



# **DÁIL ÉIREANN**

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**AN BILLE UM RIALÁIL CUMARSÁIDE, 2022  
COMMUNICATIONS REGULATION BILL 2022**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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## AN BILLE UM RIALÁIL CUMARSÁIDE, 2022 —AN TUARASCÁIL

### COMMUNICATIONS REGULATION BILL 2022 —REPORT

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#### *Leasuithe Amendments*

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1. In page 9, line 21, after “2002;” to insert “to amend the Digital Hub Development Agency Act 2003;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

2. In page 9, line 21, after “2002;” to insert the following:

“to amend the Postal and Telecommunications Services Act 1983 to enable funding to be made available for the purposes of maintaining the post office network and countering consequences of withdrawal of the United Kingdom from the European Union;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

3. In page 9, line 26, after “Regulation” to insert “and Digital Hub Development Agency (Amendment)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

4. In page 9, line 27, after “Act” to insert “(other than *Parts 10 and 11*)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

5. In page 10, between lines 28 and 29, to insert the following:

““high-risk vendor measure” has the meaning given to it by *section 25*;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

6. In page 11, between lines 4 and 5, to insert the following:

- “(b) a high-risk vendor measure,
- (c) a confidentiality requirement of the Minister under *section 26(1)*,
- (d) a direction under *section 32(2)*.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

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

“(1) Neither a decision or a requirement of—

(a) the Commission under this Part or *Part 4*, or the Code Regulations (other than Regulation 98 and 99), or

(b) the Minister under Regulation 70, 76 or 100 of the Code Regulations,

shall be challenged, including as to its validity, other than by way of an appeal under this section.

(2) For the avoidance of doubt, in respect of a decision or requirement referred to in *subsection (1)* no proceeding (including an application for judicial review) may be brought before the courts other than an appeal under this section.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

8. In page 20, lines 33 and 34, to delete “electronic communications networks or electronic communications services” and substitute “public 5G telecommunication networks”.

—Jackie Cahill.

9. In page 21, to delete lines 1 and 2.

—Jackie Cahill.

10. In page 21, to delete lines 3 and 4 and substitute the following:

“ “third party” shall include a territory or country or the government thereof;”.

—Michael McNamara.

11. In page 21, to delete lines 3 and 4.

—Jackie Cahill.

12. In page 21, line 11, after “may” to insert “by order”.

—Michael McNamara.

13. In page 21, line 11, after “components” to insert “that executes a core network function”.

—Jackie Cahill.

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

“(3) Before making an order prescribing any component or any class of components as a critical component or critical components, the Minister shall publish the proposed component or class of components and give reasons for prescribing it as a critical component and specify a period during which submission relating to the proposal may be made by interested parties.

(4) The consultation process provided for in *subsection (3)* may be dispensed with where the Minister certifies that exceptional circumstances justified by urgent considerations of national security so require.”.

—Michael McNamara.

15. In page 21, to delete lines 23 to 37, and in page 22, to delete lines 1 to 5 and substitute the following:

“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 party who he reasonably believes is conducting or developing an offensive cyber policy.

(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) the quality, reliability and security of those goods, services or facilities provided or made available by the vendor or any component of them (including the quality, reliability and security of their development or production or of the manner in which they are supplied, provided or made available);

(b) the extent to which and the manner in which goods, services or facilities supplied, provided or made available by the vendor are or might be used in the State;

(c) the identity of the persons concerned in—

(i) the development or production of goods, services or facilities supplied, provided or made available by the vendor or any component of them,

(ii) supplying or providing such goods or services or making such facilities available, or

(iii) providing maintenance or support for such goods, services or facilities;

(d) the identity of the persons who own or control, or are associated with—

(i) the vendor being assessed, or

(ii) any person described in *paragraph (c)*;

(e) the degree to which any of those persons described in *paragraphs (c)* and *(d)* might be susceptible to being influenced or required to act contrary to the interests of the national security of the State.”.

—Michael McNamara.

16. In page 21, line 24, to delete “country” and substitute “party”.

—Michael McNamara, Jackie Cahill.

17. In page 21, to delete lines 25 to 37, and in page 22, to delete lines 1 to 5 and substitute the following:

“(2) For the purposes of assessing likelihood under *subsection (1)*, the Minister shall have regard to the following matters when making an assessment under that subsection:

(a) there is clear evidence of a component’s security vulnerability;

(b) there is evidence that the characteristics of the component give rise to a security vulnerability;

- (c) there is evidence that the component has been manufactured by a third party seeking to create a vulnerability;
- (d) whether or not the vendor is subject to significant risk of interference from a third party in respect of which there is evidence of a prior pattern of involvement in an offensive cyber policy or credible evidence of a substantial risk of future involvement in offensive cyber policy.”.

—Jackie Cahill.

18. In page 22, line 7, after “assessment” to insert the following:

“in the event that telecommunications operators have not taken sufficient technical and organisational measures to ensure network security and integrity”.

—Jackie Cahill.

19. In page 22, line 8, to delete “likelihood” and substitute “proof”.

—Jackie Cahill.

20. In page 22, line 9, to delete “country” and substitute “party”.

—Michael McNamara.

21. In page 22, between lines 14 and 15, to insert the following:

- “(e) that a vendor is having a joint venture established used for development and/or production for critical components whereby there is proof of a vendor being subjected to interference by a third country, or
- (f) that the critical components are audited or certified based on EU certification schemes or best practices.”.

—Jackie Cahill.

22. In page 22, to delete lines 19 and 20 and substitute the following:

- “23. (1) The Minister shall consult with such persons as the Minister considers appropriate for the purposes of *sections 21* and *22*.
- (2) Before assessing that a vendor is likely to be subjected to interference by a third party, the Minister shall notify the proposed vendor giving *prima facie* reasons as to the identified likelihood of interference and specify a period during which submission relating to the proposed prescription may be made by the affected vendor or other affected parties.
- (3) The consultation processes contemplated by *subsections (2)* and *(3)* may be dispensed with where the Minister certifies that exceptional circumstances justified by urgent considerations of national security and public interest so require.”.

—Michael McNamara.

23. In page 22, line 19, to delete “may” and substitute “shall”.

—Jackie Cahill.

24. In page 22, between lines 20 and 21, to insert the following:

- “(2) Before prescribing any component or any class of components as a critical component or critical components, the Minister shall publish the proposed component or class of components and give reasons for prescribing it as a critical component and specify a period during which submission relating to the proposed prescription may be made by interested parties.
- (3) Before assessing that a vendor is likely to be subjected to interference by a third party, the Minister shall notify the proposed vendor giving *prima facie* reasons as to the identified likelihood of interference and specify a period during which submission relating to the proposed prescription may be made by the affected vendor or other affected parties.
- (4) The consultation processes contemplated by *subsections (2) and (3)* may be dispensed with where the Minister certifies that exceptional circumstances justified by urgent considerations of national security and public interest so require and in so certifying the Minister shall state the reasons for dispensing with consultation.”.

—Jackie Cahill.

25. In page 22, line 35, to delete “Part” and substitute “Act”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

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

- “(b) that the Minister considers it necessary to take the measures contained in the order to control risks to the security of electronic communications networks or electronic communications services which may affect national security,
- (c) where the Minister considers that consultation under *section 27(1)* would be contrary to the interests of national security, the reasons therefor.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

27. In page 23, line 24, to delete “or public order.” and substitute the following:

“and whereso occurs the Minister shall certify that the notice was made in the interests of national security.”.

—Michael McNamara.

28. In page 24, to delete lines 3 to 14.

—Michael McNamara.

29. In page 24, line 19, to delete “make reasonable efforts to”.

—Michael McNamara, Jackie Cahill.

30. In page 24, line 22, to delete “or public order”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

31. In page 24, line 22, to delete “or public order” and substitute “and the Minister shall certify the reasons for dispensing with the requirement in *subsection (1)*”.

—Michael McNamara.

32. In page 24, line 22, after “order” to insert “and the Minister shall record the reasons for dispensing with the requirement in *subsection (1)*”.

—Jackie Cahill.

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

“(1) A high-risk vendor measure shall not be challenged, including as to its validity, other than by way of an appeal under this section.

(2) For the avoidance of doubt, in respect of a measure under *section 25*, no proceeding (including an application for judicial review) may be brought before the courts other than an appeal under this section.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

34. In page 24, between lines 26 and 27, to insert the following:

“(2) A person affected by a high-risk vendor measure or a variation of such measure shall be informed of the making of such order as soon as practicable after the making of such an order and in any event within 5 days of the making of such an order.”.

—Michael McNamara.

35. In page 24, between lines 26 and 27, to insert the following:

“(2) A person affected by a high-risk vendor measure or a variation of such measure shall be informed of the making of such order as soon as practicable after the making of such an order and in any event within 7 days of the making of such an order.”.

—Jackie Cahill.

36. In page 25, lines 36 to 38, to delete all words from and including “and—” in line 36, down to and including line 38, and in page 26 to delete lines 1 and 2 and substitute the following:

“, and remit the decision for reconsideration by the Minister subject to such directions as the Court considers appropriate.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

37. In page 26, line 6, to delete “or public order”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide, Michael McNamara.

38. In page 26, line 11, to delete “or public order”.

—Michael McNamara.

39. In page 26, line 21, to delete “or public order”.

—Michael McNamara.



40. In page 26, lines 22 to 25, to delete all words from and including “party” in line 22, down to and including line 25 and substitute the following:

“party, and

- (c) take relevant material into account in making its 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 this section.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

41. In page 26, lines 39 and 40, to delete “or public order”.

—Michael McNamara.

42. In page 27, between lines 5 and 6, to insert the following:

“(7) Where the High Court grants an order under *subsection (6)*, the consideration and determination of the appeal under *section 28* shall be carried out by a different judge of the High Court who shall only hear such relevant material as has been provided to the appellant.”.

—Michael McNamara.

43. In page 27, to delete lines 13 and 14 and substitute the following:

“30. If the High Court is satisfied, on an application by the Minister, that the hearing of an appeal of a high-risk vendor measure, or a variation in such measure, is likely to result in the disclosure of relevant material and that such disclosure would create a risk to the security of the State it shall exclude from the hearing of the appeal all persons except—”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

44. In page 27, line 13, to delete “shall” and substitute the following:

“may, upon application of the Minister, when satisfied that the hearing of the appeal is likely to result in the disclosure of relevant material and the said disclosure would create a risk to the security of the State,”.

—Michael McNamara.

45. In page 27, lines 31 and 32, to delete all words from and including “The” in line 31, down to and including line 32.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

46. In page 27, after line 34, to insert the following:

**“Commission to monitor providers’ compliance with high-risk vendor measures**

33. (1) The Commission shall take reasonable steps to monitor providers’ compliance with high-risk vendor measures.
- (2) For the purposes of *subsection (1)*, the Commission may serve a direction on a provider which may require the provider to do one or more of the following:
- (a) to provide information needed to assess whether a provider has complied with a

- high-risk vendor measure taken by the Minister;
- (b) where the Commission has reasonable grounds to believe that a provider is failing, or has failed, to comply with a high-risk vendor measure, to provide a statement to the Commission indicating what measures the provider has taken to comply with the measure and, where the provider has failed to comply with the measure, explaining the reasons for such failure;
  - (c) to submit to a security audit referred to in *subsection (3)* by the Commission or a qualified independent person nominated by the Commission and to make the results of any security audit not carried out by the Commission available to the Commission;
  - (d) to bear the costs of an audit under *paragraph (c)*.
- (3) Where the Commission serves a direction on a provider under *subsection (2)* requiring the provider to submit to a security audit, the Commission may appoint such member of the staff of the Commission or such other suitably qualified independent person as the Commission considers appropriate, (referred to in this section as a “security auditor”) to carry out the security audit in accordance with the direction.
- (4) A security auditor shall, on his or her appointment, be provided by the Commission with a certificate of his or her appointment and when exercising a power referred to in *subsection (5)* shall, if requested by any person thereby affected, produce such certificate to that person for inspection.
- (5) Where the Commission serves a direction under *subsection (2)* on a provider requiring the provider to submit to a security audit a security auditor may, for the purposes of carrying out the audit, exercise any power exercisable by an authorised officer under the Principal Act (other than a power exercisable for a purpose specified in section 39(3A) of the Principal Act) and where a security auditor exercises such a power a reference to an authorised officer exercising such a power in the Principal Act shall include a reference to the security auditor.
- (6) A direction under *subsection (2)* takes effect—
- (a) immediately upon its service, where the Commission considers, and states in the direction, that it is necessary that the direction take effect immediately to prevent a serious imminent risk to the security of networks and services, the health or safety of persons or to property, and
  - (b) in any other case upon the expiration of the period allowed for representations to be made under *subsection (7)*.
- (7) A provider that is the subject of a direction under *subsection (2)* may make written representations to the Commission in respect of the direction within the period of 14 days beginning on the date on which the direction is served on the provider and the Commission shall consider any representations made to it during that period and affirm (with or without modification) or withdraw the direction.
- (8) Where a direction is affirmed under *subsection (7)*, the Commission shall notify the provider concerned.

- (9) A provider that fails to comply with a direction under *subsection (2)* commits an offence and is liable on summary conviction to a class A fine.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

47. In page 27, after line 34, to insert the following:

**“Review of operation of Part**

34. The Minister shall—

- (a) not later than the end of the period of 2 years beginning on the day on which this Act is passed, commence a review of the operation of this Part, and
- (b) not later than 12 months after the end of the period of 2 years referred to in *paragraph (a)*, make a report to each House of the Oireachtas of the findings made on such review and of the conclusions drawn from those findings.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

48. In page 32, between lines 22 and 23, to insert the following:

“ “Act of 2022” means the Consumer Rights Act 2022;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

49. In page 33, to delete lines 1 to 3 and substitute the following:

- “(b) a dispute between an end-user and a provider, arising under this Act or the Code Regulations, relating to contractual conditions or the performance of contracts (whether entered into or not),”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

50. In page 33, line 7, to delete “Regulation, and” and substitute the following:

“Regulation,

- (e) a dispute between an end-user and a provider relating to the imposition or purported imposition of a charge referred to in section 45 of the Principal Act,
- (f) a dispute between a consumer, within the meaning of the Act of 2022, and a trader, within the meaning of the Act of 2022, who is also a provider, relating to Part 5 (other than sections 119, 120 and 125) of the Act of 2022, and”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

51. In page 33, line 28, to delete “of electronic communications networks or services”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

52. In page 33, line 30, after “settling” to insert “relevant”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

53. In page 33, lines 30 and 31, to delete “with end-users relating to the contractual conditions or performance of contracts (whether entered into or not)”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

54. In page 34, between lines 11 and 12, to insert the following:

“(3) The Commission may specify requirements to be met for the purpose of ensuring compliance with *subsection (1)* and the manner of publication of a code of practice referred to in that subsection including, without limitation, any requirements to ensure that the code of practice and procedures for dealing with complaints and settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

55. In page 41, to delete lines 23 and 24 and substitute “or either such decision;”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

56. In page 48, line 4, before “refer” to insert “subject to *subsection (4)*.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

57. In page 48, to delete lines 5 to 14 and substitute the following:

“(4) Where at the time the notified person is given a copy of the report in accordance with *subsection (3)(b)* where the matter has been referred for adjudication under *section 67(b)*—

(a) the authorised officer shall notify the adjudicator concerned of the withdrawal of the referral under *section 67(b)*, and

(b) the matter shall be deemed to have been referred to an adjudicator under *subsection 3(c)* for an adjudication on consent.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

58. In page 48, line 15, after “following” to insert “the confirmation of”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

59. In page 48, line 19, after “consent” to insert “confirmed”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.

60. In page 96, after line 17, to insert the following:

## “PART 10

### AMENDMENTS TO DIGITAL HUB DEVELOPMENT AGENCY ACT 2003

#### **Amendment of Digital Hub Development Agency Act 2003**

133. 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.

61. In page 96, after line 17, to insert the following:

“PART 11

AMENDMENT TO POSTAL AND TELECOMMUNICATIONS SERVICES ACT 1983

**Financing for the purposes of maintaining post office network and countering consequences of Brexit**

134. The Postal and Telecommunications Services Act 1983 is amended by the insertion of the following section after section 29:

- “29A. (1) The Minister may, out of such monies as are available to him or her from monies provided by the Oireachtas, with the consent of the Minister for Public Expenditure and Reform, make available to the postal company a sum not exceeding €30,000,000 for the purposes of maintaining a network of post offices.
- (2) The Minister may, out of such monies as are available to him or her from the Brexit Adjustment Reserve established under Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021, with the consent of the Minister for Public Expenditure and Reform, make available to the postal company a sum not exceeding €25,000,000 for the purposes of providing support to the postal company to counter the adverse economic and social consequences of the withdrawal of the United Kingdom from the European Union.
- (3) Any amounts made available to the postal company under subsection (1) or (2) shall be provided in such form and manner and on such terms and conditions as may be agreed between the Minister and the company with the consent of the Minister for Public Expenditure and Reform.”.”.

—An tAire Comhshaoil, Aeráide agus Cumarsáide.