



**SEANAD ÉIREANN**

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**AN BILLE UM CHEARTA DO THOMHALTÓIRÍ, 2022  
CONSUMER RIGHTS BILL 2022**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

## AN BILLE UM CHEARTA DO THOMHALTÓIRÍ, 2022 —AN COISTE

### CONSUMER RIGHTS BILL 2022 —COMMITTEE STAGE

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

#### SECTION 26

1. In page 31, between lines 23 and 24, to insert the following:

#### **“Rights in relation to diagnosis, maintenance and repair of electronic equipment**

26. (1) In relation to digital electronic equipment sold in the State, a manufacturer shall make available, for the purposes of diagnosis, maintenance or repair of the equipment—

- (a) to independent repair providers, and
- (b) to owners of the equipment,

in a timely manner and on fair and reasonable terms, relevant documents, parts and tools, including any updates to information or embedded software.

- (2) Where a manufacturer has made an express warranty with respect to digital electronic equipment and the wholesale price of the equipment is €100 or more, the manufacturer shall provide such parts, tools, and documents as to enable the repair of the equipment during the warranty period at an equitable price, with due regard to—
  - (a) the actual cost to the manufacturer of preparing and distributing the parts, tools or documents, exclusive of any research and development costs incurred,
  - (b) the ability of owners and independent repair providers to afford the parts, tools or documents, and
  - (c) the means by which the parts, tools or documents are distributed.
- (3) In relation to equipment with an electronic security lock or other security-related function, the manufacturer shall make available to the owner and to independent repair providers, on fair and reasonable terms and through secure data release systems where appropriate, any special documents, tools or parts needed to disable the lock or function, and to reset it, for the purposes of diagnosis, maintenance or repair of the equipment.
- (4) Both an owner and an independent repair provider may maintain an action against a manufacturer who contravenes *subsection (1), (2) or (3)*, and the court may order the manufacturer to take such action as may be necessary to observe the requirements of the subsection concerned, or to pay damages.

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- (5) (a) Nothing in this section requires a manufacturer to disclose a trade secret, save as and to the extent necessary to provide documents, parts and tools on fair and reasonable terms.
- (b) Subject to *paragraph (c)*, nothing in this section alters the terms of any agreement between a manufacturer and an authorised repair provider.
- (c) A provision of an agreement referred to in *paragraph (b)*, or any other agreement, is void insofar as it purports to waive, avoid, restrict or limit a manufacturer's obligations under this section.

(6) In this section—

“authorised repair provider”, in relation to a manufacturer, means a person who is not a connected person and who has an agreement with the manufacturer—

- (a) pursuant to a license to use a trade name, service mark or other proprietary identifier, to offer the services of diagnosis, maintenance or repair of digital electronic equipment under the name of the manufacturer, or
- (b) otherwise to provide such services on behalf of the manufacturer,

provided that a manufacturer who offers the services of diagnosis, maintenance or repair of digital electronic equipment manufactured by it or on its behalf, and who does not have an agreement with a connected person for the provision of such services, is an authorised repair provider with respect to that equipment;

“connected person” has the meaning assigned to it by section 10 of the Taxes Consolidation Act 1997;

“digital electronic equipment”—

- (a) subject to *paragraph (b)*, means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product,
- (b) does not include—
- (i) mechanically propelled vehicles designed and constructed to be suitable for use on roads, or
- (ii) medical devices within the meaning of the Health (Pricing and Supply of Medical Goods) Act 2013;

“document” includes any manual, diagram, reporting output, service code description, schematic, or other guidance or other information used in effecting the services of diagnosis, maintenance, or repair of digital electronic equipment;

“embedded software” means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for such equipment, for the purposes of operating the equipment, including all relevant patches and fixes made by the manufacturer of such equipment or part for this purpose;

“firmware” means a software program or set of instructions programmed on digital electronic equipment, or on a part for such equipment, to allow the equipment or part to communicate within itself or with other computer hardware;

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“independent repair provider” means a person who—

- (a) in relation to a manufacturer and any authorised repair provider of the manufacturer, is not a connected person, and
- (b) is engaged in the diagnosis, maintenance, or repair of digital electronic equipment,

provided that a manufacturer or an authorised provider of a manufacturer is, when engaged in the diagnosis, service, maintenance or repair of digital equipment that is not manufactured by or sold under the name of the manufacturer, an independent repair provider;

“manufacturer” means a person engaged in the business of selling, leasing, or otherwise supplying new digital electronic equipment, or parts of such equipment, that has been made by or on behalf of the manufacturer;

“owner” means a person who owns or leases digital electronic equipment;

“part” means any replacement part, whether new or used, made available by a manufacturer for purposes of maintenance or repair of digital electronic equipment manufactured by or on behalf of, sold or otherwise supplied by the manufacturer;

“tools” includes any software program, hardware implement or other apparatus used for diagnosis, maintenance or repair of digital electronic equipment, including software or other mechanisms that provision, program or pair a new part, calibrate functionality or perform any other function required to bring the equipment back to fully functional condition.

- (7) A reference in this section to making a document or thing available on fair and reasonable terms, means making the document or thing available on terms, that are equivalent to the most favourable terms, under which a manufacturer makes the document or thing available to an authorised repair provider—
  - (a) regard being had to any discount, rebate, convenient means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference the manufacturer offers to an authorised repair provider, or any additional cost, burden or impediment the manufacturer imposes on an independent repair provider, and
  - (b) not conditioned on or imposing a substantial obligation or restriction that is not reasonably necessary for enabling the owner or independent repair provider to engage in the diagnosis, maintenance or repair of digital electronic equipment made by or on behalf of the manufacturer.”.

—*Senators Rebecca Moynihan, Marie Sherlock, Mark Wall, Annie Hoey.*

SECTION 101

- 2. In page 83, line 6, after “manner” to insert “in the Irish language or in both the Irish language and the English language”.

—*Senators Niall Ó Donnghaile, Paul Gavan, Lynn Boylan, Fintan Warfield.*

[SECTION 103]

SECTION 103

3. In page 83, between lines 30 and 31, to insert the following:

**“Language of On-Premises Information**

- 103.** (1) This section shall take effect on a date to be set by the Minister, no earlier than 31 December 2023 and no later than 1 January 2026, and shall have effect only on on-premises signage newly erected or altered following that date.
- (2) All information provided on on-premises signage aimed at consumers shall be in the Irish language or in both official languages.
- (3) In the event of the information referred to in *subsection (2)* being provided in both official languages—
- (a) the text in the Irish language shall be first,
  - (b) the text in the Irish language shall be at least as prominent, as visible and as legible as the text in the English language,
  - (c) the lettering of the text in the Irish language shall not be smaller in size than the lettering in the text in the English language or in italic font where the English text is not,
  - (d) the text in the Irish language shall convey the same information as is conveyed by the text in the English language, and
  - (e) no word of the text in the Irish language shall be abbreviated unless the word in the text in the English language, which is a translation thereof, is likewise abbreviated.
- (4) Text on a sign shall be exempt from the requirements under *subsection (2)* if it fulfils any of the following criteria:
- (a) information in a language or languages without either Irish or English versions present;
  - (b) temporary information to be replaced within a period no longer than three weeks; or
  - (c) the name of a person, family, trademark or brand.
- (5) Nothing in this section shall prohibit the provision of information on signage in other languages in addition to those required under this section.”.

—*Senators Niall Ó Donnghaile, Paul Gavan, Lynn Boylan, Fintan Warfield.*

4. In page 83, between lines 30 and 31, to insert the following:

**“Language of Information Required for Goods**

- 103.** (1) This section shall take effect on a date to be set by the Minister, no earlier than 31 December 2023 and no later than 1 January 2026, and shall have no effect on the packaging of products for sale prior to the date set by the Minister.

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- (2) In order to be considered, provided in a clear and comprehensible manner in accordance with *section 101*, all information specified in *sections 101* and *102*, as well as text conveying branding or messaging for marketing purposes, and shown on the label, container or packaging of a pre-packaged product, including information presented in stylised or artistic renderings of text, shall be shown in the Irish language or in both official languages, unless the product fulfils the criteria for exemption under *subsection (4)*.
- (3) In the event of the information referred to in *subsection (2)* being provided in both official languages—
  - (a) the text in the Irish language shall be first, where both languages feature on the same surface,
  - (b) the text in the Irish language shall be at least as prominent, as visible and as legible as the text in the English language,
  - (c) the lettering of the text in the Irish language shall not be smaller in size than the lettering in the text in the English language or in italic font where the English text is not,
  - (d) the text in the Irish language shall convey the same information as is conveyed by the text in the English language,
  - (e) no word of the text in the Irish language shall be abbreviated unless the word in the text in the English language, which is a translation thereof, is likewise abbreviated, and
  - (f) where there are one or more surfaces on the container or packaging of a pre-packaged product that are of at least the same size and prominence, the information shown on one surface may be shown in one official language if such information is shown in the other official language on one of those other surfaces.
- (4) A product shall be exempt from the requirements under *subsection (2)* if it fulfils any of the following criteria and provides the required information in at least one official language on the label, container or packaging:
  - (a) a speciality imported product, not widely used and without a readily available substitute;
  - (b) a language-based product, such as a greeting card, book, talking toy or game, in which knowledge of the language used is a basic factor essential to the use of the product;
  - (c) a test market product for the duration of, and no longer than a year following the commencement of, its product trial; or
  - (d) a local product which is not available for sale on premises outside of the local authority area in which it is produced and the local authority areas which border that area.
- (5) Nothing in this section shall prohibit the provision of information on pre-packaged

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goods in other languages in addition to those required under this section.”.

—*Senators Niall Ó Donnghaile, Paul Gavan, Lynn Boylan, Fintan Warfield.*

SECTION 122

5. In page 100, between lines 16 and 17, to insert the following:

**“Consumer Rights relating to Language Options of On-Premises and Public Self-Service Kiosks**

- 122.** (1) This section shall take effect on a date to be set by the Minister, no earlier than 31 December 2023 and no later than 1 January 2026, and shall have effect only on self-service kiosks which are newly introduced, upgraded or updated, following that date.
- (2) In the case of a self-service kiosk, including but not limited to self-service cashiers, ticket machines and automated teller machines, located in a business premises or operated by a business in a public place for the purposes of use by a consumer or member of the public, the kiosk shall provide the consumer with the option to use the kiosk in the Irish language or provide the consumer with a choice between using the kiosk in the Irish language or the English language.
- (3) Nothing in this section shall prohibit the provision of options to use the kiosk in other languages in addition to those required under this section.
- (4) The service available on the kiosk in the Irish language shall be of at least the same standard and quality as the service available in the English language.
- (5) Where there is a single default language on the self-service kiosk or its homepage menu, the default shall be the Irish language.
- (6) Where flag icons are used to represent language options on a self-service kiosk, the Irish flag shall be used to represent the Irish language option.
- (7) In the event of the information referred to in *subsection (2)* being provided in both official languages on the same page—
- (a) the text in the Irish language shall be first,
- (b) the text in the Irish language shall be at least as prominent, as visible and as legible as the text in the English language,
- (c) the lettering of the text in the Irish language shall not be smaller in size than the lettering in the text in the English language or in italic font where the English text is not,
- (d) the text in the Irish language shall convey the same information as is conveyed by the text in the English language, and
- (e) no word of the text in the Irish language shall be abbreviated unless the word in the text in the English language, which is a translation thereof, is likewise abbreviated.
- (8) Where the kiosk allows for, requests, or causes to be recorded, a consumer’s name as



[SECTION 122]

part of its use, an interaction or a transaction, the right of the consumer to correctly input and have recorded their name, in the Irish language or in the English language, including *síntí fada* and *séimhithe*, shall be guaranteed.”.

—*Senators Niall Ó Donnghaile, Paul Gavan, Lynn Boylan, Fintan Warfield.*

SECTION 130

6. In page 105, between lines 11 and 12, to insert the following:

**“Protection for the Elderly**

- 130.** (1) An entity providing a good, service or looking for a person to sign a contract shall do all that is reasonable to ensure that a person is not impaired from access to their services by issues with mobility or IT skills.
- (2) The provision of interpretation shall be at no cost to the person concerned.
- (3) The Minister may, by regulations, provide that where a person intends to avail of a good or service using different technology, the person shall give the body such prior notification of their intention within such a period as specified in the regulations.”.

—*Senator Victor Boyhan.*

7. In page 105, between lines 33 and 34, to insert the following:

- “(4) (a) Without prejudice to the generality of the foregoing, where a trader supplies a service to subscribers, it is an unfair term of the contract under which the service is provided if the trader, in relation to provision of the same or substantially the same service, charges consumers who are renewing their subscription a higher fee than the trader charges consumers who are new subscribers.
- (b) In *paragraph (a)*, “subscriber” means a consumer who receives a service from a trader pursuant to a contract where, on payment of a periodic fee, the contract with the trader, under which the service is supplied, is successively renewed or rolled over, whether the fee is calculated solely by reference to a period of time or by reference to the amount of service received during that period, or by a combination of both; and “subscription” shall be construed accordingly.”.

—*Senators Rebecca Moynihan, Marie Sherlock, Mark Wall, Annie Hoey.*

SECTION 159

8. In page 139, between lines 24 and 25, to insert the following:

**“Consumer complaints**

- 159.** The Consumer Protection Act 2007 is amended by the insertion of the following section after section 66B:

“Part 4B

SUBSCRIBER COMPLAINTS HANDLING

**Interpretation and application of Part**

**66C.** (1) In this Part—

‘complaint’—

(a) means any expression of a subscriber’s dissatisfaction and his or her expectation of a response or resolution, and

(b) includes any request by a subscriber for information or assistance, made to a trader and arising from difficulties experienced in relation to a service provided by the trader to the subscriber;

‘subscriber’ means a consumer who receives a service from a trader pursuant to a contract where, on payment of a periodic fee, the contract with the trader under which the service is supplied is successively renewed or rolled over, whether the fee is calculated solely by reference to a period of time or by reference to the amount of service received during that period, or by a combination of both; and ‘subscription’ shall be construed accordingly.

(2) This Part applies to traders who supply a service to subscribers.

**Requirement to establish complaints handling scheme**

**66E.** (1) The Commission may—

(a) by regulation require traders to which this Part applies to establish a scheme for handling subscriber complaints (in this Part referred to as a ‘scheme’) in relation to the trader’s service or the supply of the service, and

(b) prepare and publish guidelines applicable to traders concerning the establishment, form and operation of a scheme.

(2) Before making regulations or publishing guidelines under this Part, the Commission may prepare draft regulations and draft guidelines and may consult with any person, as the Commission considers appropriate.

(3) Regulations under this Part may, as respects schemes, specify different requirements by reference to the class of trader concerned (being a class defined by reference to the commercial sector, the turnover of traders, the number of subscribers to the service or such other matters as the Commission considers appropriate).

**Provisions of complaints handling scheme**

**66F.** Regulations under this Part may—

(a) require traders to attempt to resolve subscriber complaints and, as appropriate, to provide subscribers with a satisfactory explanation,

an apology or some other form of redress,

- (b) require the provision of information to subscribers in relation to the scheme and how it may be availed of, including details of how to contact the trader and specifying minimum requirements in relation to a trader's response to contacts initiated by post, telephone and electronic communications,
- (c) require procedures under a scheme to comprise specified steps, and require one or more of the steps to be taken or completed within specified periods,
- (d) require traders to notify subscribers of the timescales for each step, and of the trader's commitments and standards in relation to response times,
- (e) require traders to include a procedure for escalating complaints to a more senior specified person where a subscriber is dissatisfied having completed the first step in the complaints process,
- (f) require traders to provide subscribers with details of how the Commission can assist in resolving complaints which the trader has not resolved to the subscriber's satisfaction and how the Commission can be contacted, and
- (g) prescribe such other requirements as the Commission considers necessary or expedient for the purpose of enabling complaints to be dealt with or resolved.

#### **Remedies and penalties**

- 66G.** (1) A trader who is required by regulations under this Part to establish a scheme and who fails to do so is guilty of an offence.
- (2) A trader who establishes a scheme in accordance with regulations under this Part and who persistently fails to comply with the provisions of that scheme is guilty of an offence.
  - (3) For the purposes of Part 5, 'prohibited act or practice' includes:
    - (a) the failure by a trader to establish a scheme where he or she is required by regulations under this Part to do so; and
    - (b) the persistent failure by a trader who establishes a scheme in accordance with regulations under this Part to comply with the provisions of that scheme."."

—*Senators Rebecca Moynihan, Marie Sherlock, Mark Wall, Annie Hoey.*

[SECTION 172]

SECTION 172

9. In page 146, between lines 25 and 26, to insert the following:

“PART 11

AMENDMENT OF ELECTRONIC COMMERCE ACT 2000

**Amendment of section 32 of Electronic Commerce Act 2000**

**172.** (1) Section 32 of the Electronic Commerce Act 2000 (inserted by section 21 of the Communications Regulation (Amendment) Act 2007) is amended in subsection (4) by the insertion of the following after paragraph (d):

“(da) prescribe that a person engaged for gain in the production, supply or distribution of goods, or the provision of a service, to consumers in the State is not entitled to register a ‘.ie’ domain name unless the person keeps an office in the State from which the carrying on of those activities is directed;”.

(2) Both *subsection (1)* of this section and section 32(2) and (6) of the Electronic Commerce Act 2000 come into operation on the day that is six months after the passing of the *Consumer Rights Act 2022*.”.

—*Senators Rebecca Moynihan, Annie Hoey, Marie Sherlock, Mark Wall.*