SECTION 1
1. In page 7, line 24, after “Regulation” to insert “and Digital Hub Development Agency (Amendment)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

2. In page 7, line 25, after “Act” to insert “(other than Part 9*)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

*[This is a reference to a Part proposed to be inserted by amendment No. 35.]

SECTION 19
3. In page 18, between lines 25 and 26, to insert the following:

“PART 3
SECURITY MEASURES IN RESPECT OF HIGH-RISK VENDORS

Interpretation (Part 3)
19. In this Part—

“component” includes any function, technology, equipment, hardware, software, facility, good or service used in the provision of electronic communications networks or electronic communications services;

“critical component” means a critical component prescribed by the Minister under section 20;

“high-risk vendor” means a vendor, in respect of which the Minister has made an assessment under section 22;

“third country” means a country other than a Member State of the European Union, an EEA state, Switzerland and the United Kingdom;
“provider” means a provider of public electronic communications networks or of publicly available electronic communications services;

“vendor” means a person who, normally for remuneration, provides components, functions, technology, equipment, hardware, software, facilities or services to providers of electronic communications networks to build or operate the network.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

4. In page 18, between lines 25 and 26, to insert the following:

“Critical components

20. (1) The Minister may prescribe any component or any class of components as a critical component or critical components.

(2) Without prejudice to the generality of subsection (1), in prescribing a component or class of components, the Minister may have regard to:

(a) the impact a compromise of a component referred to in subsection (1) would have on the availability, authenticity, integrity or confidentiality of those networks and services;

(b) the likelihood of a compromise of such a component;

(c) the extent of the impact a compromise of such a component would have on national security, public order, economic or societal activities;

(d) the number of users likely affected by a compromise of such a component.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

5. In page 18, between lines 25 and 26, to insert the following:

“Minister to assess likelihood of vendor being subjected to interference by third country

21. (1) The Minister may assess at any time, and on an ongoing basis, the likelihood of a vendor being subjected to interference by a third country.

(2) Without prejudice to the generality of the matters that the Minister may consider for the purposes of subsection (1), the Minister shall have regard to the following matters when making an assessment under that subsection:

(a) whether or not a strong link exists between the vendor and the government of any third country;

(b) the status of the rule of law and the political situation within the third country in question, in particular whether or not there is democratic or legislative oversight, including an independent judiciary, in place, and whether or not data protection or security agreements exist between the European Union and the third country in question;

(c) the characteristics of the vendor’s business ownership and practices, in particular whether the ownership structure is transparent and whether the vendor’s sources
of finance are transparent;
(d) the ability of the third country in question to exert any form of pressure upon the vendor, including in relation to influencing where equipment is to be manufactured;
(e) whether or not the third country, from which the vendor originates, conducts or is associated with an offensive cyber policy.”.

—An tAire Comhshaoil, Aeráide agus Cumansáide.

6. In page 18, between lines 25 and 26, to insert the following:

“Assessment as high-risk vendor
22. (1) Where the Minister makes an assessment—

(a) in accordance with section 21, that there is a likelihood of a vendor being subjected to interference by a third country,
(b) that there is a significant risk that a vendor will not be able to secure supply of critical components,
(c) that the overall quality of critical components supplied by a vendor is inadequate, or
(d) that the cybersecurity practices of a vendor are inadequate,
the Minister may take measures in accordance with section 25.

(2) The Minister may conduct an assessment under subsection (1) at any time and on an ongoing basis.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

7. In page 18, between lines 25 and 26, to insert the following:

“Minister may consult for the purposes of assessments under this Part
23. The Minister may consult with such persons as the Minister considers appropriate for the purposes of sections 21 and 22.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

8. In page 18, between lines 25 and 26, to insert the following:

“Obligation to provide information for the purposes of assessments under this Part
24. (1) The Minister may request any person to provide information that the Minister reasonably believes he or she requires for the purpose of section 21 or 22.

(2) A person who fails to make all reasonable efforts to comply with a request under subsection (1) commits an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or
to a fine not exceeding €250,000, or both.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

9. In page 18, between lines 25 and 26, to insert the following:

“High-risk vendor measures

25. (1) Subject to section 22, the Minister may, if he or she considers it necessary to control
risks to the security of electronic communications networks or electronic communications services which may affect national security or public order, by notice
in writing (referred to in this Part as a “high-risk vendor notice”), take any of the
following measures (referred to in this Part as a “high-risk vendor measure”):

(a) prohibit the installation by a provider of critical components made or supplied by
    a high-risk vendor;
(b) prohibit or restrict the use by a provider of critical components made or supplied
    by a high-risk vendor;
(c) place conditions on the installation or use by a provider of critical components
    made or supplied by a high-risk vendor;
(d) prohibit the installation or use by a provider at a specified location of critical
    components made or supplied by a high-risk vendor;
(e) require a provider to remove, disable or modify critical components made or
    supplied by a high-risk vendor;
(f) place a restriction, expressed as a percentage of the total quantity of critical
    components used by the provider on their network or any part of their network,
    on the quantity of critical components made by a high-risk vendor that a provider
    may use;
(g) where critical components made or supplied by a high-risk vendor are in use by a
    provider, require the provider to use these critical components in a specified
    manner or at a specified location.

(2) A high-risk vendor notice shall specify—

(a) the provider or providers to which it applies,
(b) the reasons for the issuing of the notice, and
(c) the time at which the notice comes into operation.

(3) Paragraph (b) of subsection (2) shall not apply where the Minister considers that
specifying the reasons for the issuing of the notice in the notice would be contrary to
the interests of national security or public order.

(4) The Minister may at any time, by further notice in writing, revoke or vary a high-risk
vendor measure.

(5) Where the Minister makes, varies or revokes a high-risk vendor notice he or she shall
give the notice, in accordance with section 60 of the Principal Act, to any provider to which the notice applies.

(6) Where the Minister gives notice to a provider in accordance with subsection (5), the Minister shall take all reasonable steps to give a copy of the notice to the high-risk vendor specified in the notice.

(7) The requirement in subsection (6) shall not apply to the giving of a high-risk vendor notice if the Minister considers that giving a copy of the notice to the high-risk vendor would be contrary to the interests of national security or public order.

(8) A provider that fails to comply with a high-risk vendor measure or a notice varying such a measure given to such provider or made under subsection (1) commits an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding €250,000, or both.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

10. In page 18, between lines 25 and 26, to insert the following:

“Confidentiality of high-risk vendor notice

26. (1) The Minister may require a provider to which a high-risk vendor measure applies to treat as confidential the existence or contents of the measure and of the high-risk vendor notice in circumstances where the Minister considers that disclosure of the measures imposed by the notice or of the contents of the notice would be contrary to the interests of national security or public order.

(2) A provider that fails to comply with a requirement made under subsection (1) commits an offence and is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding €250,000, or both.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

11. In page 18, between lines 25 and 26, to insert the following:

“Consultation before taking measures under section 25

27. (1) The Minister before taking any measures under section 25, shall—

(a) consult with the provider or providers which would be subject to the proposed measures, and

(b) make reasonable efforts to consult with the high-risk vendor in respect of which
the measures are proposed to be taken.

(2) The requirement in subsection (1) shall not apply if the Minister considers that such consultation would be contrary to the interests of national security or public order.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

12. In page 18, between lines 25 and 26, to insert the following:

“Appeal of high-risk vendor measure

28. (1) A person affected by a high-risk vendor measure or a variation of such measure may, not later than 28 days after the person receives notice of the measure or variation, appeal the measure or variation to the High Court.

(2) Pending the outcome of an appeal, the measure taken by the Minister, shall stand, unless on application to the High Court, the Court suspends the application of the measure until the determination of an appeal or its withdrawal.

(3) A person that brings an appeal under this section shall, on the same date as it makes such appeal, notify the Minister of the fact that it has made the appeal and of the grounds on which it has made the appeal.

(4) The High Court may, for the purpose of ensuring the efficient, fair and timely determination of an appeal, give directions in respect of the conduct of the appeal.

(5) An appellant shall, when making an appeal, precisely state all of the grounds in law and fact upon which the appeal is made and shall provide to the Court all of the documents and evidence which it is alleged support the granting of the appeal or upon which the appellant intends to rely to support those grounds.

(6) Subject to subsection (7), a party to an appeal shall not be entitled during the course of an appeal to make submissions to the Court other than submissions related to the grounds stated or documents and evidence provided under subsection (5).

(7) The Court may, upon application and where it considers it necessary for the fair and proper determination of an appeal, require or permit a party to an appeal to—

(a) make submissions to the Court other than submissions related to the grounds stated or documents and evidence provided under subsection (5), and

(b) provide documents or evidence to the Court other than documents or evidence provided under subsection (5).

(8) Notwithstanding subsection (7), the Court shall refuse to consider submissions, documents or evidence where it considers that—

(a) the submissions, documents or evidence are not relevant to the appeal, or

(b) it is appropriate to do so in order to avoid undue repetition of submissions.

(9) Where the Court has granted leave to deliver additional submissions, documents or evidence on an application under subsection (7), the Court shall give directions as to the scope, form and time-frame for delivery of such additional submissions, documents or evidence.
(10) The Court may receive evidence by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner.

(11) The Court, on hearing an appeal against a decision, may consider—

(a) whether the jurisdiction existed to make the decision,

(b) whether the law was correctly applied in reaching the decision, or

(c) whether the decision is supported by the evidence including evidence admitted in accordance with subsection (7).

(12) In considering an appeal, the Court shall have regard to—

(a) the record of the decision the subject of the appeal,

(b) the grounds stated by the parties to the appeal, and documents and evidence relied upon by the parties to support those grounds, under subsection (5), and

(c) any submissions, documents or evidence admitted under subsection (7).

(13) The Court may, on the hearing of an appeal against a decision—

(a) confirm the decision, or

(b) where it is satisfied by reference to the grounds of appeal that a serious and significant error of law or fact, or a series of minor errors of law or fact which when taken together amount to a serious and significant error, was made in making the decision, or that the decision was made without complying with fair procedures, annul the decision in its totality or in part, and—

(i) remit the decision for reconsideration by the Minister subject to such directions as the Court considers appropriate, or

(ii) vary the decision and substitute such other decision as the Court considers appropriate.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

13. In page 18, between lines 25 and 26, to insert the following:

“Material not publicly available that relates to security or public order of the State

29. (1) Where an appeal of a high-risk vendor measure or a variation in such measure relates to or involves any decision, evidence, document, material or any other matter that is not publicly available and relates to the security or public order of the State, (referred to in this Part as “relevant material”), the High Court may—

(a) where it is satisfied by information on oath or affirmation of the Minister, or of an officer of the Minister appointed by the Minister to provide such information, that there are reasonable grounds for believing that the disclosure to an appellant of relevant material would create a risk to the security or public order of the State—

(i) where satisfied that the relevant material can be redacted in a way that removes that risk, direct the Minister to provide the relevant material to the
appellant subject to such redactions, or

(ii) where satisfied that the relevant material or part thereof can be summarised or described in a way that removes that risk, direct the Minister to provide the appellant with such a summary or description,

(b) where it is not satisfied by the information on oath or affirmation referred to in paragraph (a) that the disclosure to a party of relevant material would create a risk to the security or public order of the State, direct that the relevant material or such part of that material as the High Court may direct, be provided to the party.

(2) The Minister may take relevant material into account in making his or her decision in relation to the appeal regardless of the extent to which, or ways in which, the relevant material is provided to the appellant in accordance with subsection (1).

(3) The Minister shall comply with a direction of the High Court under subsection (1).

(4) The information on oath or affirmation provided to the High Court under subsection (1) shall not, without the express authorisation of the Minister, be disclosed by the Court, an officer or agent of the Court, or any other person, to any person other than a party to an appeal.

(5) When providing information on oath or affirmation under subsection (1), the Minister may apply to the High Court ex parte for an order that—

(a) the information shall not be provided to a party to the appeal, and

(b) a summary of the information, provided to the High Court with the application, shall be provided to the party.

(6) The High Court shall grant the order applied for under subsection (5) if it is satisfied that—

(a) the Minister has grounds for believing that providing the information on oath or affirmation under subsection (1) to a party would create a risk to the security or public order of the State, and

(b) the summary provided with the application for that order is sufficiently clear and detailed to allow the party effectively to challenge the basis on which, or way in which, the information on oath or affirmation is not being provided to it, or provided to it in part, as the case may be, and the Minister shall comply with such an order.

(7) A person, other than a judge, who contravenes subsection (4) commits an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding €250,000, or both.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.
“Hearing of appeal of high-risk vendor measure other than in public

30. (1) The High Court shall exclude, from the hearing of an appeal of a high-risk vendor measure or a variation in such measure before it, all persons except—

(a) a judge hearing the matter,

(b) a judicial assistant, or other court personnel, whose presence is necessary for the judge to hear the matter,

(c) the parties to the proceedings,

(d) the legal representatives of the parties to the proceedings, and

(e) a witness whose evidence is relevant to the proceedings, for as long as the witness’s presence is required for the purpose of providing such evidence, unless it is satisfied that the interests of justice require any other person not to be so excluded.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

“Appeal to Court of Appeal from decision under section 28

31. The decision of the High Court under section 28 shall be final and no appeal shall lie from the decision of the High Court to the Court of Appeal in any case save with leave of the High Court, which leave shall only be granted where the High Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be made to the Court of Appeal.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

“Commission to ensure compliance with and report to Minister on this Part

32. (1) The Commission shall take reasonable steps to ensure that providers comply with any high-risk vendor measure or any variation in such measure.

(2) The Commission shall issue a report to the Minister on the operation of this Part annually or as requested by the Minister.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 24

17. In page 23, line 35, to delete “2022).” and substitute “2022);”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

18. In page 23, after line 35, to insert the following:

“ “Universal Services Regulations” means the European Communities (Electronic
Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (S.I. No. 337 of 2011).”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 39

19. In page 28, between lines 18 and 19, to insert the following:

“Application of Universal Service Regulations to certain disputes

39. Where on the coming into operation of this section, a dispute is before the Commission, or an independent person, for resolution in accordance with Regulation 27(4) of the Universal Service Regulations then, notwithstanding any repeal of the Universal Service Regulations, those Regulations shall continue to apply in respect of such a dispute.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

20. In page 28, between lines 18 and 19, to insert the following:

“Continuation of measures under Universal Services Regulations

40. (1) Any measure that is in force under Regulation 27 of the Universal Services Regulations on the coming into operation of this section shall continue in force and be deemed to have been made under, and in accordance with, this Part.

(2) Without prejudice to the generality of subsection (1), for the purposes of this section “measure” includes any decision, specification, requirement, direction, notification and notice, and any other act of an equivalent nature.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 99

Section proposed to be deleted.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 100

Section proposed to be deleted.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 101

Section proposed to be deleted.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

SECTION 102

21. In page 75, line 20, after “of” to insert “this section”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

22. In page 75, line 21, to delete “section 99(a),”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.
23. In page 75, line 23, to delete “Framework Regulations” and substitute the following:

“European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

24. In page 75, line 23, to delete “the Framework” and substitute “those”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

25. In page 75, line 25, to delete “section 99(b),”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

26. In page 75, line 27, to delete “Access Regulations” and substitute the following:

“European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

27. In page 75, line 28, to delete “the Access” and substitute “those”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

28. In page 75, line 29, to delete “section 99(c),”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

29. In page 75, line 31, to delete “Authorisation Regulations” and substitute the following:

“European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011 (S.I. No. 335 of 2011)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

30. In page 75, lines 31 and 32, to delete “the Authorisation” and substitute “those”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

31. In page 75, line 33, to delete “section 99(d),”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

32. In page 75, line 35, to delete “Universal Service Regulations” and substitute the following:

“European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (S.I. No. 337 of 2011)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

33. In page 75, lines 35 and 36, to delete “the Universal Service” and substitute “those”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.
SECTION 111

34. In page 80, lines 38 and 39, to delete all words from and including “amended” in line 38, down to and including line 39 and substitute the following:

“amended—

(a) in subsection (1), by the substitution of “an offence under this Act or a related enactment that may be prosecuted summarily may only be prosecuted summarily” for “a summary offence under this Act or a related enactment may be prosecuted only”, and

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

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

NEW SECTION

35. In page 87, after line 11, to insert the following:

“PART 9

AMENDMENTS TO DIGITAL HUB DEVELOPMENT AGENCY ACT 2003

Amendment of Digital Hub Development Agency Act 2003

120. The Digital Hub Development Agency Act 2003 is amended—

(a) in section 15(1), by the substitution of “8 members” for “14 members”, and

(b) in section 17(3), by the substitution of “4” for “6”.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

TITLE

36. In page 7, line 10, after “services;” to insert the following:

“to enable the Minister to take measures in respect of the supply of critical components by vendors considered high-risk in order to safeguard the security of supply of such components;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

37. In page 7, line 19, after “2002;” to insert “to amend the Digital Hub Development Agency Act 2003;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.