



DÁIL ÉIREANN

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

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

DÁIL ÉIREANN

AN BILLE UM CHOSAINN SONRAÍ, 2018 —AN TUARASCÁIL

DATA PROTECTION BILL 2018 —REPORT

Leasuithe Amendments

1. In page 15, between lines 20 and 21, 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.

2. In page 17, to delete lines 13 to 25 and substitute the following:

“(2) Every regulation made under this Act, other than under *section 50, 59 or 72*, 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) Regulations may be made under *section 50, 59 or 72* only if—

(a) a draft of the proposed regulations has been laid before each House of the Oireachtas, and

(b) a resolution approving the draft has been passed by each House.”.

—An tAire Dlí agus Cirt agus Comhionannais.

3. In page 18, line 7, to delete “*subsection (2) of section 8.*” substitute “*subsections (1)(b), (2) and (3) of section 8**”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*This is a reference to the section proposed to be inserted by amendment No. 4.]

4. In page 18, to delete lines 9 to 19 and substitute the following:

“8. (1) Subject to this section, 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 (within the meaning of that Act) other than—

- (a) the processing 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, or
 - (b) the processing of such data under the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014 or the Vehicle Registration Data (Automated Searching and Exchange) Act 2018 to the extent that the Act of 1988 is applied in those Acts.
- (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, and
 - (b) a contravention of that Act that occurred before such commencement.
- (3) An investigation under section 10 of the Act of 1988 that was begun but not completed before the commencement of this section shall be completed in accordance with that Act and that Act shall apply to such an investigation.”.

—An tAire Dlí agus Cirt agus Comhionannais.

5. In page 20, lines 20 and 21, to delete “, in so far as it relates to a function transferred by this section,”.

—An tAire Dlí agus Cirt agus Comhionannais.

6. In page 20, to delete line 26 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.

7. In page 21, to delete lines 1 to 13 and substitute the following:

- “(5) Subject to *subsection (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.
- (6) The Public Appointments Service shall appoint a selection panel to assist it in holding an open selection competition.
- (7) The Public Appointment Service shall ensure that a person is recommended under *subsection (5)* for appointment only if it is satisfied that the person has the qualifications, experience and skills necessary to enable the Commission to effectively perform its functions.”.

—An tAire Dlí agus Cirt agus Comhionannais.

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

“(12) 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.”.

—Clare Daly, Mick Wallace.

9. In page 26, line 9, to delete “(in *subsection (2)* referred to as “annual accounts”)”.

—An tAire Dlí agus Cirt agus Comhionannais.

10. In page 26, line 13, to delete “Annual accounts” and substitute “Accounts”.

—An tAire Dlí agus Cirt agus Comhionannais.

11. In page 26, to delete lines 23 and 24 and substitute the following:

(3) Subject to *subsections (4)* and *(5)*, *subsections (1)* and *(2)* shall cease to have effect on the date of the coming into operation of *section 173(b)*.”.

—An tAire Dlí agus Cirt agus Comhionannais.

12. In page 26, to delete lines 25 to 31 and substitute the following:

“(4) Accounts kept in accordance with this section that relate to the period specified under *subsection (5)* shall be submitted by the Commission to the Comptroller and Auditor General for audit not later than 3 months after the date of the coming into operation of *section 173(b)*.”

(5) The Minister may, for the purposes of *subsection (4)*, specify a period which—

(a) shall end on the date immediately preceding the date of the coming into operation of *section 173(b)*, and

(b) may be longer or shorter than a financial year of the Commission.”.

—An tAire Dlí agus Cirt agus Comhionannais.

13. In page 28, after line 34, to insert the following:

“Micro-targeting and profiling of children

30. It shall be an offence under this Act for any company or corporate body to process the personal data of a child as defined by *section 29* for the purposes of direct marketing, profiling or micro-targeting, for financial gain. Such an offence shall be punishable by an administrative fine under *section 140*.”.

—Róisín Shortall, Clare Daly, Mick Wallace.

14. In page 28, after line 34, to insert the following:

“Micro-targeting and profiling of children

30. It shall be an offence under this Act for any company or corporate body to process the personal data of a child as defined by *section 29* for the purposes of direct marketing, profiling or micro-targeting. Such an offence shall be punishable by an administrative fine under *section 140*.”.

—Donnchadh Ó Laoghaire.

15. In page 29, line 2, to delete “13 years” and substitute “16 years”.

—Sean Sherlock, Jim O’Callaghan, Thomas Byrne.

16. In page 31, line 38, to delete “may” and substitute “shall”.

—Clare Daly, Mick Wallace.

17. In page 32, to delete lines 8 to 27 and substitute the following:

“(5) Subject to *subsection (6)*, regulations may be made under *subsection (2)*—

(a) by the Minister following consultation with such other Minister of the Government as he or she considers appropriate, or

(b) by any other Minister of the Government following consultation with the Minister and such other Minister of the Government as he or she considers appropriate.

(6) The Minister or any other Minister of the Government shall consult with the Commission before making regulations under *subsection (2)*.

(7) The Commission may, on being consulted under *subsection (6)*, make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations and, if the Minister or any other Minister of the Government proposes to proceed to make the regulations notwithstanding that concern, that Minister shall, before making the regulations, give a written explanation as to why he or she is so proceeding to—

(a) the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice and Equality or any Committee established to replace that Committee, and

(b) any other Committee (within the meaning of *section 19(1)*) which that Minister considers appropriate having regard to the subject matter of the regulations.”.

—An tAire Dlí agus Cirt agus Comhionannais.

18. In page 33, lines 18 to 23, to delete all words from and including “for—” in line 18 down to and including line 23 and substitute the following:

“for the performance of a function of a controller conferred by or under an enactment or by the Constitution.”.

—Clare Daly, Mick Wallace.

19. In page 33, to delete lines 37 to 39, and in page 34, to delete lines 1 to 19 and substitute the following:

“(4) Subject to *subsection (5)*, the processing of personal data which is necessary for the performance of a task carried out in the public interest by a controller or which is necessary in the exercise of official authority vested in a controller may be specified in regulations made—

(a) by the Minister following consultation with such other Minister of the Government as he or she considers appropriate, or

- (b) by any other Minister of the Government following consultation with the Minister and such other Minister of the Government as he or she considers appropriate.
- (5) The Minister or any other Minister of the Government shall consult with the Commission before making regulations under *subsection (4)*.
- (6) The Commission may, on being consulted under *subsection (5)*, make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations and, if the Minister or any other Minister of the Government proposes to proceed to make the regulations notwithstanding that concern, that Minister shall, before making the regulations, give a written explanation as to why he or she is so proceeding to—
 - (a) the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice and Equality or any Committee established to replace that Committee, and
 - (b) any other Committee (within the meaning of *section 19(1)*) which that Minister considers appropriate having regard to the subject matter of the regulations.”.

—An tAire Dlí agus Cirt agus Comhionannais.

20. In page 33, line 39, to delete “may” and substitute “shall”.

—Clare Daly, Mick Wallace.

21. In page 34, line 23, to delete “and” and substitute the following:

“(c) the purposes for which the personal data may be processed, and”.

—Clare Daly, Mick Wallace.

22. In page 34, between lines 26 and 27, 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.

23. In page 35, line 9, to delete “A specified person” and substitute the following:

“Having regard to the importance of the right of freedom and expression and information in a democratic society, a specified person may,”.

—Thomas Byrne.

24. In page 35, line 9, to delete “electoral activities” and substitute “political activities”.

—Thomas Byrne.

25. In page 35, to delete lines 12 to 14.

—Clare Daly, Mick Wallace.

26. In page 35, line 15, after “section” to insert “and in *sections 47, 57 and 58*”.
- Thomas Byrne.
27. In page 35, line 16, after “party,” to insert “including its members,”.
- Thomas Byrne.
28. In page 35, line 20, after “authority” to insert the following:
- “, where such individual or party holds a registration with the Standards in Public Office Commission (except in the case of candidates for election in the European Parliament or a local authority)”.
- Thomas Byrne.
29. In page 35, to delete lines 21 to 23 and substitute the following:
- “(4) In this section and in *sections 47, 57 and 58*, “political activities” includes—
- (a) the dissemination of information, including information as to a person’s activities and policies for the purposes of political campaigning, that might reasonably be of interest to electors,
 - (b) party membership and fund-raising,
 - (c) political surveys and polling, and
 - (d) constituency case-work.”.
- Thomas Byrne.
30. In page 35, line 26, to delete “For the purpose” and substitute “Subject to suitable and specific measures, for the purpose”.
- Thomas Byrne.
31. In page 35, line 27, to delete “such a representative” and substitute “such an elected representative”.
- Thomas Byrne.
32. In page 35, line 28, to delete “representative” and substitute “elected representative”.
- Thomas Byrne.
33. In page 35, line 32, to delete “A person may” and substitute “A person shall be deemed to”.
- Thomas Byrne.
34. In page 35, line 34, after “consent” to insert “, and where it involves special categories of personal data, his or her explicit consent,”.
- Thomas Byrne.

35. In page 35, line 37, after “behalf” to insert the following:

“and the person making such representation believes that it is necessary in order to protect the vital interests of the data subject to make such request or representation on the data subject’s behalf”.

—Thomas Byrne.

36. In page 36, to delete lines 1 to 3.

—Thomas Byrne.

37. In page 36, line 8, after “subject,” to insert “on written request from the elected representative,”.

—Thomas Byrne.

38. In page 36, lines 8 and 9, to delete “representative or a person acting on his or her behalf” and substitute “elected representative, or such authorised person acting on his or her behalf”.

—Thomas Byrne.

39. In page 36, line 11, to delete “representative” and substitute “elected representative”.

—Thomas Byrne.

40. In page 36, line 12, after “representation” to insert “in such a manner as is consistent with his or her role and functions as an elected representative”.

—Thomas Byrne.

41. In page 36, between lines 16 and 17, to insert the following:

“(6) The elected representative shall take reasonable and proportionate measures to ensure that any person authorised to act on his or her behalf in respect of the processing of personal data, or special categories of personal data, under this section, shall maintain the confidentiality and security of such personal data.”.

—Thomas Byrne.

42. In page 36, line 20, to delete “and special categories of personal data”.

—Clare Daly, Mick Wallace.

43. In page 36, line 22, after “that” to insert “, having regard to the fundamental rights and legitimate interests of the data subject,”.

—Clare Daly, Mick Wallace.

44. In page 36, line 24, to delete “of preventing, detecting, investigating or prosecuting” and substitute “of avoiding prejudicing the prevention, investigation or prosecution of”.

—Clare Daly, Mick Wallace.

45. In page 36, between lines 25 and 26, to insert the following:

“Processing of special categories of personal data for purpose other than purpose for which data collected

41. 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 detection or prosecution of criminal offences,
- (c) set out in *paragraphs (a) or (b) of section 46.*”.

—Clare Daly, Mick Wallace.

46. In page 37, to delete lines 22 to 24 and substitute the following:

“43. (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.

47. In page 37, to delete lines 25 to 28 and substitute the following:

“(2) For the purposes of Article 86, personal data contained in environmental information may be disclosed where the information is made available under and in accordance with the Access to Information on the Environment Regulations pursuant to a request within the meaning of those Regulations.

(3) In this section—

“Access to Information on the Environment Regulations” means the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007);

“Act of 2014” means the Freedom of Information Act 2014;

“environmental information” has the same meaning as it has in the Access to Information on the Environment Regulations;

“FOI request” has the same meaning as it has in the Act of 2014;

“record” has the same meaning as it has in the Act of 2014.”.

—An tAire Dli agus Cirt agus Comhionannais.

48. In page 37, between lines 26 and 27, 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.

49. In page 37, between lines 28 and 29, 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.

50. In page 38, line 6, to delete “any right or obligation which is” and substitute “specific rights or obligations”.

—Clare Daly, Mick Wallace.

51. In page 38, to delete lines 17 to 28.

—Clare Daly, Mick Wallace, Donnchadh Ó Laoghaire.

52. In page 38, line 21, to delete “carried out—” and substitute “necessary and proportionate—”.

—Thomas Byrne.

53. In page 38, line 22, to delete “electoral activities” and substitute “legitimate political activities”.

—Thomas Byrne.

54. In page 38, line 23, to delete “by—” and substitute “by a specified person, or”.

—Thomas Byrne.

55. In page 38, to delete lines 24 to 27.

—Thomas Byrne.

56. In page 38, between lines 28 and 29, to insert the following:

“(2) For the purposes of this section and *sections 57 and 58*, the term “political activities” shall include—

(a) the dissemination of information, including information as to a person’s activities and policies for the purposes of political campaigning, that might reasonably be of interest to electors,

(b) party membership and fund-raising,

(c) political surveys and polling, and

(d) constituency case-work.

(3) For the purpose of *subsection (1)*, political activities shall not be considered

legitimate where—

- (a) the data subject has requested in writing (including by email) that the specified person or the Referendum Commission not process their personal data, and/or
- (b) the processing is undertaken by a party other than a specified person or the Referendum Commission, in particular, where such processing is undertaken directly or indirectly by parties located, controlled and/or funded from outside the State.”.

—Thomas Byrne.

57. In page 38, between lines 28 and 29, 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.

58. In page 38, between lines 28 and 29, 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—

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

—Donnchadh Ó Laoghaire.

59. In page 39, line 3, 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. 60.]*

60. In page 39, between lines 9 and 10, 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.

61. In page 39, line 13, after “out” to insert the following:

“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.

62. In page 40, between lines 9 and 10, to insert the following:

“(9) 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.

63. In page 42, line 5, to delete “persons authorised” and substitute “persons who are or were authorised”.

—An tAire Dlí agus Cirt agus Comhionannais.

64. In page 42, to delete lines 22 to 39, and in page 43, to delete lines 1 and 2 and substitute the following:

“(4) Subject to *subsection (5)*, regulations may be made under *subsection (3)*—

- (a) by the Minister following consultation with such other Minister of the Government as he or she considers appropriate, or
 - (b) by any other Minister of the Government following consultation with the Minister and such other Minister of the Government as he or she considers appropriate.
- (5) The Minister or any other Minister of the Government shall consult with the Commission before making regulations under *subsection (3)*.
- (6) The Commission may, on being consulted under *subsection (5)*, make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations and, if the Minister or any other Minister of the Government proposes to proceed to make the regulations notwithstanding that concern, that Minister shall, before making the regulations, give a written explanation as to why he or she is so proceeding to—
- (a) the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice and Equality or any Committee established to replace that Committee, and
 - (b) any other Committee (within the meaning of *section 19(1)*) which that Minister considers appropriate having regard to the subject matter of the regulations.”.

—An tAire Dlí agus Cirt agus Comhionannais.

65. In page 43, between lines 17 and 18, to insert the following:

“Processing of special categories of personal data for identity verification purposes

55. Processing of special categories of personal data for identity verification purposes will be

lawful provided no copy of identification or information contained within is stored or retained for any reason.”.

—Donnchadh Ó Laoghaire

66. In page 43, to delete lines 20 to 28 and substitute the following:

“Right of access to results and scripts of examination and results of appeal

55. (1) Subject to *subsection (3)*, a request by a data subject under Article 15 in relation to the result of an examination at which he or she was a candidate, or in relation to a script completed by him or her in the course of such an examination shall, for the purposes of that Article, be taken to have been made on the later of—

- (a) the date of the first publication of the results of the examination, or
- (b) the date of the request.

(2) A request by a data subject under Article 15 in relation to the result of an appeal by the data subject against the result of an examination at which he or she was a candidate shall, for the purposes of that Article, be taken to have been made on the later of—

- (a) the date of the first publication of the results of the appeal, or
- (b) the date of the request.

(3) Where—

- (a) a request by a data subject referred to in *subsection (1)* relates to a script completed by him or her in the course of an examination in the Leaving Certificate Examinations conducted by the State Examinations Commission, and
- (b) the data subject, whether before or after the making of that request, appeals the result of the examination referred to in *paragraph (a)*,

that request shall be taken to have been made on the date of the first publication of the results of the appeal referred to in *paragraph (b)*.

(4) In this section—

“appeal” means any formal process to enable a candidate to request a recheck of an examination result which is specified by a person who operates the examination;

“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 by a candidate as part of an examination including any examination answer-book (whether in written or digital form), journal, portfolio, audio and visual recording, practical piece or artefact and, for the purposes of this definition, shall be deemed to include—

- (a) an audio or visual recording, produced in the course of an examination, of the performance of the candidate in the examination, and

- (b) any marks or comments added to the script, or made in relation to the script, by an examiner in the course of his or her marking of the script.”.

—An tAire Dlí agus Cirt agus Comhionannais.

67. In page 44, to delete lines 5 and 6 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)(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 *subsection (1)(b)(ii)(III)*, the outcome of the appeal.”.

—Clare Daly, Mick Wallace.

68. In page 44, to delete lines 7 to 15.

—Clare Daly, Mick Wallace.

69. In page 44, line 10, to delete “electoral activities in the State by—” and substitute “political activities in the State by or on behalf of a specified person, and”.

—Thomas Byrne.

70. In page 44, to delete lines 11 to 14.

—Thomas Byrne.

71. In page 44, to delete lines 16 to 24.

—Clare Daly, Mick Wallace, Donnchadh Ó Laoghaire.

72. In page 44, line 20, to delete “electoral activities in the State by—” and substitute “political activities in the State by or on behalf of a specified person, and”.

—Thomas Byrne.

73. In page 44, to delete lines 21 to 23.

—Thomas Byrne.

74. In page 45, line 34, to delete “Subject” and substitute the following:

“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.

75. In page 45, line 41, to delete “harm,” and in page 46, to delete lines 1 to 4 and substitute “harm.”

—Clare Daly, Mick Wallace.

76. In page 46, line 16, to delete “persons authorised” and substitute “persons who are or were authorised”.

—An tAire Dlí agus Cirt agus Comhionannais.

77. In page 46, to delete lines 32 to 36.

—Clare Daly, Mick Wallace.

78. In page 47, between lines 19 and 20, to insert the following:

“(n) safeguarding the integrity and security of examinations systems;”.

—An tAire Dlí agus Cirt agus Comhionannais.

79. In page 47, between lines 21 and 22, to insert the following:

“(8) (a) In circumstances where it is proposed 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.

80. In page 47, to delete lines 27 to 40, and in page 48, to delete lines 1 to 10 and substitute the following:

“(9) Subject to *subsection (10)*, regulations may be made under *subsection (5)* or *(6)*—

(a) by the Minister following consultation with such other Minister of the Government as he or she considers appropriate, or

(b) by any other Minister of the Government following consultation with the Minister and such other Minister of the Government as he or she considers appropriate.

(10) The Minister or any other Minister of the Government shall consult with the Commission before making regulations under *subsection (5)* or *(6)*.

(11) The Commission may, on being consulted under *subsection (10)*, make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations and, if the Minister or any other Minister of the Government proposes to proceed to make the regulations notwithstanding that concern, that Minister shall, before making the regulations, give a written explanation as to why he

or she is so proceeding to—

- (a) the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice and Equality or any Committee established to replace that Committee, and
- (b) any other Committee (within the meaning of *section 19(1)*) which that Minister considers appropriate having regard to the subject matter of the regulations.

(12) Regulations made under this section shall—

- (a) respect the essence of the right to data protection and protect the interests of the data subject, and
- (b) restrict the exercise of data subjects' rights only in so far as is necessary and proportionate to the aim sought to be achieved.”.

—An tAire Dlí agus Cirt agus Comhionannais.

81. In page 48, between lines 10 and 11, to insert the following:

“(11) Regulations made under this section shall—

- (a) respect the essence of the right to data protection and protect the interests of the data subject, and
- (b) restrict the exercise of data subjects' rights only in so far as is necessary and proportionate to the aim sought to be achieved.”.

—Clare Daly, Mick Wallace.

82. In page 48, between lines 10 and 11, to insert the following:

“(11) (a) Such regulations shall be referred before their enactment to the Data Protection Commissioner for their opinion under the terms of section 100.

(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—

- (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.

83. In page 59, to delete lines 18 to 20 and substitute the following:

- “(a) that occurs in the course of an activity falling outside the scope of the law of the European Union,
- (b) by an institution, body, office or agency of the European Union, or
- (c) to which *section 8(1)(b)** applies.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 4.]

84. In page 62, to delete lines 36 and 37, and in page 63, to delete lines 1 to 18 and substitute the following:

- “(3) Subject to *subsection (4)*, regulations may be made under *subsection (2)*—
 - (a) by the Minister following consultation with such other Minister of the Government as he or she considers appropriate, or
 - (b) by any other Minister of the Government following consultation with the Minister and such other Minister of the Government as he or she considers appropriate.
- (4) The Minister or any other Minister of the Government shall consult with the Commission before making regulations under *subsection (2)*.
- (5) The Commission may, on being consulted under *subsection (4)*, make observations in writing on any matter which is of significant concern to it in relation to the proposed regulations and if the Minister or any other Minister of the Government proposes to proceed to make the regulations notwithstanding that concern, that Minister shall, before making the regulations, give a written explanation as to why he or she is so proceeding to—
 - (a) the Committee established jointly by Dáil Éireann and Seanad Éireann known as the Committee on Justice and Equality or any Committee established to replace that Committee, and
 - (b) any other Committee (within the meaning of *section 19(1)*) which that Minister considers appropriate having regard to the subject matter of the regulations.”.

—An tAire Dlí agus Cirt agus Comhionannais.

85. In page 63, to delete lines 37 to 39, and in page 64, to delete line 1.

—An tAire Dlí agus Cirt agus Comhionannais.

86. In page 76, to delete lines 12 and 13 and substitute the following:

“(c) ensure that the data protection officer—

- (i) reports directly, in relation to his or her functions under *subsection (5)*, to the highest level of management of the controller,
- (ii) does not receive any instructions regarding the exercise of such functions, and
- (iii) is involved in an appropriate and timely manner in all matters relating to the protection of personal data, and”.

—An tAire Dlí agus Cirt agus Comhionannais.

87. In page 76, between lines 21 and 22, 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.

88. In page 76, between lines 21 and 22, 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.

89. In page 76, after line 38, to insert the following:

“(d) acting as the contact point for data subjects with regard to all issues related to the processing of their personal data and to the exercise of their rights under this Part;”.

—An tAire Dlí agus Cirt agus Comhionannais.

90. In page 77, between lines 3 and 4, 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.

91. In page 77, between lines 3 and 4, 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
- (b) the exercise of that data subject’s rights under this Part.”.

—Clare Daly, Mick Wallace.

92. In page 77, between lines 3 and 4, to insert the following:

“Protection of Data Protection Officers

88. (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.

93. In page 78, lines 9 to 11, to delete all words from and including “data;” in line 9 down to and including line 11 and substitute “data.”.

—An tAire Dlí agus Cirt agus Comhionannais.

94. In page 79, to delete line 6 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, as well as information in relation to the significance and envisaged consequences of such processing for the data subject.”.

—Clare Daly, Mick Wallace.

95. In page 82, line 12, to delete “the data subject” and substitute “subject to *section 93*, the data subject”.

—An tAire Dlí agus Cirt agus Comhionannais.

96. In page 84, line 20, to delete “in”.

—An tAire Dlí agus Cirt agus Comhionannais.

97. In page 92, line 39, to delete “to”.

—An tAire Dlí agus Cirt agus Comhionannais.

98. In page 93, line 12, to delete “*subsection (1)(a)*” and substitute “*subsection (2)(a)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

99. In page 93, line 17, after “infringe” to insert “the”.

—An tAire Dlí agus Cirt agus Comhionannais.

100. In page 96, between lines 1 and 2, to insert the following:

“Rights under Article 80(1)

107. (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 116(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 116* and *section 149*.

(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.

101. In page 96, to delete lines 24 to 27 and substitute the following:

“108. (1) For the purposes of *section 107(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.

102. In page 96, to delete lines 25 to 27 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, 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.

103. In page 96, line 39, to delete “complaint, to take an action specified in *subsection (5)*” and substitute the following:

“complaint, and following the conduct of an inquiry into the complaint under

subsection (1)(a), to comply with section 110***”.

—Clare Daly, Mick Wallace.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 102.]

[**This is a reference to the section proposed to be inserted by amendment No. 106.]

104. In page 97, to delete lines 1 to 22.

—Clare Daly, Mick Wallace.

105. In page 97, line 24, to delete “*section 108(5)(e)*” and substitute “*section 108(1)(a)**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 102.]

106. In page 97, between lines 30 and 31, to insert the following:

“Decision of Commission when inquiry under Chapter 2 conducted under section 108(1)(a)

110. (1) Where an inquiry has been conducted under *section 108(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 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. 102.]

107.In page 99, line 2, to delete “, where an inquiry has been conducted in respect of the complaint”.

—Clare Daly, Mick Wallace.

108.In page 99, line 3, after “the” to insert “course of the Commission’s”.

—Clare Daly, Mick Wallace.

109.In page 99, line 8, after “addition” to insert “and having regard to the nature of the infringement”.

—Clare Daly, Mick Wallace.

110.In page 99, to delete lines 9 to 18 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.

111.In page 99, between lines 32 and 33, 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.

112. In page 99, line 36, to delete “*subsection (4)(a)(ii)*” and substitute “*subsection (4)(a)**”.

—Clare Daly, Mick Wallace.

[**This is a reference to the paragraph proposed to be inserted by amendment No. 110.*]

113. In page 99, line 38, to delete “*subsection (4)(b)(ii)*” and substitute “*subsection (4)(b)**”.

—Clare Daly, Mick Wallace.

[**This is a reference to the paragraph proposed to be inserted by amendment No. 110.*]

114. In page 102, between lines 24 and 25, 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.

115. In page 102, to delete lines 25 and 26 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.

116. In page 102, between lines 26 and 27, 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. 114.*]

117. In page 104, between lines 2 and 3, 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 127* and *section 149*.”.

—Clare Daly, Mick Wallace.

118. In page 104, to delete lines 32 to 34 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, 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.

119. In page 105, lines 5 to 25, to delete all words from and including “proceed” in line 5 down to and including line 25 and substitute the following:

“proceed, following the conduct of an inquiry into the complaint under *subsection (1)(a)**, to comply with *section 123***.”.

—Clare Daly, Mick Wallace.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 118.]

[**This is a reference to the section proposed to be inserted by amendment No. 121.]

120. In page 105, line 27, to delete “*section 121(4)(e)*” and substitute “*section 121(1)(a)**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 118.]

121. In page 105, between lines 34 and 35, to insert the following:

“Decision of Commission when inquiry under Chapter 3 conducted under *section 121(1)(a)*”

123. (1) Where an inquiry has been conducted under *section 121(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,
- (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.

[*This is a reference to the paragraph proposed to be inserted by amendment No. 118.]

122.In page 108, to delete lines 9 to 16 and substitute the following:

“(7) The court hearing a data protection action that has been brought, in accordance with *section 119*, on behalf of a data subject by a body, organisation or association to which *subsection (2)* of that section applies, shall not award compensation for material or non-material damage suffered.”.

—An tAire Dlí agus Cirt agus Comhionannais.

123.In page 108, between lines 16 and 17, to insert the following:

“(8) The court hearing a data protection action that has been brought, in accordance with *section 119(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. 117.]

124.In page 114, line 5, to delete “*subsection (5), subsection (6)*” and substitute “*subsection (2), subsection (3)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

125.In page 114, line 5, to delete “*section 108(5)(d)*” and substitute “*section 123**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the section proposed to be inserted by amendment No. 121.]

126.In page 114, line 12, to delete “*section 108(5)(d)*” and substitute “*section 123**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the section proposed to be inserted by amendment No. 121.]

127.In page 114, line 21, to delete “*section 108(5)(d)*” and substitute “*section 123**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the section proposed to be inserted by amendment No. 121.]

128.In page 115, line 27, to delete “*section 108(5)(d)*” and substitute “*section 123**”.

—Clare Daly, Mick Wallace.

[*This is a reference to the section proposed to be inserted by amendment No. 121.]

129.In page 125, to delete lines 23 to 29 and substitute 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.

130.In page 127, lines 16 and 17, to delete “by whom the data are kept”.

—An tAire Dlí agus Cirt agus Comhionannais.

131.In page 127, line 18, to delete “or any information constituting personal data”.

—An tAire Dlí agus Cirt agus Comhionannais.

132.In page 127, line 25, to delete “obtaining or”.

—An tAire Dlí agus Cirt agus Comhionannais.

133. In page 127, line 27, to delete “obtained” and substitute “that were disclosed to the person”.

—An tAire Dlí agus Cirt agus Comhionannais.

134. In page 127, lines 33 and 34, to delete “, or intended to be obtained, in contravention of *subsection (1)*” and substitute “without the prior authority of the controller or processor”.

—An tAire Dlí agus Cirt agus Comhionannais.

135. In page 133, line 32, to delete “or *142(1)*” and substitute “, *142(1)* or *paragraph 5 of Schedule 2*”.

—An tAire Dlí agus Cirt agus Comhionannais.

136. In page 134, line 9, after “made” to insert “under”.

—An tAire Dlí agus Cirt agus Comhionannais.

137. In page 135, between lines 24 and 25, to insert the following:

“(7) Subject to *subsection (8)*, a Committee referred to in *subsection (1), (2) or (3)* may make rules—

(a) authorising the disclosure, for the purpose of facilitating the fair and accurate reporting of the proceedings, to a *bona fide* member of the Press or broadcast media and at the member’s request, of information contained in a record of proceedings before a court for which the Committee is the rule-making authority, and

(b) prescribing any conditions subject to which such disclosure is to be made.

(8) Rules made under *subsection (7)*—

(a) shall not apply to proceedings required by law to be held otherwise than in public, and

(b) shall apply subject to any order made or direction given by a court in the proceedings concerned.”.

—An tAire Dlí agus Cirt agus Comhionannais.

138. In page 135, to delete lines 29 to 31 and substitute the following:

“159. The processing of personal data shall be lawful where that processing—

(a) consists of the publication of—

(i) a judgment or decision of a court, or

(ii) a list or schedule of court proceedings or hearings in court proceedings, or

(b) is necessary for the purposes of such publication.”.

—An tAire Dlí agus Cirt agus Comhionannais.

139. In page 137, line 22, to delete “Article 46(1)” and substitute “Article 46(2)”.

—An tAire Dlí agus Cirt agus Comhionannais.

140. In page 137, between lines 31 and 32, to insert the following:

“Communication of personal data breach to data subject

164. 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 without restriction.”.

—Donnchadh Ó Laoghaire.

141. In page 137, between lines 31 and 32, to insert the following:

“Prohibition on the storage of biometric data

164. The Minister shall make regulations prohibiting the storage of biometric data, including facial images or dactyloscopic data, for forms of nationally issued identification including passports and public services cards without the consent of the data subject.”.

—Donnchadh Ó Laoghaire.

142. In page 137, between lines 31 and 32, to insert the following:

“Contracts outside State

164. Subject to suitable and specific measures, the Minister may make regulations prohibiting the contracting of entities outside the State for the purposes of processing special categories of personal data for use within the State.”.

—Donnchadh Ó Laoghaire.

143. In page 137, line 35, to delete “Part” and substitute “Act”.

—An tAire Dlí agus Cirt agus Comhionannais.

144. In page 138, line 4, to delete “Part” and substitute “Act”.

—An tAire Dlí agus Cirt agus Comhionannais.

145. In page 139, line 35, after “the” to insert “Control of”.

—An tAire Dlí agus Cirt agus Comhionannais.

146. In page 140, line 32, to delete “*subsection (2)*” and substitute “*subsections (1)(b)*, (2)* and (3)**”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*These are references to the subsections and paragraph proposed to be inserted by amendment No. 4.]

147. In page 140, between lines 32 and 33, to insert the following:

“Amendment of Bankruptcy Act 1988

172. The Bankruptcy Act 1988 is amended by the insertion of the following section:

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

140D. (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 Official Assignee of his or her functions under section 61, where the performance of those functions gives rise to the processing of personal data to which the Data Protection Regulation applies.

(2) In this section, ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ 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.

1. OJ No. L 119, 4.5.2016, p.1

148. In page 141, between lines 13 and 14, to insert the following:

“Amendment of section 13A of Electoral Act 1992

173. Section 13A of the Electoral Act 1992 is amended by the insertion of the following subsection after subsection (3B):

“(3C) In addition to any other electoral purpose for which the information contained in the register prepared under section 13, including a draft register or the supplement to the register prepared under section 15 or an electors list published under section 16, being information which is excluded from the edited register, may be used, that information may be used—

(a) by a specified person (within the meaning of *section 38* of the *Data Protection Act 2018*), for the purpose of communicating with a data subject in accordance with *section 38* of that Act, or

(b) by an elected representative (within the meaning of *section 39* of the *Data Protection Act 2018*) for the purposes of *section 39* of that Act.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

149. In page 142, between lines 10 and 11, to insert the following:

“Amendment of section 24 of the Statistics Act 1993

175. Section 24 of the Statistics Act 1993 is amended—

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

“(2) Without prejudice to the Data Protection Regulation and the *Data Protection Act 2018*, persons and undertakings may provide

information and records, or copies thereof, which they may possess to the Director General or officers of statistics on invitation under the provisions of this Act.”,

and

(b) by the insertion of the following subsection:

“(3) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ 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.

1. OJ No. L 119, 4.5.2016, p.1

150. In page 142, between lines 10 and 11, to insert the following:

“Amendment of section 57B of Irish Aviation Authority Act 1993

175. Section 57B(1) of the Irish Aviation Authority Act 1993 is amended by the substitution of the following paragraph for paragraph (d):

“(d) inspect, copy or extract information from any material (including information in any form) or thing found or produced to the authorised person.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

151. In page 142, between lines 24 and 25, to insert the following:

“Amendment of section 142 of Consumer Credit Act 1995

176. Section 142 of the Consumer Credit Act 1995 is amended—

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

“(b) which relates to information that constitutes personal data to which the Data Protection Regulation applies.”,

(b) in subsection (4), by the substitution of the following paragraph for paragraph (b):

“(b) which relates to information that constitutes personal data to which the Data Protection Regulation applies.”,

and

(c) 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 2016¹ 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.

1. *OJ No. L 119, 4.5.2016, p.1*

152. In page 144, between lines 23 and 24, to insert the following:

“Amendment of section 9M of the Electricity Regulation Act 1999

179. Section 9M of the Electricity Regulation Act 1999 is amended—

- (a) in subsection (4), by the substitution of “the Data Protection Regulation or the *Data Protection Act 2018*” for “the Data Protection Acts 1988 and 2003”, and
- (b) by 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 2016¹ 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.

1. *OJ No. L 119, 4.5.2016, p.1*

153. In page 144, between lines 23 and 24, to insert the following:

“Amendment of British-Irish Agreement Act 1999

180. Section 51 of the British-Irish Agreement Act 1999 is amended—

- (a) in subsection (1) by—
 - (i) the substitution of the following definition for the definition of “Act of 1988”:

“ ‘Act of 1988’ means the Data Protection Act 1988, as amended by the *Data Protection Act 2018*;”,
 - and
 - (ii) the substitution of the following definition for the definition of “established”:

“ ‘established’ , in relation to a data controller or a data processor, shall be construed in accordance with section 1(3B)(b) of the Act of 1988;”,

and

(b) by the deletion of subsection (6).”.

—An tAire Dlí agus Cirt agus Comhionannais.

154. In page 144, to delete lines 25 to 27 and substitute the following:

“**179.** Section 7D of the Comhairle Act 2000 is amended—

(a) 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”, and

(b) by the substitution of the following subsection for subsection (8):

“(8) In this section—

“application”, “assessment” and “service statement” have the meanings assigned to them respectively by Part 2 of the Disability Act 2005;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ 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.

1. OJ No. L 119, 4.5.2016, p.1

155. In page 145, between lines 30 and 31, to insert the following:

“Amendment of section 14 of Dormant Accounts Act 2001

184. Section 14(5) of the Dormant Accounts Act 2001 is amended by the substitution of the following paragraph for paragraph (b):

“(b) Nothing in paragraph (a) shall be construed as restricting the right of a person to inspect the register, in relation to an account, where the person—

(i) proves to the satisfaction of an institution that he or she is, or may be, the account holder,

(ii) proves to the satisfaction of an institution that he or she is authorised by the account holder to so inspect, or

(iii) may act on behalf of the account holder in relation to that account pursuant to regulations made under section 9.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

156. In page 146, between lines 33 and 34, to insert the following:

“Amendment of section 12 of Unclaimed Life Assurance Policies Act 2003

187. Section 12(5) of the Unclaimed Life Assurance Policies Act 2003 is amended by the substitution of the following paragraph for paragraph (b):

“(b) Nothing in paragraph (a) shall be construed as restricting the right of a person to inspect the register in relation to a policy where the person—

- (i) proves to the satisfaction of an insurance undertaking that he or she is, or may be, the policy holder,
- (ii) proves to the satisfaction of an insurance undertaking that he or she is authorised by the policy holder to so inspect, or
- (iii) may act on behalf of the policy holder in relation to that policy pursuant to regulations made under section 7.”.

—An tAire Dlí agus Cirt agus Comhionannais.

157. In page 149, between lines 15 and 16, to insert the following:

“Amendment of Disability Act 2005

192. The Disability Act 2005 is amended—

- (a) in section 12, by the deletion of subsection (3),
- (b) in section 13, by the deletion of subsection (4),
- (c) in section 41—
 - (i) by the deletion of the definition of “the Acts”,
 - (ii) by the substitution of the following definition for the definition of processing:

“ ‘processing’ means processing within the meaning of the Data Protection Regulation;”,
 - and
 - (iii) 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 2016¹ 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);”,
- (d) in section 42—
 - (i) by the substitution, in subsection (1)(b), of “the Data Protection Regulation”, for “the Acts”,

(ii) by the deletion, in subsection (2)(a), of “save in accordance with the provisions of section 12A of the Data Protection Act 1988 (as inserted by the Data Protection (Amendment) Act 2003)”,

(iii) by the substitution of the following subsection for subsection (4):

“(4) A person who contravenes subsection (2) or (3) shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a Class A fine, or

(b) on conviction on indictment, to a fine not exceeding €100,000.”,

and

(iv) by the insertion of the following subsections:

“(5) Where a person is convicted of an offence under subsection (4), the court may order any personal data that appears to the court to be connected with the commission of the offence to be destroyed or erased.

(6) The court shall not make an order under subsection (5) where it considers that a person other than the person convicted of the offence concerned may be the owner of, or otherwise interested in, the data concerned, unless such steps as are reasonably practicable have been taken for notifying that person and giving him or her an opportunity to show cause why the order should not be made.”,

(e) by the deletion of section 43, and

(f) in section 45, by the deletion of subsection (1).”.

—An tAire Dlí agus Cirt agus Comhionannais.

1. OJ No. L 119, 4.5.2016, p.1

158.In page 151, between lines 7 and 8, to insert the following:

“Amendment of Criminal Justice (Mutual Assistance) Act 2008

197. The Criminal Justice (Mutual Assistance) Act 2008 is amended—

(a) in section 76(1), by the insertion of the following definition:

“ ‘controller’ means a controller within the meaning of *Part 5* of the *Data Protection Act 2018*;”,

(b) in section 79C(7), by the insertion of “or, as the case may be, controller” after “data controller” in each place it occurs,

(c) in section 94, by—

(i) the substitution of the following subsections for subsections (5) and (6):

“(5) Article 7, in its application in relation to the use of personal data contained in evidence or information obtained under the Treaty by a

person in the State, is without prejudice to the application of—

- (a) subject to *section 8** of the *Act of 2018*, section 7 (duty of care owed by data controllers and data processors) of the Act of 1988 in respect of the use of such data (within the meaning of the Act of 1988), and
 - (b) *Part 5* of the *Act of 2018*, in respect of the use of such data (within the meaning of that Part).
- (6) (a) Subject to *section 8** of the *Act of 2018*, the Data Protection Acts 1988 and 2003 apply in relation to personal data referred to in *subsection (5)(a)*, in respects other than those related to their use.
- (b) *Part 5* of the *Act of 2018* applies in relation to personal data referred to in *subsection (5)(b)*, in respects other than those related to their use.”,

and

- (ii) the insertion of the following subsection:

“(8) In this section—

‘Act of 1988’ means the Data Protection Act 1988;

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

and

- (d) in section 107, by—

- (i) the substitution of the following subsections for subsections (2) and (3):

“(2) Subsection (1) is without prejudice to the application of—

- (a) subject to *section 8** of the *Act of 2018*, section 7 (duty of care owed by data controllers and data processors) of the Act of 1988 in respect of the use of such data (within the meaning of the Act of 1988), and
 - (b) *Part 5* of the *Act of 2018*, in respect of the use of such data (within the meaning of that Part).
- (3) (a) Subject to *section 8** of the *Act of 2018*, the Data Protection Acts 1988 and 2003 apply in relation to personal data referred to in *subsection (2)(a)*, in respects other than those related to their use.
- (b) *Part 5* of the *Act of 2018* applies in relation to personal data referred to in *subsection (2)(b)*, in respects other than those related to their use.”,

and

- (ii) by the insertion of the following subsection after subsection (4):

“(5) In this section—

‘Act of 1988’ means the Data Protection Act 1988;

‘Act of 2018’ means the *Data Protection Act 2018*.”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

[*This is a reference to the section proposed to be inserted by amendment No. 4.]

159. In page 152, between lines 23 and 24, to insert the following:

“Amendment of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

201. The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 is amended—

(a) in section 2(1), 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 2016¹ 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—

- (i) the Data Protection Act 1988,
- (ii) the Data Protection Regulation, or
- (iii) *Part 5 of the Data Protection Act 2018*.”.”,

(b) in section 52(2), by the deletion of “(within the meaning of the Data Protection Acts 1988 and 2003)”, and

(c) in section 88(2), by the deletion of “(within the meaning of the Data Protection Acts 1988 and 2003)”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

1. *OJ No. L 119, 4.5.2016, p.1*

160. In page 152, between lines 37 and 38, to insert the following:

“Amendment of section 17A of Ministers and Secretaries (Amendment) Act 2011

202. Section 17A of the Ministers and Secretaries (Amendment) Act 2011 is amended—

(a) in subsection (2), by the substitution of “Data Protection Regulation” for “Data Protection Acts 1988 and 2003”, 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 2016¹ 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.

1. OJ No. L 119, 4.5.2016, p.1

161. In page 155, between lines 20 and 21, to insert the following:

“Amendment of Europol Act 2012

206. Section 1 of the Europol Act 2012 is amended by—

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

“ ‘data’ means automated data and manual data;”,

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

“ ‘personal data’ has the meaning it has in *Part 5* of the *Data Protection Act 2018*;”,

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

“ ‘processing’, in relation to personal data, has the meaning it has in *Part 5* of the *Data Protection Act 2018*;”,

and

(d) the insertion of the following definitions:

“ ‘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;

‘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.

162. In page 155, between lines 20 and 21, to insert the following:

“Amendment of Personal Insolvency Act 2012

207. The Personal Insolvency Act 2012 is amended—

(a) in section 2(1), by—

(i) 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 2016¹ 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

(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 Data Protection Act 2018*;”,

(b) by the deletion of section 21A, and

(c) by the substitution of the following section for section 186:

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

186. Article 15 (Right of access) of the Data Protection Regulation, in so far as it relates to personal data (within the meaning of that Regulation) processed by the following persons or bodies, is restricted to the extent necessary and proportionate to enable the person or body to effectively perform his, her or its functions under this Act, in so far as those functions relate to the supervision of personal insolvency practitioners in accordance with section 176A or to carrying out an investigation under this Part:

(a) the Insolvency Service;

(b) an inspector appointed under section 176;

(c) an authorised officer appointed under section 176B;

(d) the Complaints Committee.”.

—An tAire Dlí agus Cirt agus Comhionannais.

1. OJ No. L 119, 4.5.2016, p.1

163. In page 155, between lines 20 and 21, to insert the following:

“Amendment of section 2 of Animal Health and Welfare Act 2013

208. Section 2(1) of the Animal Health and Welfare Act 2013 is amended, in the definition of “record”, by the deletion of “(within the meaning of the Data Protection Acts 1988 and 2003)”.

—An tAire Dlí agus Cirt agus Comhionannais.

164. In page 156, between lines 7 and 8, to insert the following:

“Insertion of section 957A to Companies Act 2014

207. The Companies Act 2014 is amended by the insertion of the following section after section 957:

“Restriction of application of certain articles of Data Protection Regulation

957A. (1) Articles 14 (Information to be provided where personal data have not been obtained from the data subject) and 15 (Right of access by the data subject) of the Data Protection Regulation are restricted, to the extent necessary and proportionate to safeguard the effective performance by the Director of his or her functions referred to in paragraph (b) and (e) of section 949(1), where the performance of those functions give rise to the processing of personal data to which the Data Protection Regulation applies.

(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ 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.

1. OJ No. L 119, 4.5.2016, p.1

165. In page 157, between lines 26 and 27, to insert the following:

“Amendment of section 41 of Customs Act 2015

209. Section 41 of the Customs Act 2015 is amended by the deletion of subsections (4), (5) and (10).”.

—An tAire Dlí agus Cirt agus Comhionannais.

166. In page 159, after line 29, to insert the following:

“Amendment of National Shared Services Office Act 2017

213. The National Shared Services Office Act 2017 is amended—

(a) in section 2, 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 2016¹ 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 9(2)(a)(iv), by the substitution of “processing (within the meaning of the Data Protection Regulation) personal data (also within the meaning of that Regulation)” for “processing (within the meaning of the Data Protection Act 1988) personal data (also within the meaning of that Act)”, and

(c) in section 35—

(i) in subsection (1)—

(I) by the substitution of “Notwithstanding anything contained in any enactment, but subject to the Data Protection Regulation and the *Data Protection Act 2018*” for “Notwithstanding anything contained in the Data Protection Acts 1988 and 2003”, and

(II) by the substitution of “controller” for “data controller” in each place it occurs,

(ii) in subsection (3), by the substitution of “controller” for “data controller”, and

(iii) in subsection (4)—

(I) by the substitution of the following definition for the definition of “data controller”:

“ ‘controller’ has the same meaning as it has in the Data Protection Regulation;”,

and

(II) by the deletion of the definition of “data subject”.”.

—An tAire Dlí agus Cirt agus Comhionannais.

1. OJ No. L 119, 4.5.2016, p.1

167.In page 162, to delete lines 23 to 25.

—An tAire Dlí agus Cirt agus Comhionannais.