



DÁIL ÉIREANN

AN BILLE CUMARSÁIDE (SONRAÍ A CHOIMEÁD) 2009 COMMUNICATIONS (RETENTION OF DATA) BILL 2009

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE CUMARSÁIDE (SONRAÍ A CHOIMEÁD) 2009 —ROGHCHOISTE

COMMUNICATIONS (RETENTION OF DATA) BILL 2009 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 4, subsection (1), line 20, after “person” to insert “or body corporate”.
—Charles Flanagan.

SECTION 3

2. In page 5, subsection (1), line 2, to delete “2 years” and substitute “1 year”.
—Seán Sherlock, Charles Flanagan.

3. In page 5, subsection (1), line 3, to delete “one year” and substitute “6 months”.

—Seán Sherlock.

4. In page 5, subsection (4), line 20, after “State” to insert the following:

“and includes traffic data or location data and the related data, generated or processed within the State, necessary to identify the subscriber or user and includes only data relating to services provided to the user and not to data travelling across networks”.

—Seán Sherlock.

5. In page 5, subsection (5), line 22, to delete “aggregated data that” and substitute “aggregated data, data that”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 4

6. In page 5, subsection (1)(d), line 43, before “, shall” to insert the following:

“or that are the subject of a request under *section 6*”.

—Seán Sherlock.

SECTION 5

7. In page 6, paragraph (d), line 14, before “as” to insert “where there is a legitimate business need”.

—Charles Flanagan.

8. In page 6, paragraph (d), line 15, after the word “Commissioner”, to insert the following:

“or as may be otherwise authorized by the Data Protection Commissioner”.

—Charles Flanagan.

[SECTION 6]

SECTION 6

9. In page 6, subsection (1), line 24, to delete paragraph (c).
—Charles Flanagan.

10. In page 6, subsection (5), lines 41 and 42, to delete all words from and including “within” in line 41 down to and including “made” in line 42 and substitute “forthwith”.
—Seán Sherlock.

SECTION 7

11. In page 6, after line 42, to insert the following new section:

“Compliance with requests.

7.—A provider shall comply with a disclosure request made to the service provider only where it is technically possible and reasonable in scope in that the request is not so wide as to place an undue cost on the service provider.”
—Seán Sherlock.

Section opposed.

—Seán Sherlock.

SECTION 8

12. In page 7, line 6, to delete “this section” and substitute “*section 6*”.
—Seán Sherlock.

13. In page 7, lines 6 and 7, to delete “this section does not” and substitute “nothing in *section 6* shall”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SECTION 9

14. In page 7, between lines 20 and 21, to insert the following subsection:

“(4) A report under this section shall contain details of the numbers of prosecutions actually commenced as a result of investigations to which requests related, and a detailed justification for any significant excess of numbers of requests over numbers of prosecutions actually commenced.”

—Seán Sherlock.

15. In page 7, subsection (4), line 21, after “submitted” to insert “to the Houses of the Oireachtas”.
—Charles Flanagan.

16. In page 7, subsection (4), line 22, after “period” to insert the following:
“and shall be available in the library of the Houses of the Oireachtas”.
—Charles Flanagan.

17. In page 7, subsection (5), between lines 30 and 31, to insert the following:

“(d) the frequency with which data obtained under this Act was used in the course of a criminal prosecution, and

(e) the number of cases under *paragraph (d)* which resulted in a conviction.”
—Charles Flanagan.

[SECTION 10]

SECTION 10

18. In page 8, between lines 12 and 13, to insert the following subsection:

“(2) A person whose data have been subject to a disclosure request under *section 6* and in respect of whom criminal charges have not been brought within a period of six months from the date of disclosure shall be informed by the service provider that such disclosure request has been made.”.

—Seán Sherlock.

19. In page 8, subsection (5), line 29, after “fit,” to insert the following:

“and with due regard to the rights of any person whose life, bodily integrity or property was sought to be vindicated in the criminal investigation concerned,”.

—Seán Sherlock.

20. In page 8, line 42, to delete subsection (8).

—Charles Flanagan.

SECTION 12

21. In page 9, between lines 43 and 44, to insert the following subsection:

“(5) The Data Protection Commissioner, if he considers it desirable to do so, may communicate to the designated judge information relevant to such designated judge’s functions under this Act and may, on request, otherwise assist the designated judge in the discharge of their functions.”.

—Charles Flanagan.

SECTION 13

22. In page 9, line 45, after “repealed” to insert the following:

“and where any data retained or accessed thereunder are adduced in evidence after the passing of this Act, such data shall be deemed to have been lawfully retained or accessed at all material times notwithstanding such repeal”.

—Seán Sherlock.

23. In page 9, after line 45, to insert the following subsection:

“(2) Notwithstanding the repeal under *subsection (1)*, data that were the subject of a data retention request under Part 7 of the Criminal Justice (Terrorist Offences) Act 2005 before that repeal may be adduced in evidence in proceedings conducted after that repeal subject to the provisions of this Act applying and having effect.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

SCHEDULE 1

24. In page 10, paragraph 4, line 10, to delete “1995” and substitute “2005”.

—Seán Sherlock.