



Number 26 of 2024

Digital Services (Levy) Act 2024



Number 26 of 2024

DIGITAL SERVICES (LEVY) ACT 2024

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement
2. Definitions
3. Expenses

PART 2

AMENDMENT OF ACT OF 2009

4. Amendment of section 21 of Act of 2009
5. Arrangement in relation to collection of levies

PART 3

AMENDMENT OF ACT OF 2024

6. Amendment of Act of 2024

[No. 26.]

Digital Services (Levy) Act 2024.

[2024.]

ACTS REFERRED TO

Broadcasting Act 2009 (No. 18)

Digital Services Act 2024 (No. 2)



Number 26 of 2024

DIGITAL SERVICES (LEVY) ACT 2024

An Act to extend the power of Coimisiún na Meán enabling it to impose a levy, for the purpose of meeting its expenses and its working capital requirements, on providers of intermediary services and hosting services and, for that purpose, to amend the Broadcasting Act 2009; to enable the Competition and Consumer Protection Commission, for the purpose of meeting its expenses and working capital requirements relating to the performance of its functions as the competent authority in respect of Articles 30, 31 and 32 of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022¹ on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), to impose a levy on providers of online platforms that allow consumers to conclude distance contracts with traders and, for that purpose, to amend the Digital Services Act 2024; and to provide for related matters.

[17th July, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Digital Services (Levy) Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister, following consultation with the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—
 - “Act of 2009” means the Broadcasting Act 2009;
 - “Act of 2024” means the Digital Services Act 2024;

¹ OJ No. L 277, 27.10.2022, p. 1.

“Minister” means the Minister for Enterprise, Trade and Employment.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

AMENDMENT OF ACT OF 2009

Amendment of section 21 of Act of 2009

4. (1) Section 21 of the Act of 2009 is amended—
- (a) in subsection (1)—
 - (i) in paragraph (c), by the substitution of “online services;” for “online services.”, and
 - (ii) by the insertion of the following paragraphs after paragraph (c):
 - “(d) intermediary service providers;
 - (e) hosting service providers.”,
 - (b) in subsection (9)—
 - (i) in paragraph (d), by the substitution of “and (f);” for “and (f).”, and
 - (ii) by the insertion of the following paragraph after paragraph (d):
 - “(e) any other factor that may affect the performance by the Commission of functions in relation to an intermediary service provider including if that provider has been designated as a very large online platform or very large online search engine under Article 33 of the Digital Services Regulation and has been charged the annual supervisory fee under Article 43 of that Regulation.”,
- and
- (c) in subsection (12)—
 - (i) by the substitution of “In this section and section 22” for “In this section and sections 22 and 22A”, and
 - (ii) by the insertion of the following definition:
 - “ ‘hosting service provider’ has the same meaning as it has in Regulation (EU) 2021/784 of the European Parliament and of the

Council of 29 April 2021² on addressing the dissemination of terrorist content online;”.

- (2) Notwithstanding the amendments effected by *subsection (1)*, the levy order (within the meaning of section 21 of the Act of 2009) that was for the time being in force immediately before the commencement of *subsection (1)* shall remain in force and shall have effect as if this section had not been enacted.

Arrangement in relation to collection of levies

5. The Act of 2009 is amended by the insertion of the following section after section 22:

- “22A. (1) The Commission may enter into an arrangement with the Competition and Consumer Protection Commission in relation to the collection of a relevant levy.
- (2) An arrangement referred to in subsection (1) shall be for the purpose of enabling the Commission or the Competition and Consumer Protection Commission to collect the relevant levy from each person obliged to pay it and pay over the relevant levy so collected to the Commission or Competition and Consumer Protection Commission as appropriate.
- (3) An arrangement referred to in subsection (1) may provide for the costs associated with the collection and payment of the relevant levy concerned to be met by the Commission or Competition and Consumer Protection Commission as appropriate.
- (4) Nothing in this section affects any other power of the Commission to enter into an arrangement for the collection of levies.
- (5) In this section, ‘relevant levy’ means a levy payable under—
- (a) a levy order, or
- (b) a levy order under section 45A of the Digital Services Act 2024.”.

² OJ No. L 172, 17.5.2021, p. 79.

PART 3

AMENDMENT OF ACT OF 2024

Amendment of Act of 2024

6. The Act of 2024 is amended by the insertion of the following sections after section 45:

“Power to impose levies

45A. (1) The Commission may make an order (in this section referred to as a ‘levy order’) imposing a levy on consumer online platform providers.

(2) A levy order shall specify the period in respect of which a levy is imposed (in this section referred to as the ‘levy period’).

(3) Levy periods shall run successively and shall be the same for all levies imposed.

(4) The Commission shall seek to ensure that the amount of all levies imposed under subsection (1) in respect of a levy period is sufficient to meet the Commission’s expenses properly incurred in that period and its working capital requirements in that period relating to the performance of its functions as the competent authority designated under section 44, in so far as those expenses and requirements are not met in any other way.

(5) A levy order shall provide for the collection, payment and administration of a levy, including—

(a) the method of calculation of the levy,

(b) the times at which payment is to be made and the form of payment,

(c) requirements for consumer online platform providers subject to the levy to keep relevant records and to make them available to the Commission,

(d) any provision for exemptions, deferrals or refunds, and

(e) the consideration of applications by consumer online platform providers for the review of decisions under the order.

(6) In making provision by levy order for the method of calculation of a levy and for any exemption or deferral, the Commission shall consider the relevance of the following factors:

(a) the nature and scale of services provided by a consumer online platform provider;

(b) any other factor that may affect the performance by the Commission of functions in relation to a consumer online platform provider including if that provider has been designated as a very large online platform or very large online search engine under

Article 33 and has been charged the annual supervisory fee under Article 43.

- (7) Subject to subsection (3), levy orders may make different provision for different consumer online platform providers.
- (8) Any surplus of income, from levies imposed in respect of a levy period, over the expenses properly incurred by the Commission in that period and its working capital requirements in that period shall either—
 - (a) be retained by the Commission to be offset proportionately against subsequent levy obligations of the consumer online platform providers on whom the levy was imposed, or
 - (b) be refunded proportionately to those consumer online platform providers.
- (9) In this section, ‘consumer online platform providers’ mean providers of online platforms allowing consumers to conclude distance contracts with traders.

Levies under section 45A: enforcement and procedure

- 45B.** (1) A levy payable under a levy order by any person may be recovered by the Commission from that person as a simple contract debt in any court of competent jurisdiction.
- (2) A person shall be guilty of a category 2 offence if, in purported compliance with a requirement imposed by or under a levy order, he or she provides information to the Commission which is to his or her knowledge false or misleading.
 - (3) A levy order shall be laid by the Commission before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.
 - (4) In this section, ‘levy order’ has the same meaning as it has in section 45A.

Arrangement in relation to collection of levies

- 45C.** (1) The Commission may enter into an arrangement with Coimisiún na Meán in relation to the collection of a relevant levy.
- (2) An arrangement referred to in subsection (1) shall be for the purpose of enabling the Commission or Coimisiún na Meán to collect the relevant levy from each person obliged to pay it and pay over the relevant levy so collected to the Commission or Coimisiún na Meán as appropriate.

- (3) An arrangement referred to in subsection (1) may provide for the costs associated with the collection and payment of the relevant levy concerned to be met by the Commission or Coimisiún na Meán as appropriate.
- (4) Nothing in this section affects any other power of the Commission to enter into an arrangement for the collection of levies.
- (5) In this section, ‘relevant levy’ means a levy payable under—
 - (a) a levy order (within the meaning of section 45A), or
 - (b) a levy order under section 21 of the Principal Act.”.