



**SEANAD ÉIREANN**

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

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# SEANAD ÉIREANN

## AN BILLE UM CHOSAINN SONRAÍ, 2018 —AN TUARASCÁIL

### DATA PROTECTION BILL 2018 —REPORT

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

\*1. In page 10, between lines 26 and 27, to insert the following:

“ “political party” means a political party registered in the Register of Political Parties in accordance with section 25 of the Electoral Act 1992;”.

\*2. In page 11, to delete lines 27 to 29.

\*3. In page 13, line 4, to delete “The following provisions” and substitute “Subject to *subsection (4)*, the following provisions”.

\*4. In page 13, line 15, to delete “Section 14(2)” and substitute “Subject to *subsection (4)*, section 14(2)”.

\*5. In page 13, between lines 17 and 18, to insert the following:

“(4) The repeals effected by *subsections (1) and (2)* shall not apply for the purposes of *subsection (2) of section 8*.”.

\*6. In page 13, to delete lines 19 to 29 and substitute the following:

“8. (1) Subject to *subsection (2)*, the Act of 1988 shall apply to the processing of personal data for the purposes only of national security, defence and international relations of the State.

(2) The Act of 1988 shall apply to—

(a) a complaint by an individual under section 10 of that Act made before the commencement of this section,

(b) an investigation under the said section 10 that was begun but not completed before such commencement,

(c) a contravention of that Act that occurred before such commencement.”.

7. In page 21, between lines 9 and 10, to insert the following:

“(5) The annual report should include a list of organisations found in breach of this Act during the period covered by the report.”.

—*Senators Alice-Mary Higgins, Frances Black.*

8. In page 23, line 6, to delete “is 13 years of age” and substitute “shall not be a lower age than already defined in Article 8”.

—*Senators Michael McDowell, Victor Boyhan.*

- \*9. In page 23, between lines 9 and 10, to insert the following:

“(3) The Minister shall—

- (a) not later than 3 years after the coming into operation of this section, commence a review of the operation of *subsection (1)*, and
- (b) complete that review not later than one year after its commencement.”.

10. In page 23, between lines 9 and 10, to insert the following:

“(3) It shall not be lawful for a data controller to process the data of a child for commercial or marketing purposes, when the child is under the age of 16.”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

11. In page 23, between lines 9 and 10, to insert the following:

“(3) 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.”.

—*Senators Lynn Ruane, Alice-Mary Higgins.*

- \*12. In page 23, between lines 9 and 10, to insert the following:

**“Codes of conduct: children**

31. (1) Without prejudice to the generality of Article 40, the Commission shall encourage the drawing up of codes of conduct intended to contribute to the proper application of the Data Protection Regulation with regard to—

- (a) the protection of children,
- (b) the information to be provided by a controller to children,
- (c) the manner in which the consent of the holders of parental responsibility over a child is to be obtained for the purposes of Article 8, and
- (d) integrating the necessary safeguards into processing in order to protect the rights of children in an age-appropriate manner for the purpose of Article 25.

- (2) For the purpose of considering whether a draft code of conduct or an extension or amendment to an existing code of conduct referred to in Article 40 provides sufficient appropriate safeguards referred to in that Article, the Commission may, where the draft, extension or amendment, as the case may be, concerns the application of the Data Protection Regulation to children, consult with such persons as it considers appropriate including—

- (a) children and bodies who appear to the Commission to represent the interests of

- children,
- (b) the holders of parental responsibility over children, and
- (c) the Ombudsman for Children.”.

\*13. In page 23, between lines 9 and 10, to insert the following:

**“Right to be forgotten: children**

32. (1) Subject to *subsection (3)*, in accordance with Article 17, a controller shall, at the request of a data subject, without undue delay erase personal data of the data subject where the data have been collected in relation to the offer to that data subject of information society services referred to in Article 8(1).
- (2) Subject to *subsection (3)*, where a controller has disclosed the personal data which are the subject of a request under *subsection (1)* to another controller or controllers, the first-mentioned controller shall, taking account of available technology and the cost of implementation, take all reasonable steps, including technical measures, to inform the other controller or controllers which are processing that personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, that personal data.
- (3) *Subsections (1) and (2)* shall not apply to the extent that the processing of the personal data concerned is necessary for the purposes set out in Article 17(3).”.

\*14. In page 24, to delete lines 19 to 23 and substitute the following:

- “(iv) pseudonymisation of the personal data, and
- (v) encryption of the personal data.”.

\*15. In page 24, to delete lines 24 to 37, and in page 25, to delete lines 1 to 5 and substitute the following:

- “(2) Regulations may be made for either or both of the following purposes—
- (a) to identify additional suitable and specific measures (to those referred to in *paragraphs (a) to (e) of subsection (1)*) that may be taken to safeguard the fundamental rights and freedoms of data subjects in the processing of personal data of those subjects for the purposes of the requirement referred to in *subsection (1)*,
  - (b) to specify that a measure or measures referred to in *paragraphs (a) to (e) of subsection (1)* or an additional measure or measures identified under *paragraph (a)*, or both, is or are mandatory in respect of the processing to which they are stated to apply.
- (3) Without prejudice to the generality of *subsection (2)(a)*, additional suitable and specific measures identified in regulations made under that subsection may relate to—
- (a) governance structures,
  - (b) processes or procedures for risk assessment purposes,

- (c) processes or procedures for the management and conduct of research projects, and
  - (d) other technical and organisational measures designed to ensure that the processing is carried out in accordance with the Data Protection Regulation and processes for testing and evaluating the effectiveness of such measures.
- (4) Regulations under *subsection (2)* may—
- (a) identify different measures for different categories of personal data, different categories of controllers, different types of processing or categories of processing, and
  - (b) specify that a measure or measures referred to in *subsection (2)(b)* is or are mandatory in respect of the processing of different categories of personal data, processing by different categories of controllers and in respect of different types of processing or categories of processing.
- (5) Regulations under *subsection (2)* may be made 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.”.

**16.** In page 25, between lines 16 and 17, to insert the following:

“(7) If the Minister intends to set out regulations under this section which are not compliant with the advice of the Commission, he or she must lay a rationale for his or her proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**17.** In page 25, between lines 16 and 17, to insert the following:

“(7) If the Minister intends to set out regulations under this section which are not compliant with the advice of the Commission, he or she must lay a rationale for his or her proposed regulation before the Oireachtas Committee on Justice and Equality and any other relevant committee and receive approval from those committees.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**18.** In page 26, to delete lines 1 to 39, and in page 27, to delete lines 1 to 14.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

**19.** In page 26, lines 3 to 9, to delete all words from and including “(1) The” in line 3 down to and including line 9.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

**\*20.** In page 26, line 4, to delete “necessary” and substitute “necessary and proportionate”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Niall Ó Donnghaile.*

**21.** In page 26, to delete lines 26 to 30 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 and has also consulted with and sought the advice of the Commission, and

(ii) the Minister has, if he or she intends to set out regulations which are not compliant 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,

(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 and has also consulted with and sought the advice of the Commission, and

(ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**\*22.** In page 27, line 20, to delete “necessary” and substitute “necessary and proportionate”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Niall Ó Donnghaile.*

**23.** In page 28, between lines 20 and 21, to insert the following:

**“39.** (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.”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

24. In page 29, line 2, to delete “necessary” and substitute “necessary and proportionate”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Niall Ó Donnghaile.*

\*25. In page 29, to delete lines 14 to 23 and substitute the following:

**“Processing of personal data revealing political opinions for electoral activities and functions of Referendum Commission**

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

(a) in the course of electoral activities in the State for the purpose of compiling data on peoples’ political opinions by—

(i) a political party, or

(ii) a candidate for election to, or a holder of, elective political office in the State,

and

(b) by the Referendum Commission in the performance of its functions.”.

26. In page 29, to delete lines 14 to 23.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield, Alice-Mary Higgins, Lynn Ruane.*

27. In page 29, to delete lines 20 to 22.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

28. In page 29, between lines 23 and 24, to insert the following:

“44. The processing of any special category of personal data by a private or commercial company for political or electoral purposes shall be prohibited without explicit full and informed consent of the data subject.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*



29. In page 29, between lines 23 and 24, to insert the following:

- “44. (1) Processing of data on people’s political opinions by a political party, a candidate for election to, or a holder of, elective political office in the State under *section 43* must relate solely to persons who are members or former members of the political party or persons who have regular contact with the political party, candidate for election or holder of political office in connection with their purposes.
- (2) Personal data compiled or processed under *section 43* must not be shared with a private or commercial company without the consent of the data subject, even where that private or commercial company has been contracted by the bodies specified in *section 43*.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

30. In page 29, between line 23 and 24, to insert the following:

- “44. Processing of data on people’s political opinions by a political party, a candidate for election to, or a holder of, elective political office in the State under *section 43* must relate solely to persons who are members or former members of the political party or persons who have regular contact with the political party, candidate for election or holder of political office in connection with their purposes.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

31. In page 29, to delete lines 33 to 37, and in page 30, to delete lines 1 to 4.

—*Senators Alice-Mary Higgins, Frances Black.*

32. In page 30, to delete lines 5 to 31.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

33. In page 30, line 9, after “necessary” to insert “and proportionate”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield, Alice-Mary Higgins, Lynn Ruane.*

34. In page 30, 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 and has also consulted with and sought the advice of the Commission, and
- (ii) the Minister has, if he or she intends to set out regulations which are not compliant 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,

(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 and has also consulted with and sought the advice of the Commission, and
- (ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**35.** In page 30, between lines 18 and 19, to insert the following:

- “(4) (a) Such regulations 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 (5)*# of this section,
  - (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—
- (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.”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

[# *This is the correct reference if this amendment is accepted.*]

**\*36.** In page 32, line 37, to delete “necessary” and substitute “necessary and proportionate”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Niall Ó Donnghaile.*

**37.** In page 33, to delete lines 2 to 6 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 and has also consulted with and sought the advice of the Commission, and
  - (ii) the Minister has, if he or she intends to set out regulations which are not compliant 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,
- (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 and has also consulted with and sought the advice of the Commission, and
  - (ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

*—Senators Alice-Mary Higgins, Frances Black.*

**\*38.** In page 34, to delete lines 12 to 19 and substitute the following:

**“53.** For the purposes of the application of Article 21 in the State, the reference to “direct marketing” includes a reference to direct mailing other than direct mailing carried out—

(a) in the course of electoral activities in the State by—

- (i) a political party or its members, or
- (ii) a candidate for election to, or a holder of, elective political office in the State,

and

(b) by the Referendum Commission in the performance of its functions.”.

**\*39.** In page 34, to delete lines 20 to 28 and substitute the following:

**“Restriction on right of data subject to object to processing for election purposes and processing by Referendum Commission**

**54.** The right of a data subject to object at any time to the processing of personal data concerning him or her under Article 21 shall not apply to processing carried out—

(a) in the course of electoral activities in the State by—

- (i) a political party, or
  - (ii) a candidate for election to, or a holder of, elective political office in the State
- and

(b) by the Referendum Commission in the performance of its functions.”.

40. In page 34, to delete lines 29 to 37, to delete pages 35 and 36, and in page 37, to delete lines 1 to 32.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

41. In page 35, to delete lines 1 to 32.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

\*42. In page 35, line 3, to delete “necessary” and substitute “necessary and proportionate”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig Ó Céidigh, Fintan Warfield, Alice-Mary Higgins, Lynn Ruane.*

\*43. In page 35, to delete lines 9 and 10 and substitute the following:

“(iii) for the administration of any tax, duty or other money due or owing to the State or a local authority in any case in which the non-application of the restrictions concerned would be likely to prejudice the aforementioned administration.”.

44. In page 35, to delete lines 9 and 10.

—*Senators Alice-Mary Higgins, Frances Black.*

\*45. In page 36, to delete line 31 and substitute the following:

“(h) ensuring the effective operation of the immigration system, the system for granting persons international protection in the State and the system for the acquisition by persons of Irish citizenship, including by preventing, detecting and investigating abuses of those systems or breaches of the law relating to those systems;”.

46. In page 36, to delete line 31.

—*Senators Alice-Mary Higgins, Frances Black.*

47. In page 37, 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 and has also consulted with and sought the advice of the Commission, and

(ii) the Minister has, if he or she intends to set out regulations which are not compliant 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,

(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 and has also consulted with

and sought the advice of the Commission, and

- (ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**48.** In page 37, between lines 32 and 33, 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)* of this section,
  - (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—
  - (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.”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

**49.** In page 51, to delete lines 37 and 38, and in page 52, to delete lines 1 to 3 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 and has also consulted with and sought the advice of the Commission, and
  - (ii) the Minister has, if he or she intends to set out regulations which are not

compliant 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,

(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 and has also consulted with and sought the advice of the Commission, and
- (ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

50. In page 55, between lines 2 and 3, to insert the following:

“(2) Where decisions are reached through automatic processing, the data processor must ensure that an appeals mechanism is available to data subjects.”.

—*Senators Alice-Mary Higgins, Frances Black.*

51. In page 63, after line 37, to insert the following:

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

—*Senators Alice-Mary Higgins, Lynn Ruane.*

52. In page 65, between lines 6 and 7, to insert the following:

#### **“Protection of Data Protection Officers**

84. (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.”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

**53.** In page 66, line 8, after “data” to insert “, and the procedure and mechanisms for so doing”.

—*Senators Alice-Mary Higgins, Frances Black.*

**54.** In page 74, to delete lines 25 to 29 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 and has also consulted with and sought the advice of the Commission, and

(ii) the Minister has, if he or she intends to set out regulations which are not compliant 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,

(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 and has also consulted with and sought the advice of the Commission, and

(ii) that Minister has, if he or she intends to set out regulations which are not compliant with the advice of the Commission, laid a written rationale for his or her proposed regulations before the Oireachtas Committee on Justice and Equality and any other relevant committee.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**55.** In page 81, between lines 6 and 7, to insert the following:

“(2) The Commission shall maintain a guideline list of data controllers and processors regarded as preventative and counselling services under *section 30*.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

**56.** In page 81, between lines 6 and 7, to insert the following:

“(2) The Commission shall produce and disseminate statutory guidelines for data processors and controllers with respect to data protection in relation to children.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

**57.** In page 106, line 5, to delete “report.” and substitute the following:

“report,

(d) the total and proportionate number of data subjects to file complaints against a controller or processor.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**58.** In page 106, line 5, to delete “report.” and substitute the following:

“report,

(d) the likely benefit to the complainant data subjects of providing the report.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**59.** In page 106, between lines 5 and 6 to insert the following:

“(4) Where the Commission receives complaints in respect of a specific data controller or processor from 400 or more individual data subjects then the Commission will—

(a) give notice for a report under *subsection (1)*, or

(b) provide the Oireachtas Committee on Justice and Equality with a written rationale for a decision not to give notice for a report under *subsection (1)*.”.

—*Senators Alice-Mary Higgins, Frances Black.*

**\*60.** In page 113, to delete lines 11 to 13 and substitute the following:

“(3) Where the Commission decides to impose an administrative fine on a controller or processor that—

(a) is a public authority or a public body, but

(b) is not a public authority or a public body that acts as an undertaking within the meaning of the Competition Act 2002,

the amount of the administrative fine concerned shall not exceed €1,000,000.”.

**61.** In page 113, to delete lines 11 to 13 and substitute the following:

“(3) The Commission may decide to impose an administrative fine on a controller or processor that is a public authority or body, up to a maximum of €1 million per case.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

**62.** In page 113, lines 12 and 13, to delete “only where the authority or body acts as an undertaking within the meaning of the Competition Act 2002”.

—*Senators Niall Ó Donnghaile, Rose Conway-Walsh, Paul Gavan, Pádraig MacLochlainn, Fintan Warfield.*

**\*63.** In page 113, line 26, to delete “*subsection (4)*” and substitute “*subsections (4) and (5)*”.

**\*64.** In page 113, between lines 32 and 33, to insert the following:

“(5) Where the decision the subject of the appeal is one to which *section 137(3)* applies, and the court decides under *subsection (3)(b)* to impose a different fine, the amount of the fine imposed by the court shall not exceed €1,000,000.”.

**65.** In page 116, between lines 23 and 24, to insert the following:

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

—*Senators Alice-Mary Higgins, Frances Black.*