of the Government, as the case may be, making regulations under *subsection (3)* shall have regard to the need for the protection of individuals with regard to the processing of their personal data, and without prejudice to the generality of that need, have regard to—
  - (a) the nature, scope and purposes of the processing,
  - (b) the nature of the substantial public interest concerned,
  - (c) any benefits likely to arise for the data subjects concerned,
  - (d) any risks arising for the rights and freedoms of such subjects, and
  - (e) the likelihood of any such risks arising and the severity of such risks.
- (8) Regulations made under *subsection (3)* shall—
  - (a) respect the essence of the right to data protection, and
  - (b) enable processing of such data only in so far as is necessary and proportionate to the aim sought to be achieved.
- (9) In this section, “Article 10 data” has the meaning assigned to it by *section 52*.”.

[SECTION 48]

—An tAire Dlí agus Cirt agus Comhionannais.

[*Acceptance of this amendment involves the deletion of section 48 of the Bill.*]

72. In page 31, line 33, after “out” to insert “by a public authority in the exercise of a function conferred on the authority by or under an enactment or by the Constitution”.

—Clare Daly, Mick Wallace.

73. In page 31, line 35, after “is” to insert “urgently”.

—Clare Daly, Mick Wallace.

74. In page 32, to delete lines 8 to 29 and substitute the following:

- “(4) (a) Such regulations shall be referred in draft form by the Minister to the Data Protection Officer of the relevant public authority before their enactment, who shall conduct an impact assessment.
- (b) The impact assessment shall have the purpose of ascertaining whether the proposed processing of special categories is—
- (i) necessary,
  - (ii) proportionate,
  - (iii) in compliance with *subsection (5)*,
  - (iv) in compliance with the GDPR.
- (c) The impact assessment shall be returned to the Minister within three months of the Minister’s referral, and it shall contain recommendations—
- (i) as to whether the proposed processing of special categories is in compliance with the criteria laid out in *paragraph (b)*,
  - (ii) as to whether any changes are necessary to the regulation to ensure compliance, and if so, the changes that should be made, and
  - (iii) as to whether the Minister should proceed with the regulation as drafted.
- (d) In the event that the Minister does not follow the recommendations of the Data Protection Officer made under this subsection, the Government shall—
- (i) publish in *Iris Oifigiúil* a reasoned written explanation of the decision of the Government not to follow the recommendations of the Data Protection Officer,
  - (ii) cause to be laid before the Houses of the Oireachtas a statement containing a reasoned written explanation of the decision of the Government not to follow the recommendations of the Data Protection Officer.”.

—Clare Daly, Mick Wallace.

75. In page 32, to delete lines 8 to 29 and substitute the following:

- “(4) (a) Such regulations shall be referred before their enactment to the Data Protection Commissioner for his or her opinion under the terms of *section 100*.

[SECTION 48]

- (b) The opinion shall, amongst other matters, address whether the proposed processing of special categories of personal data is—
  - (i) necessary,
  - (ii) proportionate,
  - (iii) in compliance with *subsection (5)*,
  - (iv) in compliance with the GDPR.
- (c) The opinion shall be returned to the Minister within three months of the Minister’s referral and shall be published in *Iris Oifigiúil*.
- (d) In the event that it is the Data Protection Commissioner’s opinion that the proposal is not in compliance with the criteria laid down in *section 48(4)(b)* but the Minister proposes to enact the regulations, the Government shall—
  - (i) publish in *Iris Oifigiúil* a reasoned written explanation of the decision of the Government not to follow the opinion of the Commission,
  - (ii) cause to be laid before the Houses of the Oireachtas a statement containing a reasoned written explanation of the decision of the Government not to follow the opinion of the Commission.”.

—Donnchadh Ó Laoghaire.

**76.** In page 33, between lines 3 and 4, to insert the following:

- “(7) Regulations may be made under this section only if—
  - (a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and
  - (b) a resolution approving the draft has been passed by each House.”.

—Clare Daly, Mick Wallace.

SECTION 49

**77.** In page 33, line 13, to delete “health professional” and substitute “health practitioner”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 52

**78.** In page 35, line 2, to delete “compliance with Article 6(1), to”.

—An tAire Dlí agus Cirt agus Comhionannais.

**79.** In page 35, line 7, to delete “or” where it secondly occurs.

—An tAire Dlí agus Cirt agus Comhionannais.

**80.** In page 35, between lines 7 and 8, to insert the following:

- “(b) assess the risk of bribery or corruption, or both, or to prevent bribery or corruption, or both, or”.

—An tAire Dlí agus Cirt agus Comhionannais.

[SECTION 52]

**81.** In page 35, to delete lines 11 to 15 and substitute the following:

“(a) the Minister, provided that—

- (i) the Minister has consulted with such other Minister of the Government as he or she considers appropriate,
- (ii) the Minister has consulted with and sought the advice of the Commission, and
- (iii) the Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, laid a written rationale for his or her proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee,

or

(b) any other Minister, provided that—

- (i) that Minister has consulted with the Minister and such other Minister of the Government as he or she considers appropriate,
- (ii) that Minister has consulted with and sought the advice of the Commission, and
- (iii) that Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, caused to be laid before the Oireachtas Committee on Justice and Equality and any other relevant committee a written rationale for his or her proposed regulations.”.

—Clare Daly, Mick Wallace.

SECTION 53

**82.** In page 35, line 35, after “candidate” to insert “, or in relation to the scripts completed by him or her in an examination,”.

—Colm Brophy, Peter Burke.

**83.** In page 36, to delete lines 1 to 3 and substitute the following:

“(2) In this section—

“examination” means any process for determining the knowledge, intelligence, skill or ability of a person by reference to his or her performance in any test, work or other activity;

“script” means any work produced in an examination by a candidate including, but not limited to, written or digital examination answer-books, journals or portfolios, audio and visual recordings, practical pieces and artefacts, whether with or without the marks and any comments added to this work by an examiner.”.

—Colm Brophy, Peter Burke.

[SECTION 54]

SECTION 54

**84.** In page 36, to delete lines 17 and 18 and substitute the following:

“him or her to—

- (I) make representations to the controller in relation to the decision,
- (II) request human intervention in the decision-making process,
- (III) request to appeal the decision.

(2) In the case of requests made under *subsection 1(b)(ii)* or *(iii)* the controller shall—

- (a) comply with the request, and
- (b) notify the data subject in writing of—
  - (i) the steps taken to comply with the request, and
  - (ii) in the case of an appeal under *section 1(b)(iii)*, the outcome of the appeal.”.

—Clare Daly, Mick Wallace.

SECTION 55

*Section opposed.*

—Clare Daly, Mick Wallace.

SECTION 56

*Section opposed.*

—Clare Daly, Mick Wallace.

SECTION 57

**85.** In page 37, line 3, to delete “to 22” and substitute “to 21”.

—Clare Daly, Mick Wallace.

**86.** In page 37, to delete lines 8 to 10 and substitute the following:

“(2) *Subsection (1)* is without prejudice to any other enactment or rule of law which restricts the rights and obligations referred to in that subsection.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**87.** In page 37, lines 14 and 15, to delete “judicial independence and court proceedings,”.

—An tAire Dlí agus Cirt agus Comhionannais.

**88.** In page 37, line 33, after “the”, where it firstly occurs, to insert “commercial”.

—Clare Daly, Mick Wallace.

**89.** In page 37, to delete lines 39 to 41 and substitute the following:

“(c) the personal data concerned are kept—

- (i) by the Commission for the performance of its functions,
- (ii) by the Information Commissioner for the performance of his or her functions, or

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(iii) by the Comptroller and Auditor General for the performance of his or her functions.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**90.** In page 38, line 4, to delete “Subject” and substitute “Having regard to the balance of the rights and freedoms of data subjects and the rights and freedoms of others, and subject”.

—Clare Daly, Mick Wallace.

**91.** In page 38, to delete lines 13 to 15.

—Clare Daly, Mick Wallace.

**92.** In page 38, to delete line 21 and substitute the following:

“(8) The important objectives of general public interest referred to in *subsection (6)* are limited to:”.

—Clare Daly, Mick Wallace.

**93.** In page 39, to delete line 31 and substitute the following:

“activities;

(o) safeguarding the integrity and security of examination systems.”.

—Colm Brophy, Peter Burke.

**94.** In page 39, between lines 31 and 32, to insert the following:

“(8) (a) In circumstances where it is necessary to restrict the rights and obligations referred to in *subsection (1)* for important objectives of general public interest other than those listed in *paragraphs (a) to (n)* of *subsection (7)*, the Minister shall cause to be laid before both Houses of the Oireachtas a written statement of those further objectives.

(b) Regulations may be made restricting the rights and obligations referred to in *subsection (1)* only if a resolution approving the written statement laid before the Houses under *paragraph (a)* has been passed by each House.”.

—Clare Daly, Mick Wallace.

**95.** In page 39, to delete lines 38 and 39, and in page 40, to delete lines 1 to 8 and substitute the following:

“(a) the Minister, provided that—

(i) the Minister has consulted with such other Minister of the Government as he or she considers appropriate,

(ii) the Minister has consulted with and sought the advice of the Commission, and

(iii) the Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, laid a written rationale for his or her proposed regulation before the Oireachtas Committee on Justice and

[SECTION 57]

Equality and any other relevant committee,

or

- (b) any other Minister, provided that—
  - (i) that Minister has consulted with the Minister and such other Minister of the Government as he or she considers appropriate,
  - (ii) that Minister has consulted with and sought the advice of the Commission, and
  - (iii) that Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, caused to be laid before the Oireachtas Committee on Justice and Equality and any other relevant committee a written rationale for his or her proposed regulations.”.

—Clare Daly, Mick Wallace.

**96.** In page 40, between lines 8 and 9, to insert the following:

“(11) Regulations may be made under this section only if—

- (a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and
- (b) a resolution approving the draft has been passed by each House.”.

—Clare Daly, Mick Wallace.

**97.** In page 40, between lines 8 and 9, to insert the following:

- “(11) (a) Any regulations under this section shall be referred to the Data Protection Commissioner before their enactment, who shall conduct an impact assessment, undertaken by the Data Protection Commission.
- (b) The impact assessment shall have the purpose of ascertaining whether the proposed processing of special categories is—
  - (i) necessary,
  - (ii) proportionate,
  - (iii) in compliance with *subsection (4)*,
  - (iv) in compliance with the GDPR.
- (c) The impact assessment shall be returned to the Minister within three months of the Minister’s referral, and it shall make recommendations as to whether the proposed processing of special categories is in compliance with the criteria laid out in *paragraph (b)* and shall recommend any changes necessary to the regulation to ensure compliance, or may recommend that the Minister not proceed with the regulation.
- (d) In the event that the Minister does not follow the recommendation of the Data Protection Commission, the Government shall—



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- (i) publish in *Iris Oifigiúil* a reasoned written explanation of the decision of the Government not to follow the recommendation of the Commission,
- (ii) cause to be laid before the Houses of the Oireachtas a statement containing a reasoned written explanation of the decision of the Government not to follow the recommendation of the Commission.”.

—Donnchadh Ó Laoghaire.

*Section opposed.*

—Donnchadh Ó Laoghaire.

SECTION 65

**98.** In page 42, to delete lines 33 to 39, to delete pages 43 and 44, and in page 45, to delete lines 1 to 7 and substitute the following:

“(1) Notwithstanding *subsection (1) of section 8*, the Data Protection Act 1988 (Section 2A) Regulations 2013 (S.I. No. 313 of 2013) and the Data Protection Act 1988 (Section 2A) Regulations 2016 (S.I. No. 220 of 2016) shall, in addition to applying for the purposes referred to in that subsection, apply for all other purposes for which they applied immediately before the commencement of that subsection and, in so far only as they apply for the second-mentioned purposes, they shall be deemed to have been made under *section 37* and may be amended or revoked accordingly.

(2) (a) The Data Protection Health Regulations shall continue in force upon and after the commencement of *section 7* (in so far as it relates to the repeal of *section 4(8)* of the Act of 1988) until the first set of regulations are made under *section 57(5)(a)*.

(b) The Data Protection Health Regulations are amended—

(i) in Regulation 3, by—

(I) the deletion of the definition of “the Act”,

(II) the deletion of the definition of “health professional”, and

(III) the insertion of the following definitions:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘health practitioner’ has the same meaning as it has in the Health Identifiers Act 2014.”,

(ii) in Regulation 4(1), by—

(I) the substitution of “a request under Article 15 of the Data Protection Regulation” for “a request under *section 4(1)(a)* of the Act”, and

(II) the substitution of “the physical or mental health of the data subject, but this restriction on providing information applies only to the extent to which, and for so long as, that likelihood pertains.” for “the physical or

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mental health of the data subject.”,

(iii) in Regulation 5, by—

- (I) the substitution of “health practitioner” for “health professional” in each place it occurs,
- (II) the substitution, in paragraph (1)(a), of “a request under the said Article 15 of the Data Protection Regulation” for “a request under the said section 4(1)(a)”, and
- (III) the substitution, in paragraph (2)(a), of “within the meaning of section 2 of the Medical Practitioners Act 2007 or a medical practitioner practising medicine pursuant to section 50 of that Act” for “within the meaning of the Medical Practitioners Act 1978 (No. 4 of 1978), or registered dentist, within the meaning of the Dentists Act 1985 (No. 9 of 1985)”,

and

(iv) by the deletion of Regulation 6.

(c) A request referred to in Regulation 4(1) of the Data Protection Health Regulations which includes a request for health data (within the meaning of those Regulations) that was received but not responded to before the commencement of *section 7* (in so far as it relates to the repeal of section 4(8) of the Act of 1988) shall be treated as if it were a request under Article 15 of the Data Protection Regulation.

(3) (a) The Data Protection Social Work Regulations shall continue in force upon and after the commencement of *section 7* (in so far as it relates to the repeal of section 4(8) of the Act of 1988) until the first set of regulations are made under *section 57(5)(b)*.

(b) The Data Protection Social Work Regulations are amended—

(i) in Regulation 3, by—

- (I) the deletion of the definition of “the Act”,
- (II) the insertion of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

and

(III) the substitution of the following definition for the definition of “social work data”:

“ ‘social work data’ means personal data kept for, or obtained in the course of, carrying out social work by a public authority, public body,

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voluntary organisation or other body but excludes any health data within the meaning of the Data Protection (Access Modification) (Health) (Regulations) 1989 (S.I. No. 82 of 1989) and ‘social work’ shall be construed accordingly.”,

(ii) in Regulation 4—

(I) in paragraph (1), by—

(A) the substitution of “a request under Article 15 of the Data Protection Regulation” for “a request under section 4(1)(a) of the Act”, and

(B) the substitution of “the physical or mental health or emotional condition of the data subject, but this restriction on providing information applies only to the extent to which, and for as long as, that likelihood pertains.” for “the physical or mental health or emotional condition of the data subject.”,

and

(II) in paragraph (3), by the substitution of “under Article 15 of the Data Protection Regulation” for “under section 4(1)(a) of the Act”, and

(iii) the deletion of Regulation 5.

(c) A request referred to in Regulation 4(1) of the Data Protection Social Work Regulations which includes a request for social work data (within the meaning of those Regulations) that was received but not responded to before the commencement of *section 7* (in so far as it relates to the repeal of section 4(8) of the Act of 1988) shall be treated as if it were a request under Article 15 of the Data Protection Regulation.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**99.** In page 45, lines 8 and 9, to delete “, subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects,”.

—An tAire Dlí agus Cirt agus Comhionannais.

**100.** In page 45, between lines 19 and 20, to insert the following:

“(8) The Regulations of 2011 are amended—

(a) in Regulation 3, by the substitution of “Subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects, processing” for “Processing”,

(b) in Regulation 4, by the substitution of “Subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects, processing” for “Processing”, and

(c) by the insertion of the following Regulation after Regulation 6:

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“7. In these Regulations, “suitable and specific measures to safeguard the fundamental rights and freedoms of data subjects” shall be construed in accordance with *section 35* of the *Data Protection Act 2018*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**101.**In page 45, lines 21 and 22, to delete “and subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects”.

—An tAire Dlí agus Cirt agus Comhionannais.

**102.**In page 45, between lines 32 and 33, to insert the following:

“(9) The Regulations of 2015 are amended—

(a) in Regulation 2, by the substitution of “Subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects, the processing” for “The processing”, and

(b) by the insertion of the following Regulation after Regulation 2:

“3. In these Regulations, “suitable and specific measures to safeguard the fundamental rights and freedoms of data subjects” shall be construed in accordance with *section 35* of the *Data Protection Act 2018*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**103.**In page 45, lines 34 and 35, to delete “and subject to suitable and specific measures to safeguard the fundamental rights and freedoms of data subjects”.

—An tAire Dlí agus Cirt agus Comhionannais.

**104.**In page 46, between lines 7 and 8, to insert the following:

“(10) The Regulations of 2016 are amended—

(a) in Regulation 2, by the substitution of “Subject to suitable and specific measures to safeguard the fundamental rights and freedoms of data subjects, the processing” for “The processing”, and

(b) by the insertion of the following Regulation after Regulation 2:

“3. In these Regulations, “suitable and specific measures to safeguard the fundamental rights and freedoms of data subjects” shall be construed in accordance with *section 35* of the *Data Protection Act 2018*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**105.**In page 46, line 10, to delete “Health Regulations” and substitute “Data Protection Health Regulations”.

—An tAire Dlí agus Cirt agus Comhionannais.

**106.**In page 46, between lines 11 and 12, to insert the following:

“ “Data Protection Social Work Regulations” means the Data Protection (Access Modification) (Social Work) Regulations 1989 (S.I. No. 83 of 1989).”.

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—An tAire Dlí agus Cirt agus Comhionannais.

**107.** In page 46, to delete lines 19 and 20.

—An tAire Dlí agus Cirt agus Comhionannais.

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**108.** In page 47, line 27, to delete “States” and substitute “states”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 68

**109.** In page 51, line 37, after “matters,” to insert “and”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 70

**110.** In page 54, to delete lines 14 to 18 and substitute the following:

“(a) the Minister, provided that—

- (i) the Minister has consulted with such other Minister of the Government as he or she considers appropriate,
- (ii) the Minister has consulted with and sought the advice of the Commission, and
- (iii) the Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, laid a written rationale for his or her proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee,

or

(b) any other Minister, provided that—

- (i) that Minister has consulted with the Minister and such other Minister of the Government as he or she considers appropriate,
- (ii) that Minister has consulted with and sought the advice of the Commission, and
- (iii) that Minister has, if he or she intends to set out regulations which are not in line with the advice of the Commission, caused to be laid before the Oireachtas Committee on Justice and Equality and any other relevant committee a written rationale for his or her proposed regulations.”.

—Clare Daly, Mick Wallace.

**111.** In page 54, between lines 36 and 37, to insert the following:

“(7) Regulations may be made under this section only if—

- (a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and
- (b) a resolution approving the draft has been passed by each House.”.

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—Clare Daly, Mick Wallace.

SECTION 71

**112.** In page 55, line 12, to delete “Where” and substitute “Other than where *section 90* applies, where”.

—An tAire Dlí agus Cirt agus Comhionannais.

**113.** In page 55, line 17, to delete “is restricted in accordance with *section 90*” and substitute “is restricted, as may be appropriate”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 77

**114.** In page 58, line 23, to delete “and processor” and substitute “and a processor”.

—An tAire Dlí agus Cirt agus Comhionannais.

**115.** In page 58, line 35, after “processor” to insert “(in this section referred to as a “secondary processor”)”.

—An tAire Dlí agus Cirt agus Comhionannais.

**116.** In page 59, to delete lines 16 to 25 and substitute the following:

“(4) Where a controller gives an authorisation, whether specific or general in nature, to a processor, including a secondary processor (in this section referred to as “the procuring processor”) to procure the services of a secondary processor, the procuring processor shall inform—

(a) the controller, and

(b) where relevant, any processor who procured the services of the procuring processor in relation to the processing concerned,

in advance of any such procurement or of a change in the terms of such procurement.

(5) Where a procuring processor procures the services of a secondary processor to carry out processing on behalf of a controller, *subsections (1) and (2)* shall apply to the procuring processor and the secondary processor, subject to the following modifications and any other necessary modifications:

(a) a reference to a “controller”, other than in *subparagraphs (ii), (iv), (v) and (vi)* of *subsection (2)(d)*, shall be construed as a reference to the procuring processor,

(b) a reference to a “controller” in *subsection (2)(d)(iv)* shall be construed as a reference to the controller and the procuring processor,

(c) a reference to a “controller” in *subsection (2)(d)(v)* shall be construed as a reference to the controller or the procuring processor, as appropriate, and

(d) a reference to a “processor” shall be construed as a reference to a secondary processor.”.

—An tAire Dlí agus Cirt agus Comhionannais.

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SECTION 83

**117.** In page 64, lines 34 and 35, to delete “data protection breach” and substitute “personal data breach”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 84

**118.** In page 66, between lines 15 and 16, to insert the following:

“(9) Should a data subject request information in relation to a personal breach which affects them, they have the right to be provided with all the pertinent information in respect of that breach and nothing in *subsections (2), (4) or (6)* shall place a restriction on their access to that information.”.

—Jim O’Callaghan.

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**119.** In page 66, lines 17 and 18, to delete “A controller, other than an independent judicial authority acting in its judicial capacity,” and substitute the following:

“A controller, other than—

- (a) a court, or
- (b) another independent judicial authority,  
acting in its judicial capacity.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**120.** In page 67, between lines 2 and 3, to insert the following:

“(e) ensure that the Data Protection Officer does not receive any instructions regarding the exercise of his or her tasks.”.

—Clare Daly, Mick Wallace.

**121.** In page 67, between lines 2 and 3, to insert the following:

“(5) Where a controller appoints a Data Protection Officer, the controller shall not dismiss or penalise the Data Protection Officer for performing his or her tasks.”.

—Clare Daly, Mick Wallace.

**122.** In page 67, between lines 22 and 23, to insert the following:

“(6) Where a controller appoints a Data Protection Officer, the Data Protection Officer shall report to the highest management level of the controller.”.

—Clare Daly, Mick Wallace.

**123.** In page 67, between lines 22 and 23, to insert the following:

“(6) A data subject may contact the Data Protection Officer with regard to all issues relating to—

- (a) the processing of that data subject’s personal data, or

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- (b) the exercise of that data subject’s rights under this Part.”.

—Clare Daly, Mick Wallace.

124. In page 67, between lines 22 and 23, to insert the following:

**“Protection of Data Protection Officers**

86. (1) The Data Protection Commission shall provide a protection, whereby Data Protection Officers may seek the assistance of the Data Protection Commissioner, due to the fact that the Data Protection Office is not in a position to carry out their role fully, due to inappropriate interference from the Data Controller, or duress, harassment or victimisation.
- (2) Where the Commission receives a complaint under *subsection (1)*, it shall, in addition, make a decision—
- (a) as to whether a corrective power should be exercised in respect of the controller or processor concerned, and
- (b) where it decides to so exercise a corrective power, the corrective power that is to be exercised.
- (3) The Commission, where it makes a decision referred to in *subsection (2)(b)*, shall exercise the corrective power concerned.”.

—Donnchadh Ó Laoghaire.

SECTION 86

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 88

125. In page 68, line 32, after “concerned” to insert “, including the legal basis for any transfers of data”.

—Clare Daly, Mick Wallace.

126. In page 68, line 36, to delete “data.” and substitute the following:

“data;

- (iv) such further information as is necessary to enable the data subject to exercise his or her rights under this Part.”.

—Clare Daly, Mick Wallace.

SECTION 89

127. In page 69, line 30, to delete “interest.” and substitute the following:

“interest;

- (vi) in circumstances where the data subject has been or is being subjected to automated decision-making, including profiling, the fact of same, and information in relation to the logic involved in the automated decision-



[SECTION 89]

making, as well as information in relation to the significance and envisaged consequences of such processing for the data subject.”.

—Clare Daly, Mick Wallace.

SECTION 90

**128.**In page 71, line 23, to delete “*sections 91(4)(ii) and 92*” and substitute “*section 91(4)(ii)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

**129.**In page 71, line 35, to delete “*sections 91(4)(ii) and 92*” and substitute “*section 91(4)(ii)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 92

**130.**In page 76, line 4, to delete “privilege.” and substitute “privilege;”.

—An tAire Dlí agus Cirt agus Comhionannais.

**131.**In page 76, between lines 4 and 5, to insert the following:

“(j) the performance by the Commission of its functions.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 99

**132.**In page 82, line 39, to delete “an independent judicial authority acting in its judicial capacity” and substitute “the courts when acting in their judicial capacity”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 103

**133.**In page 84, after line 34, to insert the following:

“ “complainant” means a complainant within the meaning of *Chapter 2* or *Chapter 3*;”.

—Jim O’Callaghan.

**134.**In page 85, between lines 11 and 12, to insert the following:

“(3) Where a person is a controller by virtue of his or her being the subject of a designation under *subsection (1)* or *(2)* of *section 3*—

(a) a reference in *sections 115, 126* and *133(10)* to a controller shall be deemed to be a reference to the appropriate authority that, or the Minister who, made the designation, and not to the person, and

(b) a reference in *sections 130(6)* and *131(10)* to a controller shall be deemed not to include a reference to the person.”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 105

**135.**In page 86, line 8, to delete “Article 77(2)” and substitute “Article 77(1)”.

—An tAire Dlí agus Cirt agus Comhionannais, Jim O’Callaghan.

[SECTION 106]

SECTION 106

136. In page 86, between lines 18 and 19, to insert the following:

**“Rights under Article 80(1)**

106. (1) In addition to the rights conferred on a data subject under Article 80(1) to mandate a not-for-profit body, organisation or association to which Article 80(1) applies to lodge a complaint on his or her behalf with the Commission and, under *section 115(7)* to take a data protection action on behalf of the data subject, a not-for-profit body, organisation or association to which Article 80(1) applies may, independently of a data subject's mandate, and if it considers that the rights of a data subject under a relevant enactment have been infringed as the result of the processing of personal data in a manner that fails to comply with a relevant enactment, take the following actions on behalf of a data subject:

- (a) lodge a complaint with the Commission under *section 107*;
- (b) exercise the rights referred to in *section 115* and *section 148*.

(2) Where the Commission or a court, in performing its functions under this Act, has reasonable doubts as to whether a particular body, organisation or association is one to which Article 80(1) applies, it may request the provision by the body, organisation or association concerned of such additional information as is necessary in order to confirm that it is such a body, organisation or association.”.

—Clare Daly, Mick Wallace.

SECTION 107

137. In page 87, to delete lines 5 to 8 and substitute the following:

“107. (1) For the purposes of *section 106(2)(a)*, on receipt of a complaint the Commission shall investigate the complaint, and issue a formal decision on the conclusion of the investigation, save where *subsections (2) to (4)* apply, unless the Commission considers the complaint to be frivolous or vexatious.”.

—Donnchadh Ó Laoghaire.

138. In page 87, to delete lines 5 to 8, and substitute the following:

“107. (1) For the purposes of *section 106(2)(a)*, the Commission shall investigate, to the extent appropriate to ensure compliance with a relevant enactment and to identify any infringement thereof, the subject matter of the complaint unless the Commission is of the opinion that it is frivolous or vexatious and take such action in respect of it as the Commission, having regard to the nature and circumstances of the complaint, to the extent appropriate.”.

—Jim O'Callaghan.

139. In page 87, to delete lines 6 to 8 and substitute the following:

“and, unless subsections (2) and (3) apply, take the following actions—

- (a) cause such inquiry as it thinks fit to be conducted in respect of the complaint, unless the Commission is of the opinion that the complaint is frivolous or

[SECTION 107]

vexatious, and

- (b) following such inquiry, take such action in respect of it as the Commission, having regard to the nature and circumstances of the complaint, considers appropriate.”.

—Clare Daly, Mick Wallace.

**140.**In page 87, line 9, after “Commission,” to insert “with the consent of the parties concerned,”.

—Jim O’Callaghan.

**141.**In page 87, to delete lines 13 to 15.

—Jim O’Callaghan.

**142.**In page 87, line 20, to delete “complaint, to take an action specified in *subsection (5)*” and substitute “complaint and following the conduct of an inquiry into the complaint under *subsection (1)(a)* to comply with *section 109\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the section proposed to be inserted by amendment No. 149.]

**143.**In page 87, to delete lines 21 to 39, and in page 88, to delete lines 1 to 3.

—Clare Daly, Mick Wallace.

**144.**In page 87, delete lines lines 23 to 28, and substitute the following:

- “(a) reject the complaint if, in the opinion of the Commission, it is frivolous or vexatious;
- (b) dismiss the complaint if, in the opinion of the Commission, there has not been an infringement of a relevant enactment;
- (c) if the Commission is of the opinion that a person has contravened or is contravening a relevant provision (other than a relevant provision the infringement of which is an offence) the Commission may serve on the person concerned an enforcement notice, requiring it to take such steps as are specified in the notice within such time as may be specified to comply with the relevant provision concerned and without prejudice to the foregoing to do one or more than one of the following:”.

—Jim O’Callaghan.

**145.**In page 87, to delete lines 36 and 37.

—Jim O’Callaghan.

**146.**In page 87, lines 38 to 39, to delete all words from and including “as” on line 38 down to and including “considers” on line 39 and substitute “to the extent”.

—Jim O’Callaghan.

[SECTION 108]

SECTION 108

147. In page 88, line 5, to delete “*section 107(5)(e)*” and substitute “*section 107(1)*”.

—Jim O’Callaghan.

148. In page 88, line 5, to delete “*section 107(5)(e)*” and substitute “*section 107(1)(a)*”.

—Clare Daly, Mick Wallace.

SECTION 109

149. In page 88, between lines 11 and 12, to insert the following:

**“Decision of Commission when inquiry under Chapter 2 conducted under *section 107(1)*  
(a)**

109. (1) Where an inquiry has been conducted under *section 107(1)(a)\**, the Commission, having considered the information obtained in the inquiry, shall—

- (a) if satisfied that an infringement by the controller or processor to which the inquiry relates has occurred or is occurring, make a decision to that effect, and
  - (b) if not so satisfied, make a decision to that effect and dismiss the complaint.
- (2) Where the Commission makes a decision under *subsection (1)(a)*, it shall, in addition, and having regard to the nature of the infringement, make a decision as to whether—
- (a) an enforcement notice should be served on the controller or processor requiring it to do one or more than one of the following:
    - (i) comply with the data subject’s request to exercise his or her rights pursuant to a relevant enactment;
    - (ii) where the enforcement notice is given to the controller, communicate a personal data breach to the data subject;
    - (iii) rectify or erase personal data or restrict processing pursuant to Article 16, 17 or 18, and, in respect of that action, to comply with Article 19 and, where applicable, Article 17(2);
    - (iv) bring processing operations into compliance with the provisions of a relevant enactment, in a specified manner and within a specified period;
    - (v) refrain from taking specified actions,
  - (b) a corrective power should be exercised in respect of the controller or processor concerned, and where it decides to so exercise a corrective power, the corrective power that is to be exercised, or
  - (c) such other action as the Commission considers appropriate should be taken.
- (3) The Commission, where it makes a decision referred to in *subsection (2)(b)*, shall exercise the corrective power concerned.
- (4) The Commission shall—
- (a) as soon as practicable after a decision under this section is made by it, give the

[SECTION 109]

controller or processor concerned a notice in writing setting out—

- (i) the decision and the reasons for it, and
  - (ii) where applicable, the corrective power that the Commission has exercised in respect of the controller or processor,
- and
- (b) as soon as practicable after the notice under *paragraph (a)* is given, the complainant a notice in writing setting out—
    - (i) the decision and the reasons for it,
    - (ii) the action, if any, taken on the basis of that decision,
    - (iii) where applicable, the corrective power that the Commission has exercised in respect of the controller or processor.”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the paragraph proposed to be inserted by amendment No. 139.]

SECTION 111

**150.**In page 89, line 18, to delete “, where an inquiry has been conducted in respect of the complaint,”.

—Clare Daly, Mick Wallace.

**151.**In page 89, line 19, after “the” to insert “course of the Commission’s”.

—Clare Daly, Mick Wallace.

**152.**In page 89, line 24, after “addition,” to insert “and having regard to the nature of the infringement”.

—Clare Daly, Mick Wallace.

**153.**In page 89, to delete lines 25 to 34 and substitute the following:

- “(a) as to whether a corrective power should be exercised in respect of the controller or processor concerned, and where it decides to so exercise a corrective power, the corrective power that is to be so exercised, or
- (b) as to whether an action specified in *subsection (6)* should be taken in respect of the controller or processor concerned, and where it decides to take such an action, the action that is to be taken.”.

—Clare Daly, Mick Wallace.

**154.**In page 90, between lines 9 and 10, to insert the following:

- “(iv) bring processing operations into compliance with the provisions of a relevant enactment, in a specified manner and within a specified period;
- (v) refrain from taking specified actions;”.

—Clare Daly, Mick Wallace.

[SECTION 115]

SECTION 115

**155.**In page 92, after line 39, to insert the following:

“(8) A data protection action may be brought on behalf of a data subject, independently of the data subject’s mandate, by a not-for-profit body, organisation or association to which Article 80(1) applies.”.

—Clare Daly, Mick Wallace.

**156.**In page 93, to delete lines 1 and 2 and substitute the following:

“(8) The court hearing a data protection action brought by a not-for-profit body, organisation or association under *subsection (7)* shall have the power to grant to the data subject on whose behalf the action is being brought one or more of the following reliefs:

- (a) relief by way of injunction or declaration; or
- (b) compensation for damage suffered by the plaintiff as a result of the infringement of the relevant enactment.”.

—Clare Daly, Mick Wallace.

**157.**In page 93, between lines 2 and 3, to insert the following:

“(9) The court hearing a data protection action to which *subsection (8)\** applies shall not award compensation for material or non-material damage suffered.”.

—Clare Daly, Mick Wallace.

[\**This is a reference to the subsection proposed to be inserted by amendment No. 156.*]

SECTION 118

**158.**In page 94, between lines 15 and 16, to insert the following:

“(2) A body, organisation or association to which *subsection (2)* applies may, independently of a data subject's mandate, and if it considers that the rights of a data subject under a relevant enactment have been infringed as the result of the processing of personal data in a manner that fails to comply with a relevant enactment, take the following actions on behalf of a data subject:

- (a) lodge a complaint with the Commission;
- (b) exercise the rights referred to in *section 126* and *section 148*.”.

—Clare Daly, Mick Wallace.

SECTION 120

**159.**In page 95, lines 7 to 10, to delete all words from and including “examine” on line 7 down to and including “appropriate.” on line 10 and substitute the following:

“investigate to the extent appropriate to ensure compliance with a relevant provision and to identify any infringement thereof, the subject matter of the complaint unless the Commission is of the opinion that the complaint is frivolous or vexatious and take such action in respect of it as the Commission, having regard to the nature and circumstances of the complaint, to the extent appropriate.”.

—Jim O'Callaghan.

**160.**In page 95, to delete lines 8 to 10 and substitute the following:

“and unless *subsections (2) and (3)* apply, take the following actions:

- (a) cause an inquiry to be conducted in respect of the complaint, unless the Commission is of the opinion that the complaint is frivolous or vexatious, and
- (b) following such inquiry, take such action in respect of it as the Commission, having regard to the nature and circumstances of the complaint, considers appropriate.”

—Clare Daly, Mick Wallace.

**161.**In page 95, line 11, after “Commission,” to insert “with the consent of parties concerned.”

—Jim O'Callaghan.

**162.**In page 95, to delete lines 15 to 17.

—Jim O'Callaghan.

**163.**In page 95, lines 19 to 39, to delete all words from and including “it” in line 19 down to and including line 39 and substitute the following:

“following the conduct of an inquiry into the complaint under *subsection (1)(a)\**, to comply with *section 122\*\**.”

—Clare Daly, Mick Wallace.

[\*This is a reference to the subsection to be inserted by amendment No. 160.]

\*\*This is a reference to the section proposed to be inserted by amendment No. 170.]

**164.**In page 95, to delete lines 21 to 26 and substitute the following:

- (a) reject the complaint if, in the opinion of the Commission, it is frivolous or vexatious;
- (b) dismiss the complaint if, in the opinion of the Commission, there has not been an infringement of a relevant enactment;
- (c) if the Commission is of the opinion that a person has contravened or is contravening a relevant provision (other than a relevant provision the infringement of which is an offence) the Commission may serve on the person concerned an enforcement notice, requiring it to take such steps as are specified in the notice within such time as may be specified to comply with the relevant provision concerned and without prejudice to the foregoing to do one or more than one of the following:”

—Jim O'Callaghan.

**165.**In page 95, to delete lines 33 and 34.

—Jim O'Callaghan.

[SECTION 120]

166. In page 95, lines 35 and 36, to delete “as the Commission considers” and substitute “to the extent”.

—Jim O’Callaghan.

167. In page 95, to delete lines 38 and 39 and substitute the following:

“subsection (4), give the complainant a notice in writing informing the complainant of the outcome of its investigations, the reasons for its conclusions, the action taken and a copy of any notification under *section 124*.”

—Jim O’Callaghan.

SECTION 121

168. In page 96, line 2, to delete “*section 120(4)(e)*” and substitute “*section 120(1)(a)*”.

—Clare Daly, Mick Wallace.

169. In page 96, line 2, to delete “*section 120(4)(e)*” and substitute “*section 120(1)*”.

—Jim O’Callaghan.

SECTION 122

170. In page 96, between lines 9 and 10, to insert the following:

**“Decision of Commission when inquiry under Chapter 3 conducted under section 120(1)(a)”**

122. (1) Where an inquiry has been conducted under *section 120(1)(a)*, the Commission, having considered the information obtained in the inquiry, shall—
- (a) if satisfied that an infringement by the controller or processor to which the inquiry relates has occurred or is occurring, make a decision to that effect, and
  - (b) if not so satisfied, make a decision to that effect and dismiss the complaint.
- (2) Where the Commission makes a decision under *subsection (1)(a)*, it shall, in addition, and having regard to the nature of the infringement, make a decision as to whether—
- (a) an enforcement notice should be served on the controller or processor requiring it to do one or more of the following:
    - (i) comply with the data subject’s request to exercise his or her rights pursuant to a relevant enactment;
    - (ii) where the enforcement notice is given to the controller, communicate a personal data breach to the data subject;
    - (iii) rectify or erase personal data or restrict processing pursuant to Article 16, 17 or 18, and, in respect of that action, to comply with Article 19 and, where applicable, Article 17(2);
    - (iv) bring processing operations into compliance with the provisions of a relevant enactment, in a specified manner and within a specified period;
    - (v) refrain from taking specified actions,



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- (b) a corrective power should be exercised in respect of the controller or processor concerned, and where it decides to so exercise a corrective power, the corrective power that is to be exercised, or
  - (c) such other action as the Commission considers appropriate should be taken.
- (3) The Commission, where it makes a decision referred to in *subsection (2)(b)*, shall exercise the corrective power concerned.
- (4) The Commission shall—
- (a) as soon as practicable after a decision under this section is made by it, give the controller or processor concerned a notice in writing setting out—
    - (i) the decision and the reasons for it, and
    - (ii) where applicable, the corrective power that the Commission has exercised in respect of the controller or processor,and
  - (b) as soon as practicable after the notice under paragraph (a) is given, the complainant a notice in writing setting out—
    - (i) the decision and the reasons for it,
    - (ii) the action, if any, taken on the basis of that decision,
    - (iii) where applicable, the corrective power that the Commission has exercised in respect of the controller or processor.”.

—Clare Daly, Mick Wallace.

SECTION 123

**171.**In page 96, line 25, to delete “Where” and substitute “When”.

—Clare Daly, Mick Wallace.

SECTION 126

**172.**In page 98, to delete lines 22 to 25 and substitute the following:

- “(7) The court hearing a data protection action that has been brought, in accordance with *section 118(1)(b)*, on behalf of a data subject by body, organisation or association to which *subsection (2)* of that section applies shall have the power to grant to the data subject on whose behalf the action is being brought one or more of the following reliefs:
- (a) relief by way of injunction or declaration; or
  - (b) compensation for damage suffered by the plaintiff as a result of the infringement of the relevant enactment.”.

—Clare Daly, Mick Wallace.

**173.**In page 98, between lines 25 and 26, to insert the following:

- “(8) The court hearing a data protection action that has been brought, in accordance with

[SECTION 126]

*section 118(2)(b)\**, on behalf of a data subject by a body, organisation or association independently of the data subject’s mandate, shall not award compensation for material or non-material damage suffered.”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the paragraph proposed to be inserted by amendment No. 158.]

SECTION 131

**174.**In page 104, line 18, to delete “*section 107(5)(d)*” and substitute “*section 109\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the section proposed to be inserted by amendment No. 149.]

**175.**In page 104, line 25, to delete “*section 107(5)(d)*” and substitute “*section 109\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the section proposed to be inserted by amendment No. 149.]

**176.**In page 104, line 34, to delete “*section 107(5)(d)*” and substitute “*section 109\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the section proposed to be inserted by amendment No. 149.]

**177.**In page 105, line 40, to delete “*section 107(5)(d)*” and substitute “*section 109\**”.

—Clare Daly, Mick Wallace.

[\*This is a reference to the section proposed to be inserted by amendment No. 149.]

**178.**In page 106, line 4, to delete “Subject to *subsection (11)*, a controller” and substitute “A controller”.

—An tAire Dlí agus Cirt agus Comhionannais.

**179.**In page 106, to delete lines 13 and 14.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 135

**180.**In page 111, to delete lines 1 to 4.

—Jim O’Callaghan.

SECTION 137

**181.**In page 113, line 27, after “given” to insert “to the complainant and”.

—Jim O’Callaghan.

**182.**In page 113, line 30, after “that” to insert “the complainant and”.

—Jim O’Callaghan.

SECTION 138

**183.**In page 114, line 38, after “the”, where it firstly occurs, to insert “complaint and the”.

—Jim O’Callaghan.

[SECTION 138]

184. In page 115, line 1, after “the” to insert “complainant and the”.

—Jim O’Callaghan.

SECTION 139

185. In page 115, to delete lines 23 to 25 and substitute the following:

- “(2) Where a controller to whom *section 109(2)(b), 110(2)(b) or 131(9)* applies is a controller by virtue of his or her being the subject of a designation under *subsection (1) or (2) of section 3*, a decision by the Commission to impose an administrative fine in respect of the infringement or failure concerned shall be a decision to impose an administrative fine on the appropriate authority that, or, as the case may be, the Minister who, made the designation, and not on the controller.
- (3) Where *subsection (2)* applies, a reference in *sections 113(1)(a), 131(9)(b)* and this Chapter to a controller shall be construed as a reference to the appropriate authority or Minister concerned.”.

—An tAire Dlí agus Cirt agus Comhionannais.

186. In page 115, between lines 31 and 32, to insert the following:

- “(4) The Commission, as soon as practicable after—
- (a) a decision to impose an administrative fine is confirmed under *section 140(3)(a) or 141(2)*, or
- (b) the court decides, under *section 140(3)(b)*, to impose a different fine,
- shall give the controller or processor concerned a notice in writing, requiring the controller or processor to pay the amount of the fine concerned to the Commission within the period of 28 days commencing on the date of the notice.
- (5) A controller or processor shall comply with a requirement referred to in *subsection (4)*.
- (6) All payments received by the Commission under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.”.

—An tAire Dlí agus Cirt agus Comhionannais.

187. In page 115, between lines 34 and 35, to insert the following:

- “(5) (a) Where a private body profits from actions prohibited under this Act, including through a data breach, data harvesting, or the abuse of data, the Data Protection Commissioner shall be empowered to direct the recovery of profits, in part or in full, which are obtained through such prohibited actions.
- (b) In such circumstances as in *paragraph (a)*, the Commissioner shall have discretion as to whether to recover profits obtained through a breach, or to impose a fine under this Act, however this should not result in any breach of the principle of *ne bis in idem*.”.

—Donnchadh Ó Laoghaire.

[SECTION 140]

SECTION 140

**188.**In page 116, line 14, to delete “*section 137(3)*” and substitute “*section 139(3)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 143

**189.**In page 117, line 16, to delete “5 years,” and substitute “5 years”.

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 146

**190.**In page 118, lines 26 to 29, to delete all words from and including “withdrawn,” where it secondly occurs, in line 26 down to and including line 29 and substitute the following:

“withdrawn—

- (a) by the data subject concerned,
- (b) on behalf of the data subject by a body mandated by the data subject in accordance with Article 80(1) of the Data Protection Regulation or *section 118*, as the case may be, or
- (c) on behalf of the data subject by a body acting independently of the data subject’s mandate in accordance with *section 106(1)\** or *section 118(2)\*\**.”

—Clare Daly, Mick Wallace.

[\*This is a reference to the subsection to be inserted by amendment No. 136.]

\*\*This is a reference to the section proposed to be inserted by amendment No. 158.]

SECTION 147

**191.**In page 119, between lines 5 and 6, to insert the following:

“(c) decisions reached regarding complaint cases,”.

—Donnchadh Ó Laoghaire.

SECTION 148

**192.**In page 120, to delete lines 12 to 14 and substitute the following:

“(5) A decision of the Commission under *Chapter 2* and *3* may, within 28 days from the date on which notice of the decision is received by him or her, be appealed to the court by the person concerned.”.

—Jim O’Callaghan.

**193.**In page 120, line 38, to delete “, by leave of that Court,”.

—Jim O’Callaghan.

SECTION 155

**194.**In page 123, to delete line 37, and in page 124, to delete lines 1 to 17 and substitute the following:

“(2) The assigned judge shall, in particular—

- (a) promote awareness among judges of the provisions of the Data Protection

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Regulation, the Directive and any enactment, rule made under *section 156\*(3)* or other rule of law that gives further effect to the Data Protection Regulation or effect to the Directive, and ensure compliance with those provisions, and

- (b) handle, and investigate to the extent appropriate, complaints in relation to data processing operations of the courts when acting in their judicial capacity.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[\*This reference is correct if amendment No. 195 is accepted]

SECTION 156

195. In page 124, between lines 17 and 18, to insert the following:

**“Restrictions on obligations of controllers and rights of data subjects for objective of safeguarding judicial independence and court proceedings**

156. (1) The rights and obligations provided for in—

- (a) Articles 12 to 22 and Article 34, and Article 5 in so far as any of its provisions correspond to the rights and obligations in Articles 12 to 22, and
- (b) *sections 84, 88, 89, 90 and 91*, and *section 68* in so far as it relates to those sections,

are restricted to the extent that the restrictions are necessary and proportionate to safeguard judicial independence and court proceedings.

- (2) *Subsection (1)* is without prejudice to any other enactment or rule of law which restricts the rights and obligations referred to in that subsection.
- (3) Without prejudice to the generality of *subsection (1)*, a panel may make such rules as it considers necessary for the purpose of ensuring the effective application of a restriction under that subsection.
- (4) Rules made under *subsection (3)* may relate to such matters as the panel considers appropriate for the purpose referred to in that subsection and, without prejudice to the generality of that subsection, may—
- (a) relate to one or more than one of the following:
- (i) a class or classes of data subject;
  - (ii) a category or categories of personal data;
  - (iii) civil or criminal proceedings, or both;
  - (iv) a class or classes of civil or criminal proceedings, or both;
  - (v) the circumstances in which, or the conditions under which, a restriction under *subsection (1)* shall apply,
- (b) include, where relevant, specific provisions as to the matters referred to in Article 23(2), and
- (c) make provision for such incidental, supplementary and consequential matters as

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appear to the panel to be necessary or expedient for the purposes of the rule.

- (5) Rules under *subsection (3)* shall be published in such manner (which may include publication on the website of the Courts Service) as the panel considers appropriate.
- (6) In this section, “panel” means a panel of three judges nominated by the Chief Justice for the purposes of this section.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**196.**In page 124, between lines 17 and 18, to insert the following:

**“Processing of personal data where court is controller**

- 157.** (1) The Superior Courts Rules Committee may make processing rules in respect of personal data that are contained in a record of a superior court of record.
- (2) The Circuit Court Rules Committee may make processing rules in respect of personal data that are contained in a record of the Circuit Court.
  - (3) The District Court Rules Committee may make processing rules in respect of personal data that are contained in a record of the District Court.
  - (4) The panel referred to in *section 156\*(6)* may make processing rules in respect of personal data—
    - (a) that are not personal data to which *subsection (1), (2) or (3)* applies, and
    - (b) in respect of which a court, when acting in its judicial capacity, is a controller.
  - (5) Processing rules made under this section shall be binding on a processor of personal data in respect of which the rules are made.
  - (6) Processing rules made under *subsection (4)* shall be published in such manner (which may include publication on the website of the Courts Service) as the panel referred to in that subsection considers appropriate.
  - (7) In this section, “processing rules”, in relation to personal data, means rules made for the purposes of Article 28(3) of the Data Protection Regulation and Article 22(3) of the Directive, governing the processing by a processor of the personal data.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[\*This reference is correct if amendment No. 195 is accepted]

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**197.**In page 126, between lines 25 and 26, to insert the following:

**“Reference to personal data in enactment**

- 161.** Subject to this Part, a reference in any enactment to personal data within the meaning of the Act of 1988 shall be construed as including a reference to personal data within the meaning of—
  - (a) the Data Protection Regulation, and

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(b) *Part 5*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

198. In page 126, between lines 25 and 26, to insert the following:

**“Reference to processing in enactment**

162. Subject to this Part, a reference in any enactment to processing within the meaning of the Act of 1988 shall be construed as including a reference to processing within the meaning of—

(a) the Data Protection Regulation, and

(b) *Part 5*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

199. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Firearms Act 1925**

163. The Firearms Act 1925 is amended by the insertion of the following section after section 27A:

**“Provision of information by Commissioner to Minister for purposes of Act and Firearms (Firearm Certificates For Non-Residents) Act 2000**

27B. (1) The Minister may request the Commissioner to provide any information necessary for the performance of the Minister’s functions under sections 9, 10, 11 and 17 and under section 2 of the Firearms (Firearm Certificates For Non-Residents) Act 2000, and the Commissioner shall, notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the *Data Protection Act 2018*, comply with that request.

(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

200. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 33AK of Central Bank Act 1942**

164. Section 33AK(5) of the Central Bank Act 1942 is amended—

(a) in paragraph (az), by the substitution of “(S.I. No. 349 of 2016), or” for “(S.I. No.

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349 of 2016).”,

(b) by the insertion of the following paragraph:

“(ba) to the Data Protection Commission that is required for the performance of that Commission’s functions under the Data Protection Regulation or the Data Protection Acts 1988 to 2018.”,

and

(c) by the insertion in subsection (10) of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**201.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Civil Service Regulation Act 1956**

**165.** Section 2(2) of the Civil Service Regulation Act 1956 is amended—

(a) in paragraph (h), by the deletion of “and”,

(b) in paragraph (i), by the substitution of “Síochána, and” for “Síochána.”, and

(c) by the insertion of the following paragraph after paragraph (i):

“(j) in relation to a member of staff of the Data Protection Commission, the Commissioner for Data Protection or, where more than one Commissioner for Data Protection stands appointed, the chairperson (within the meaning of the *Data Protection Act 2018*).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**202.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 24 of Misuse of Drugs Act 1977**

**166.** Section 24 of the Misuse of Drugs Act 1977 is amended—

(a) in subsection (1)(c), by the substitution of “(including those containing any data that constitutes personal data)” for “(including any data within the meaning of the Data Protection Acts 1988 and 2003)”,

(b) in subsection (2)(c), by the substitution of “(including those containing any data that constitutes personal data)” for “(including any data within the meaning of the



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Data Protection Acts 1988 and 2003)”, and

(c) by the insertion of the following subsection after subsection (7):

“(8) In this section—

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“personal data” means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5 of the Data Protection Act 2018.*”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**203.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 15A of Control of Clinical Trials Act 1987**

**167.** Section 15A of the Clinical Trials Act 1987 is amended—

(a) by the substitution of the following paragraph for paragraph (d):

“(d) inspect and copy or extract information from any data including data that constitutes personal data within the meaning of—

(i) the Data Protection Regulation, or

(ii) *Part 5 of the Data Protection Act 2018.*”.

and

(b) the insertion of the following subsection after subsection (10):

“(11) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

204. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Data Protection Act 1988**

168. (1) The Act of 1988 is amended—

(a) in section 24, by the substitution of the following subsection for subsection (1):

“(1) In this section “authorised officer” has the same meaning that it has in *section 2(1) of the Data Protection Act 2018.*”,

and

(b) in section 26—

(i) in subsection (1)—

(I) in paragraph (b), by the substitution of “notice, and” for “notice”, and

(II) by the deletion of paragraph (c),

and

(ii) in subsection (4)—

(I) in paragraph (a), by the substitution of “paragraph (a) or (b) of subsection (1) of this section” for “paragraph (a), (b) or (c) of subsection (1) of this section”, and

(II) by the substitution of “with a requirement or prohibition specified in the notice” for “with a requirement or prohibition specified in the notice, or, as the case may be, a contravention by him of section 19 of this Act.”.

(2) The amendments effected by *subsection (1)* shall not apply for the purposes of *subsection (2) of section 8.*”.

—An tAire Dlí agus Cirt agus Comhionannais.

205. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Firearms and Offensive Weapons Act 1990**

169. The Firearms and Offensive Weapons Act 1990 is amended by the insertion of the following section after section 16:

**“Provision of information by Commissioner to Minister**

16A. (1) The Minister may request the Commissioner of the Garda Síochána to provide any information necessary for the performance of the Minister’s functions under sections 9C and 9E and the Commissioner shall, notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the *Data Protection Act 2018*, comply with that request.

(2) In this section “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April

2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**206.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Comptroller and Auditor General (Amendment) Act 1993**

**170.** The Comptroller and Auditor General (Amendment) Act 1993 is amended—

(a) in section 10, by the substitution of the following subsection for subsection (3):

“(3) In this section—

‘automated data’ means information that—

- (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose, or
- (b) is recorded with the intention that it should be processed by means of such equipment;

‘data’ means automated data and manual data;

‘data equipment’ means equipment for processing data;

‘data material’ means any document or other material used in connection with, or produced by, data equipment;

‘manual data’ means information that is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system;

‘relevant filing system’ means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible;”.

and

(b) by the insertion of the following section after section 18B:

**“Application of this Act to the Data Protection Commission**

**18C.** This Act applies to the Data Protection Commission as if it were a Department.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

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207. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 8 of Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993**

171. Section 8 of the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 is amended in subsection (1A) by the substitution of “the functions of the Data Protection Commission under section 10 of the Data Protection Act 1988 and *Part 6* of the *Data Protection Act 2018*” for “the functions of the Data Protection Commissioner under section 10 of the Data Protection Act 1988”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

208. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 18F of Health Insurance Act 1994**

172. Section 18F of the Health Insurance Act 1994 is amended—

(a) in subsection (2)(d), by the substitution of “data (including data that constitutes personal data)” for “data (within the meaning of the Data Protection Acts 1988 and 2003)”, and

(b) in subsection (12), by the insertion of the following definitions:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the *Data Protection Act 2018*.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

209. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 32B of Irish Medicines Board Act 1995**

173. Section 32B of the Irish Medicines Board Act 1995 is amended—

(a) in subsection (3), by the substitution of the following paragraph for paragraph (l):

“(l) inspect and copy or extract information from any data, including data that constitutes personal data within the meaning of—

(i) the Data Protection Regulation, or

(ii) *Part 5* of the *Data Protection Act 2018*.”.

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and

(b) by the insertion of the following subsection after subsection (11):

“(12) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

210. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 77 of Central Bank Act 1997**

174. Section 77 of the Central Bank Act 1997 is amended by the substitution of the following subsection for subsection (12):

“(12) In this section—

‘automated data’ means information that—

- (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose, or
- (b) is recorded with the intention that it should be processed by means of such equipment;

‘data’ means automated data and manual data;

‘data equipment’ means equipment for processing data;

‘data material’ means any document or other material used in connection with, or produced by data equipment;

‘manual data’ means information that is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system;

‘relevant filing system’ means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

211. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 1 of Health (Provision of Information) Act 1997**

175. The Health (Provision of Information) Act 1997 is amended by the substitution of the following section for section 1:

**“Requests for and provision of information**

1. (1) The National Cancer Registry Board (established under the Health (Corporate Bodies) Act 1961) may request from any person personal data (including data concerning health and genetic data within the meaning of the Data Protection Regulation) held by, or in the possession of, that person for the purposes of the performance of that Board of its functions.
- (2) Without prejudice to his or her obligations under the Data Protection Regulation and the Act of 2018, the person to whom a request is made under subsection (1) shall provide the personal data requested to the extent it is held by, or in the possession of, that person.
- (3) The Health Service Executive may, for the purposes of compiling and maintaining a record of the names, addresses, telephone numbers, e-mail addresses and dates of birth of persons who, for public health reasons, may be invited to participate in any cancer screening (including any breast, cervical or bowel cancer screening) programme operated by the Executive, request from any person the names, addresses, telephone numbers, e-mail addresses and dates of birth of persons held by, or in the possession of, that person.
- (4) Without prejudice to his or her obligations under the Data Protection Regulation and the Act of 2018, the person to whom a request is made under subsection (3) may provide that information to the extent it is held by, or in the possession of, that person.
- (5) In this section—

‘Act of 2018’ means the *Data Protection Act 2018*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ means personal data within the meaning of the Data Protection Regulation.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

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212. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 7D of Comhairle Act 2000**

176. Section 7D of the Comhairle Act 2000 is amended in subsection (3), by the substitution of “Subject to the Data Protection Regulation and the *Data Protection Act 2018*” for “Subject to the Data Protection Acts 1988 and 2003”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

213. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 33 of Commission To Inquire Into Child Abuse Act 2000**

177. The Commission To Inquire Into Child Abuse Act 2000 is amended by the substitution of the following section for section 33:

“33. (1) Article 15 (Right of access) of the Data Protection Regulation is restricted, to the extent necessary and proportionate to safeguard the effective performance by the Commission of its functions or a Committee of its functions, in so far as it relates to personal data (within the meaning of that Regulation) provided to the Commission or a Committee while the data is in the custody of the Commission or a Committee, or in the case of such data provided to the Confidential Committee, of a body to which it is transferred by the Commission upon the dissolution of the Commission.

(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

214. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Merchant Shipping (Investigation of Marine Casualties) Act 2000**

178. Section 2(1) of the Merchant Shipping (Investigation of Marine Casualties) Act 2000 is amended in the definition of “record” by the deletion of the words “any form in which data (within the meaning of the Data Protection Act 1988) are held.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

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215. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 28 of Education (Welfare) Act 2000**

179. Section 28 of the Education (Welfare) Act 2000 is amended—

- (a) by the substitution of “controller” for “data controller” in each place it occurs, and
- (b) in subsection (3), by the deletion of “ “data controller” and “personal data” have the meanings assigned to them by the Data Protection Act 1988” and the insertion of the following:

“ ‘controller’ means a controller within the meaning of the Data Protection Regulation;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ means personal data within the meaning of the Data Protection Regulation;”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

216. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 38 of Planning and Development Act 2000**

180. Section 38 of the Planning and Development Act 2000 is amended in subsection (2) by the deletion of “and the Data Protection Acts 1988 and 2003”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

217.181 In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 30 of Residential Institutions Redress Act 2002**

181. The Residential Institutions Redress Act 2002 is amended by the substitution of the following section for section 30:

“30. (1) Article 15 (Right of access) of the Data Protection Regulation is restricted, to the extent necessary and proportionate to safeguard the effective performance by the Board of its functions and the Review Committee of its functions, in so far as it relates to personal data (within the meaning of that Regulation) provided to the Board while the data is in the custody of the Board or the Review Committee.

(2) In this section, “Data Protection Regulation” means Regulation (EU)



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2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> OJ No. L 119, 4.5.2016, p.1

**218.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Official Languages Act 2003**

**182.** Section 2(1) of the Official Languages Act 2003 is amended—

- (a) in the Irish text, in the definition of “taifead”, by the substitution of “aon fhoirm ina gcoimeádtar sonraí (lena n-áirítear foirm mheaisín-inléite) nó rud” for “aon fhoirm ina gcoimeádtar sonraí (de réir bhrí an Achta um Chosaint Sonraí 1988), aon fhoirm eile (lena n-áirítear foirm mheaisín-inléite) nó rud eile” and
- (b) in the English text, in the definition of “record”, by the substitution of “any form in which data are held (including machine-readable form)” for “any form in which data (within the meaning of the Data Protection Act 1988) are held, any other form (including machine-readable form)”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

**219.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 86 of Personal Injuries Assessment Board Act 2003**

**183.** Section 86 of the Personal Injuries Assessment Board Act 2003 is amended—

- (a) in subsection (1), by the substitution of “but only if the processing (within the meaning of the Data Protection Regulation) of any particulars constituting personal data (within the meaning of that Regulation) in the database is in accordance with the Data Protection Regulation and the *Data Protection Act 2018*.” for “but only if the database is, for the time being, maintained in accordance with the Data Protection Act 1988”, and
- (b) by the insertion of the following subsection after subsection (4):

“(5) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> OJ No. L 119, 4.5.2016, p.1

220. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 66 of Civil Registration Act 2004**

**184.** Section 66 of the Civil Registration Act 2004 is amended—

- (a) in subsection (1), by the substitution of “Notwithstanding anything contained in any other enactment, but subject to the Data Protection Regulation and the *Data Protection Act 2018*, an tArd-Chláráitheoir may” for “Notwithstanding anything contained in the Data Protection Acts 1988 to 2003 or any other enactment, an tArd-Chláráitheoir may”, and
- (b) by the substitution of the following subsection for subsection (2):

“(2) In this section—

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘information’ includes personal data;

‘personal data’ means personal data within the meaning of—

- (a) the Data Protection Act 1988,
- (b) the Data Protection Regulation, or
- (c) *Part 5 of the Data Protection Act 2018*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

221. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 39 of Commissions of Investigation Act 2004**

**185.** Section 39 of the Commissions of Investigation Act 2004 is amended—

- (a) by designating the section as subsection (1),
- (b) in that designated subsection (1), by the substitution of “Article 15 (Right of access) of the Data Protection Regulation is restricted, to the extent necessary and proportionate to safeguard the effective operation of commissions and the future cooperation of witnesses, in so far as it relates to personal data (within the meaning of that Regulation) provided to a commission” for “Section 4 of the Data Protection Act 1988 does not apply to personal data provided to a commission”, and
- (c) by the insertion of the following subsection after subsection (1):

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“(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> OJ No. L 119, 4.5.2016, p.1

**222.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 55H of Health Act 2004**

**186.** Section 55H of the Health Act 2004 is amended—

(a) in subsection (8), by the substitution of the following paragraph for paragraph (a):

“(a) submit a draft of the proposed procedures to the Data Protection Commission for its opinion as to whether any provision of the procedures would, if given effect, be likely to result in a contravention of the Data Protection Regulation or the *Data Protection Act 2018*, and”,

(b) in subsection (9), by the substitution of “the Data Protection Commission” for “the Data Protection Commissioner”, and

(c) by the insertion of the following subsection after subsection (9):

“(10) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> OJ No. L 119, 4.5.2016, p.1

**223.**In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Safety, Health and Welfare at Work Act 2005**

**187.** Section 2(1) of the Safety, Health and Welfare at Work Act 2005 is amended—

(a) by the substitution of the following definition for the definition of “record”:

“ ‘record’ includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether

of sound or images or both), any form in which data (including data that constitute personal data within the meaning of the Data Protection Regulation or *Part 5* of the *Data Protection Act 2018*) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any of, or any combination of, the foregoing;”,

and

(b) by the insertion of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**224.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 265 of Social Welfare Consolidation Act 2005**

**188.** Section 265 of the Social Welfare Consolidation Act 2005 is amended—

(a) in subsection (1)—

(i) by the substitution of the following definitions for the definitions of “data controller” and “personal data”:

“ ‘controller’ means a controller within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the Act of 2018;

‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the *Act of 2018*;”,

and

(ii) by the insertion of the following definitions:

“ ‘Act of 2018’ means the *Data Protection Act 2018*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

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and

(b) in subsection (2), by the substitution of “controller” for “data controller”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**225.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Railway Safety Act 2005**

**189.** Section 2(1) of the Railway Safety Act 2005 is amended in the definition of “record” by the deletion of the words “in which data (within the meaning of the Data Protection Act 1988) are held, any other form”.

—An tAire Dlí agus Cirt agus Comhionannais.

**226.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 12 of Health (Repayment Scheme) Act 2006**

**190.** Section 12(3) of the Health (Repayment Scheme) Act 2006 is amended by the substitution of “except after consultation with the Data Protection Commission” for “except after consultation with the Data Protection Commissioner within the meaning of the Data Protection Acts 1988 and 2003”.

—An tAire Dlí agus Cirt agus Comhionannais.

**227.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 19 of Electoral (Amendment) Act 2006**

**191.** Section 19 of the Electoral (Amendment) Act 2006 is amended by the substitution of “A registration authority may,” for “Notwithstanding anything in the Data Protection Acts 1988 and 2003, a registration authority may.”

—An tAire Dlí agus Cirt agus Comhionannais.

**228.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 67 of Pharmacy Act 2007**

**192.** Section 67 of the Pharmacy Act 2007 is amended—

(a) in subsection (3), by the substitution of the following paragraph for paragraph (l):

“(l) inspect and copy or extract information from any data, including data that constitutes personal data within the meaning of—

(i) the Data Protection Regulation, or

(ii) *Part 5 of the Data Protection Act 2018.*”

and

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(b) by the insertion of the following subsection after subsection (12):

“(13) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

229. In page 126, between lines 25 and 26, to insert the following:

### “Amendment of Passports Act 2008

193. The Passports Act 2008 is amended—

(a) in section 2, by—

(i) the deletion of the definitions of “Act of 1988”, “automated data” and “data”,

(ii) the insertion of the following definition:

“ ‘Act of 2018’ means the *Data Protection Act 2018*;”,

(iii) the substitution of the following definition for the definition of “biometric data”:

“ ‘biometric data’ means biometric data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5 of the Act of 2018*;”,

(iv) the insertion of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

(v) the substitution of the following definition for the definition of “personal data”:

“ ‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5 of the Act of 2018*;”,

and

(vi) the substitution of the following definition for the definition of “processing”:

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“ ‘processing’ means processing within the meaning of—

- (a) the Data Protection Regulation, or
- (b) *Part 5 of the Act of 2018*.”,
- (b) in section 8, by the substitution in subsection (1) of “Subject to the Data Protection Regulation and the *Act of 2018*” for “Subject to the Data Protection Acts 1988 and 2003”, and
- (c) in section 21(1)(b), by the substitution of “personal data” for “data” in each place it occurs.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**230.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 2 of Chemicals Act 2008**

**194.** Section 2(1) of the Chemicals Act 2008 is amended by—

- (a) the substitution of the following definition for the definition of “record”—

“ ‘record’ includes any memorandum, book, report, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (including data that constitute personal data within the meaning of the Data Protection Regulation or *Part 5 of the Data Protection Act 2018*) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any of, or any combination of, the foregoing;”

and

- (b) the insertion of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

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231. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Nursing Homes Support Scheme Act 2009**

195. The Nursing Homes Support Scheme Act 2009 is amended—

- (a) in section 26, by the deletion of subsection (12), and
- (b) in section 45(1), by the substitution of “Subject to the Data Protection Regulation and the *Data Protection Act 2018*” for “Notwithstanding any provision of the Data Protection Acts 1988 to 2003”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

232. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 23 of Criminal Justice (Miscellaneous Provisions) Act 2009**

196. Section 23 of the Criminal Justice (Miscellaneous Provisions) Act 2009 is amended by the substitution of the following subsections for subsection (2):

- “(2) The Data Protection Act 1988 shall, subject to any necessary modifications, apply and have effect in relation to the processing (within the meaning of that Act) of personal data (within the meaning of that Act) for the purposes of the operation of the Council Decision and the Schengen Convention.
- (3) The *Data Protection Act 2018* shall, subject to any necessary modifications, apply and have effect to the processing (within the meaning of *Part 5* of that Act) of personal data (within the meaning of that Part) for the purposes of the operation of the Council Decision and the Schengen Convention.”.

—An tAire Dlí agus Cirt agus Comhionannais.

233. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 201 of National Asset Management Agency Act 2009**

197. The National Asset Management Agency Act 2009 is amended by the substitution of the following section for section 201:

- “201. (1) For the avoidance of doubt, an obligation on a credit institution or any other person under this Act to disclose information to NAMA, a NAMA group entity or the NTMA extends to personal data within the meaning of the Data Protection Regulation.
- (2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.



<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**234.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 12 of Communications (Retention of Data) Act 2011**

**198.** Section 12 of the Communications (Retention of Data) Act 2011 is amended by the substitution of the following subsections for subsection (4):

“(4) The designated judge may, if he or she considers it desirable to do so, communicate with the Taoiseach or the Minister concerning disclosure requests and with the Data Protection Commission in connection with its functions under the Data Protection Regulation and the Data Protection Acts 1988 to 2018.

(5) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**235.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 28 of Student Support Act 2011**

**199.** Section 28 of the Student Support Act 2011 is amended—

- (a) by the substitution of “controller” for “data controller” in each place it occurs,
- (b) in subsection (1), by the substitution of “Notwithstanding anything contained in any enactment (other than the *Act of 2018*)” for “Notwithstanding anything contained in the Data Protection Acts 1988 and 2003 or any other enactment”, and
- (c) in subsection (5), by—
  - (i) the substitution of the following definitions for the definition of “data controller”:

“ ‘*Act of 2018*’ means the *Data Protection Act 2018*;

‘controller’ means a controller within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the *Act of 2018*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the

European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

- (ii) the substitution of the following definition for the definition of “personal data”:

“ ‘personal data’ means personal data within the meaning of—

- (a) the Data Protection Regulation, or  
(b) *Part 5 of the Act of 2018*;

and

- (iii) the substitution of the following definition for the definition of “processing”:

“ ‘processing’ means processing within the meaning of—

- (a) the Data Protection Regulation, or  
(b) *Part 5 of the Act of 2018*;”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**236.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Communications Regulation (Postal Services) Act 2011**

**200.** The Communications Regulation (Postal Services) Act 2011 is amended—

- (a) in section 65A(1), by—

- (i) the deletion of the definition of “Act of 1988”,  
(ii) the insertion of the following definition:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

- (iii) the substitution of the following definition for the definition of “personal data”:

“ ‘personal data’ means personal data within the meaning of the Data Protection Regulation;”,

and

- (iv) the substitution of the following definition for the definition of “processing”:

“ ‘processing’ means processing within the meaning of the Data

Protection Regulation;”,

(b) in section 66A(2), by the deletion of paragraph (a), and

(c) in section 66C—

(i) in subsection (1), by the substitution of “the Data Protection Regulation and the *Data Protection Act 2018*” for “the Data Protection Acts 1988 to 2003”, and

(ii) by the substitution of the following subsection for subsection (2):

“(2) Article 21 (Right to object) of the Data Protection Regulation shall not apply to processing of personal data that is required for the purposes of carrying out legitimate postcode activity.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

237. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Property Services (Regulation) Act 2011**

201. The Property Services (Regulation) Act 2011 is amended—

(a) in section 2(1), by the insertion of the following definition after the definition of “connected relative”:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

(b) in section 42, by the substitution of the following subsection for subsection (2):

“(2) The Commissioner of the Garda Síochána shall, notwithstanding anything contained in any other enactment or rule of law, but subject to the Data Protection Regulation and the *Data Protection Act 2018*, comply with a request under subsection (1).”.

and

(c) by the substitution of the following section for section 93:

**“Restriction of right of access to personal data in certain circumstances**

93. Article 15 (Right of access) of the Data Protection Regulation is restricted, to the extent necessary and proportionate to enable the Authority to effectively perform its functions under this Act in so far as the functions relate to carrying out an investigation, in so far as it relates to personal data (within the meaning of that Regulation) processed by the Authority.”.

—An tAire Dlí agus Cirt agus Comhionannais.

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<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

238. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 56 of Credit Union and Co-operation with Overseas Regulators Act 2012**

202. Section 56 of the Credit Union and Co-operation with Overseas Regulators Act 2012 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) A credit union may disclose to ReBo personal data within the meaning of the Data Protection Regulation.”,

and

(b) by the insertion of the following subsection after subsection (3):

“(4) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

239. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 8 of Health (Alteration of Criteria for Eligibility) Act 2013**

203. Section 8 of the Health (Alteration of Criteria for Eligibility) Act 2013 is amended—

(a) in subsection (4), by the substitution of “Subject to compliance with the Data Protection Regulation and the *Act of 2018* and subject to this section” for “Notwithstanding anything contained in the Data Protection Acts 1988 and 2003, but subject to this section”,

(b) in subsection (7), by the substitution of “the Data Protection Commission” for “the Data Protection Commissioner”,

(c) by the deletion of subsection (8),

(d) in subsection (9), by the substitution of “references in this section to personal data shall include references to special categories of personal data (within the meaning of *section 2* of the *Act of 2018*)” for “references in this section to personal data shall include references to sensitive personal data”, and

(e) by the substitution of the following subsection for subsection (10):

“(10) In this section—

‘Act of 2018’ means the *Data Protection Act 2018*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ means personal data within the meaning of the Data Protection Regulation.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

240. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Health Identifiers Act 2014**

204. The Health Identifiers Act 2014 is amended—

(a) in section 2(1)—

(i) by the insertion of the following definition after the definition of “Act of 2013”:

“ ‘Act of 2018’ means the *Data Protection Act 2018*;”;

(ii) by the insertion of the following definition after the definition of “conditions”:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”;

(iii) by the substitution of the following definition for the definition of “personal data”:

“ ‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the *Act of 2018*;”;

(iv) by the substitution of the following definition for the definition of “processing”:

“ ‘processing’ means processing within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5* of the *Act of 2018*;”;

(v) in paragraph (g)(iii) of the definition of “secondary purpose”, by the

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substitution of “in accordance with the Data Protection Regulation and the *Act of 2018*” for “in accordance with the Data Protection Acts 1988 and 2003”,

and

(b) by the substitution of the following Part for Part 6:

“PART 6

APPLICATION OF DATA PROTECTION REGULATION

**Application of Data Protection Regulation**

27. Article 32 of the Data Protection Regulation shall apply to a deceased individual’s relevant information (individual) as it applies to a living individual’s relevant information (individual).”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

241. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 15 of the Freedom of Information Act 2014**

205. Section 15 of the Freedom of Information Act 2014 is amended—

(a) by the substitution of the following subsection for subsection (3):

“(3) A record shall not be within subsection (2) by reason only of the fact that it contains information constituting—

- (a) personal data within the meaning of the Data Protection Act 1988 to which that Act applies,
- (b) personal data within the meaning of the Data Protection Regulation to which that Regulation and the *Act of 2018* apply, or
- (c) personal data within the meaning of *Part 5* of the *Act of 2018* to which that Act applies.”.

and

(b) by the insertion of the following subsection after subsection (4):

“(5) In this section—

‘*Act of 2018*’ means the *Data Protection Act 2018*;

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.”.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

242. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 7 of Regulation of Lobbying Act 2015**

206. Section 7 of the Regulation of Lobbying Act 2015 is amended—

(a) by the insertion of the following definition after the definition of “Commission”:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

and

(b) by the substitution of the following definition for the definition of “personal data”:

“ ‘personal data’ means personal data within the meaning of—

(a) the Data Protection Regulation, or

(b) *Part 5 of the Data Protection Act 2018.*”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

243. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of Sport Ireland Act 2015**

207. The Sport Ireland Act 2015 is amended—

(a) in section 40, by—

(i) the insertion of the following definition before the definition of “anti-doping organisation”:

“ ‘Act of 2018’ means the *Data Protection Act 2018*;”,

(ii) the insertion of the following definition after the definition of “anti-doping rule violation”:

“ ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);”,

(iii) the substitution of the following definition for the definition of “personal

data”:

“ ‘personal data’ means personal data within the meaning of the Data Protection Regulation;”,

and

(iv) the substitution of the following definition for the definition of “processing”:

“ ‘processing’ means processing within the meaning of the Data Protection Regulation;”,

(b) in section 42(4), by the substitution of “Subject to compliance with the Data Protection Regulation and the *Act of 2018*, Sport Ireland shall” for “Sport Ireland shall”, and

(c) in section 43—

(i) in subsection (1), by the substitution of “Data Protection Regulation and the *Act of 2018*” for “Data Protection Acts 1988 and 2003”, and

(ii) by the deletion of subsection (3).”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

**244.** In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 12 of Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016**

**208.** Section 12 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 is amended—

(a) by designating the section as subsection (1),

(b) in that designated subsection (1), by the deletion of “(within the meaning of the Data Protection Act 1988)”, and

(c) by the insertion of the following subsection after subsection (1):

“(2) In this section—

‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ means personal data within the meaning of—

(a) the Data Protection Act 1988,

(b) the Data Protection Regulation, or

(c) *Part 5 of the Data Protection Act 2018*.”.



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—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

245. In page 126, between lines 25 and 26, to insert the following:

**“Amendment of section 62 of Financial Services and Pensions Ombudsman Act 2017**

**209.** Section 62 of the Financial Services and Pensions Ombudsman Act 2017 is amended—

- (a) in subsection (2), by the substitution of the following paragraph for paragraph (b):

“(b) ensures compliance with the Data Protection Regulation and the *Data Protection Act 2018*.”,

and

- (b) by the insertion of the following subsection after subsection (4):

“(5) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”.

—An tAire Dlí agus Cirt agus Comhionannais.

<sup>1</sup> *OJ No. L 119, 4.5.2016, p.1*

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 162

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 163

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 164

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

SECTION 165

*Section proposed to be deleted.*

—An tAire Dlí agus Cirt agus Comhionannais.

[NEW SECTION]

NEW SECTION

246. In page 128, after line 1, to insert the following:

**“Amendment of the Child and Family Agency Act 2013**

166. The Child and Family Agency Act 2013 is amended in section 8(1) by the insertion of the following new paragraph after paragraph (g):

“(h) maintain a register of preventative and counselling services for the purposes of *section 30* of the *Data Protection Act 2018*.”.

—Clare Daly, Mick Wallace.

247. In page 128, after line 1, to insert the following:

**“Amendment of Freedom of Information Act 2014**

166. Part 1 of Schedule 1 of the Freedom of Information Act 2014 is amended by the deletion of paragraph (f)”.

—Donnchadh Ó Laoghaire.

TITLE

248. In page 9, line 15, to delete “Decision 2008/977/JHA” and substitute the following:

“Decision 2008/977/JHA; to give further effect to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data done at Strasbourg on the 28th day of January 1981”.

—An tAire Dlí agus Cirt agus Comhionannais.