



House of Commons

Thursday 21 April 2016

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

*Note: Some amendment numbers are missing from the numerical sequence.
This is due to duplication of material.*

INVESTIGATORY POWERS BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [24 March 2016, as amended, 12 April 2016].

Joanna Cherry
Gavin Newlands

Clause **91**, page **70**, line **8**, after “crime”, insert “where there is reasonable suspicion that a serious criminal offence has been or is likely to be committed” **405**

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

Clause **91**, page **70**, line **9**, leave out paragraph (c)

406

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

463

Clause 91, page 70, line 12, leave out subsection (6)

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

465

Clause 91, page 70, line 18, leave out from “include” to end of line 19 and insert—

- “(a) the requirement that other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and
- (b) the requirement that a risk assessment has been conducted by the Investigatory Powers Commissioner’s technical advisors with regard to the specific equipment interference proposed, accounting for—
 - (i) the risk of collateral interference and intrusion, and
 - (ii) the risk to the integrity of communications systems and computer networks, and
 - (iii) the risk to public cybersecurity.”

Joanna Cherry
 Gavin Newlands

407

Clause 91, page 70, line 23, leave out “Secretary of State” and insert “Judicial Commissioner”

Joanna Cherry
 Gavin Newlands

408

Clause 91, page 70, line 25, at end insert—

“(10) Targeted equipment interference is only lawful if authorised under this Act.”

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

464

Clause 91, page 70, line 25, at end insert—

“(10) A warrant may only authorise targeted equipment interference or targeted examination as far as the conduct authorised relates—

- (a) to the offence as specified under subsection (5)(b), or

Investigatory Powers Bill, *continued*

- (b) to some other indictable offence which is connected with or similar to the offence as specified under subsection (5)(b)”
-

Joanna Cherry
Gavin Newlands

Clause 93, page 71, line 21, leave out “Secretary of State” and insert “Judicial Commissioner” **410**

Joanna Cherry
Gavin Newlands

Clause 93, page 71, line 23, leave out “Secretary of State” and insert “Judicial Commissioner” **411**

Joanna Cherry
Gavin Newlands

Clause 93, page 71, line 25, leave out “Secretary of State” and insert “Judicial Commissioner” **412**

Joanna Cherry
Gavin Newlands

Clause 93, page 71, line 28, leave out “Secretary of State” and insert “Judicial Commissioner” **413**

Joanna Cherry
Gavin Newlands

Clause 93, page 71, line 31, leave out paragraph (d) and insert— **414**
“(d) the Judicial Commissioner has reasonable grounds for believing that the material sought is likely to be of substantial value to the investigation or operation to which the warrant relates.”

Member’s explanatory statement

These amendments would introduce a requirement that warrants are only granted where there are reasonable grounds for believing material to be obtained will be of substantial value to the investigation or operation, and requires a threshold of reasonable suspicion that a serious criminal offence has been committed in order for a warrant to be granted.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

415

- Clause 93, page 71, line 35, leave out from “include” to end of line 36 and insert—
- “(a) the requirement that other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and
 - (b) the requirement that a risk assessment has been conducted by the Investigatory Powers Commissioner’s technical advisors with regard to the specific equipment interference proposed, accounting for—
 - (i) the risk of collateral interference and intrusion, and
 - (ii) the risk to the integrity of communications systems and computer networks, and
 - (iii) the risk to public cybersecurity.”
-

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

467

Page 71, line 40, leave out Clause 94

Mr John Hayes

257

Clause 95, page 72, line 33, leave out “the Scottish Ministers have” and insert “a member of the Scottish Government has”

Member’s explanatory statement

Clause 95(2) provides that a decision to issue a warrant under Clause 92 must be taken personally by a member of the Scottish Government. This amendment corrects Clause 95(5)(b) so that it also refers to a member of the Scottish Government.

Joanna Cherry
Gavin Newlands

417

Page 72, line 18, leave out Clause 95

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

419

Clause 96, page 72, line 36, leave out “law enforcement chief described in Part 1 or 2 of the table in Schedule 6” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

420

Clause 96, page 72, line 37, leave out “person who is an appropriate law enforcement officer in relation to the chief” and insert “law enforcement chief described in Part 1 of the table in Schedule 6”

Joanna Cherry
Gavin Newlands

421

Clause 96, page 72, line 40, leave out “law enforcement chief” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

422

Clause 96, page 72, line 42, leave out “law enforcement chief” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

423

Clause 96, page 73, line 1, leave out “law enforcement chief” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

424

Clause 96, page 73, line 4, leave out paragraph (d)

Joanna Cherry
Gavin Newlands

425

Clause 96, page 73, line 7, leave out “law enforcement chief described in Part 1 of the table in Schedule 6” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

426

Clause 96, page 73, line 8, leave out “person who is an appropriate law enforcement officer in relation to the chief” and insert “law enforcement chief described in Part 1 of the table in Schedule 6”

Joanna Cherry
Gavin Newlands

427

Clause 96, page 73, line 10, leave out “law enforcement chief” and insert “Judicial Commissioner”

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

428

Clause 96, page 73, line 14, leave out “law enforcement chief” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

429

Clause 96, page 73, line 17, leave out “law enforcement chief” and insert “Judicial Commissioner”

Joanna Cherry
Gavin Newlands

430

Clause 96, page 73, line 20, leave out paragraph (d)

Joanna Cherry
Gavin Newlands

431

Clause 96, page 73, line 23, leave out subsection (3)

Joanna Cherry
Gavin Newlands

432

Clause 96, page 73, line 29, leave out paragraphs (b) and (c)

Joanna Cherry
Gavin Newlands

433

Clause 96, page 73, line 35, after “Where”, insert “an application for an equipment interference warrant is made by a law enforcement chief and”

Joanna Cherry
Gavin Newlands

434

Clause 96, page 73, line 39, leave out subsections (6) to (10)

Joanna Cherry
Gavin Newlands

435

Clause 96, page 74, line 13, leave out “whether what is sought to be achieved by the warrant could reasonably be achieved by other means” and insert—

- “(a) the requirement that other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and
- (b) the requirement that a risk assessment has been conducted by the Investigatory Powers Commissioner’s technical advisors with regard to the specific equipment interference proposed, accounting for—
 - (i) the risk of collateral interference and intrusion, and
 - (ii) the risk to the integrity of communications systems and computer networks, and
 - (iii) the risk to public cybersecurity.”

 Investigatory Powers Bill, *continued*

- Joanna Cherry
Gavin Newlands
- 436
- Clause 96, page 74, line 16, leave out subsections (12) and (13)
- Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman
- 459
- Page 72, line 35, leave out Clause 96
-
- Joanna Cherry
Gavin Newlands
- 437
- Schedule 6, page 213, line 15, leave out Part 2
-
- Mr John Hayes
- 258
- Clause 97, page 75, line 4, leave out from “a” to “under” and insert “decision to issue a warrant”
- Member’s explanatory statement*
This amendment, and amendments 259 to 262, each make a minor drafting change to take account of the fact that clause 97 may also apply in a case where a warrant has already been issued (see Clause 98).
- Mr John Hayes
- 259
- Clause 97, page 75, line 6, leave out from “a” to “under” and insert “decision to issue a warrant”
- Member’s explanatory statement*
See the note to amendment 258.
- Mr John Hayes
- 260
- Clause 97, page 75, line 8, leave out from “a” to “under” and insert “decision to issue a warrant”
- Member’s explanatory statement*
See the note to amendment 258.
- Mr John Hayes
- 261
- Clause 97, page 75, line 10, leave out from “a” to “under” and insert “decision to issue a warrant”
- Member’s explanatory statement*
See the note to amendment 258.

 Investigatory Powers Bill, *continued*

Mr John Hayes

262

Clause 97, page 75, line 12, leave out from “a” to “under” and insert “decision to issue a warrant”

Member’s explanatory statement

See the note to amendment 258.

Joanna Cherry
Gavin Newlands

438

Page 74, line 36, leave out Clause 97

Joanna Cherry
Gavin Newlands

439

Clause 98, page 75, line 25, leave out “considered” and insert “had reasonable grounds for believing there was an emergency situation posing immediate danger of death or serious physical injury or that the physical security or integrity of the nation was endangered”

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

440

Clause 98, page 75, line 27, after “must”, insert “immediately”

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

441

Clause 99, page 76, line 10, leave out paragraph (b)

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

442

Clause 99, page 76, line 12, leave out subsection (4) and insert—

“(4A) Where the judicial commissioner refuses to approve an urgent warrant, they must direct that all of the material obtained under the warrant is destroyed, unless there are exceptional circumstances.”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

499

Clause 100, page 77, line 3, after “items”, insert “presumptively”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

500

Clause 100, page 77, line 8, after “items”, insert “presumptively”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

501

Clause 100, page 77, line 13, leave out paragraph (a) and insert—

“(a) that compelling evidence indicates that the items in question consist of, or relate to, communications made for a criminal purpose such that it is necessary to authorise or require interference with equipment for the purpose of obtaining or (in the case of a targeted examination warrant) the selection for examination of those items, and”

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Page 76, line 39, leave out Clause 100

471

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 2, after “service”, insert “or to a law enforcement chief”

460

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 6, leave out subsection (2)(c)

461

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 18, leave out “or a description of the person or organisation” and insert “or another identifier of the person or organisation.”

266

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, leave out lines 21 to 27

265

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 101, page 78, line 27, leave out “or a description of, as many of the persons or organisations as it is reasonably practicable to name or describe” and insert “or another identifier of, each person or organisation”

474

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 28, column 2, at beginning insert “The name and”

473

Joanna Cherry
 Gavin Newlands

Clause 101, page 78, line 31, leave out “or a description of, as many of the persons or organisations as it is reasonably practicable to name or describe” and insert “or another identifier of, each person or organisation”

268

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 36, leave out “description” and insert “specification”

269

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 38, column 2, at beginning insert “The name and” 270

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 78, line 40, leave out “a description of as many of the locations as it is reasonably practicable to describe” and insert “specification of each location” 271

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 79, leave out lines 3 to 7 272

Joanna Cherry
 Gavin Newlands

Clause 101, page 79, leave out lines 8 to 12 273

Joanna Cherry
 Gavin Newlands

Clause 101, page 79, leave out lines 13 to 18 274

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock Sue Hayman

Clause 101, page 79, line 19, leave out “describe” and insert “specify” 275

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

452

Clause 101, page 79, line 21, leave out paragraph (b) and insert—

- “(b) precisely and explicitly the method and extent of the proposed intrusion and the measures taken to minimise access to irrelevant and immaterial information”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

453

Clause 101, page 79, line 22, at end insert—

- “(c) the basis for the suspicion that the target is connected to a serious crime or a specific threat to national security;
(d) in a declaration with supporting evidence—
 (i) the high probability that evidence of the serious crime or specific threat to national security will be obtained by the operation authorised, and
 (ii) how all less intrusive methods of obtaining the information sought have been exhausted or would be futile, and
(e) in a separate “Cyber-Security Impact Assessment” all potential risks and damage to the security of the device targeted and communications systems more generally and how those risks and/or damage will be eliminated or corrected.”

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

276

Clause 101, page 79, line 29, leave out “or a description of the person or organisation” and insert “or another identifier of the person or organisation.”

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

457

Clause 101, page 79, leave out lines 31 to 36

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

278

Clause **101**, page **79**, line **40**, leave out “or a description of, as many of the persons or organisations as it is reasonably practicable to name or describe” and insert “or another identifier of, each person or organisation”

Joanna Cherry
 Gavin Newlands

279

Clause **101**, page **80**, leave out lines 3 to 7

Joanna Cherry
 Gavin Newlands

280

Clause **101**, page **80**, leave out lines 8 to 12

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

635

Clause **102**, page **80**, line **21**, leave out “ending with the fifth working day after the day on which” and insert “of 48 hours after”

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

636

Clause **102**, page **80**, line **21**, leave out “ending with the fifth working day after the day on which” and insert “of 24 hours after”

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

281

Clause 102, page 80, line 21, leave out “fifth working day” and insert “twenty four hours”

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

282

Clause 102, page 80, line 23, leave out “6” and insert “1”

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

283

Clause 103, page 80, line 35, leave out from “by” to end of line 36 and insert “a Judicial Commissioner”

Member’s explanatory statement

This amendment, and others to Clause 103, would provide for a Judicial Commissioner to renew warrants rather than the Secretary of State. Provision is also made for a test for renewal.

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

284

Clause 103, page 80, line 38, leave out “appropriate person” and insert “Judicial Commissioner”

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

285

Clause 103, page 80, line 40, leave out “appropriate person” and insert “Judicial Commissioner”

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

286

Clause 103, page 80, line 43, leave out “appropriate person” and insert “Judicial Commissioner”

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

287

Clause 103, page 81, line 3, leave out paragraph (d) and insert—

“(d) that the Judicial Commissioner is satisfied that the applicant has explained—

- (i) to what extent the previous warrant achieved the stated purpose, and
- (ii) why the previous warrant failed to fully achieve the stated purpose, and
- (iii) why the conduct proposed is likely to support the achievement of the stated purpose.”

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

454

Clause 103, page 81, line 4, at end insert—

“(e) with the text “that the appropriate person receives and considers an explanation of why the information sought has not yet been obtained.”

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 103, page 81, line 5, leave out subsection (3)

288

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 103, page 81, line 27, leave out subsection (5)

289

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 103, page 81, line 30, leave out subsection (6)

290

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock Sue Hayman

Clause 103, page 81, line 33, leave out subsection (7)

291

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

292

Clause 103, page 81, line 36, leave out “Secretary of State” and insert “Judicial Commissioner”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

638

Clause 104, page 83, line 17, at end insert—

- “(8A) Section 97 (approval of warrants by Judicial Commissioners) applies in relation to a decision to make a modification of a warrant issued under section 96 as it applies in relation to a decision to issue such a warrant, but as if—
- (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the warrant as modified, and
 - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

639

Clause 104, page 83, line 18, leave out “Sections 94” and insert “Section [NC11 Confidential and privileged material]”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

502

Clause 104, page 83, line 22, at end insert—

- “() Where section 100 (*items subject to legal privilege*) applies in relation to a decision to make a modification of a warrant as mentioned in subsection (2)(a), (c) or (d), other than a decision to which subsection (7) applies, section 97 (*approval of warrants by Judicial Commissioners*) applies to the decision as it applies in relation to a decision to issue such a warrant (and accordingly any

Investigatory Powers Bill, *continued*

reference in that section to the person who decided to issue the warrant is to be read as a reference to the person who decided to renew it).”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 104, page 83, line 23, leave out “Section 100” and insert “Section [NC2
Items subject to legal privilege]” **640**

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 104, page 83, line 35, at end insert— **641**
“(14) Any modification which constitutes the adding or varying any matter must be approved by a Judicial Commissioner in accordance with section 97.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 105, page 84, line 4, leave out from “period” to “which” in line 5 and insert
“48 hours after” **642**

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 105, page 84, line 4, leave out from “period” to “which” in line 5 and insert
“24 hours after” **643**

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

644

Clause 105, page 84, line 26, at end insert—

- “(8A) Section 97 (approval of warrants by Judicial Commissioners) applies in relation to a decision to make a modification of a warrant issued under section 96 as it applies in relation to a decision to issue such a warrant, but as if—
- (a) the references in subsection (1)(a) and (b) of that section to the warrant were references to the warrant as modified, and
 - (b) any reference to the person who decided to issue the warrant were a reference to the person who decided to make the modification.”

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

503

Clause 105, page 84, line 33, at end insert—

- “() Where, by virtue of section 104(10), section 100 (*items subject to legal privilege*) applies in relation to the making of a modification of a warrant pursuant to section 104(7), this section applies as if each reference in subsections (2) and (5) to (8) to a designated senior official were a reference to a Judicial Commissioner.”

Joanna Cherry
 Gavin Newlands

293

Clause 109, page 87, line 39, leave out subsection (3)

Member’s explanatory statement

This amendment would remove the provision which allows a targeted equipment interference warrant to be served on a person outside the UK for the purpose of requiring that person to take action outside the UK.

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

645

Clause 109, page 87, line 41, at end insert—

- “(3A) Subsection (3) shall not be applicable where the person outside the United Kingdom has its principal office where it is established for the provision of services in a country or territory with which the United Kingdom has entered in

Investigatory Powers Bill, *continued*

to an international mutual assistance agreement or is subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This excludes the extraterritorial provision in cases where any mutual assistance arrangement exists between the UK and the provider’s jurisdiction while enabling the government to seek voluntary assistance from CSPs in non-MLA countries.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

646

Clause 109, page 88, line 6, at end insert—

“(6) A warrant may be implemented only to the extent required for the purpose for which the warrant was issued.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

679

Clause 110, page 88, line 9, at end insert—

“(1A) Where such a warrant is to be served upon a person outside the United Kingdom the warrant shall be served at that person’s principal office outside the United Kingdom, where it is established, for the provision of services.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

694

Clause 110, page 88, line 10, at beginning insert “Where service of a warrant in the manner envisaged in subsection (1A) is considered unfeasible or inappropriate in the circumstances,”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

647

Clause 110, page 88, line 10, after “Kingdom”, insert “the warrant shall be served at that person’s principal office outside the United Kingdom where it is established, for the provision of services. Where it is considered unfeasible or inappropriate in the

Investigatory Powers Bill, continued

circumstances,”

Member’s explanatory statement

The Home Secretary confirmed at second reading that a UK agency would only serve a notice on an overseas entity that is capable of providing assistance under the warrant. UK agencies today routinely use secure means of communication to transmit notices directly to the main office of overseas CSPs. This would make government’s commitment clear on the face of the Bill (as it is in the relevant code of practice) and address contradictory provisions that remain in the Bill.

Joanna Cherry
Gavin Newlands

294

Page **88**, line **7**, leave out Clause 110

Member’s explanatory statement

This amendment would remove the provision setting out how warrants may be served outside the UK.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

648

Clause **111**, page **89**, line **19**, after “take”, insert “which for a relevant operator outside the United Kingdom shall include—

- (a) any steps which would cause the operator to act contrary to any laws or restrictions under the law of the country or territory where it is established, for the provision of services, or
- (b) where a warrant could be served pursuant to an international mutual assistance agreement or subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This amendment clarifies the reasonableness test for overseas CSPs.

Joanna Cherry
Gavin Newlands

295

Page **88**, line **35**, leave out Clause 111

Joanna Cherry
Gavin Newlands

296

Clause **113**, page **91**, line **22**, at end insert—

“(A1) Material obtained via a warrant under this Part may only be shared with overseas authorities in accordance with the terms of an international information sharing treaty.”

Member’s explanatory statement

This amendment would require that information obtained via an equipment interference warrant

Investigatory Powers Bill, continued

is only shared with overseas authorities where a mutual legal assistance treaty has been put in place for the purpose of doing so.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 114, page 91, line 42, after “not”, insert “without reasonable excuse”

649

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 114, page 91, line 42, at end insert—

“(1A) For the purposes of subsection (1), it is in particular a reasonable excuse if the disclosure is made with the permission of the person issuing the warrant or the person to whom it is issued.”

Member’s explanatory statement

This amendment adds a “reasonable excuse” defence to the unauthorised disclosure offence in relation to equipment interference warrants.

650

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 116, page 93, line 39, leave out subsection (3) and insert—

“(3) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the person to show that the disclosure was in the public interest.”

496

Joanna Cherry
Gavin Newlands

Clause 116, page 93, line 42, at end insert—

“(3A) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the person to show that the disclosure was in the public interest.”

Member’s explanatory statement

This amendment would provide a defence to the criminal offence of unauthorised disclosure in

297

Investigatory Powers Bill, *continued*

relation to a warrant issued under this Part. The offence includes disclosure of the existence and content of a warrant and disclosure of the steps taken to implement a warrant.

Joanna Cherry
Gavin Newlands

Page 95, line 33, leave out Clause 119

535

Joanna Cherry
Gavin Newlands

Page 96, line 43, leave out Clause 120

536

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 121, page 98, line 9, leave out subsection (2)(b)

651

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 121, page 98, line 12, leave out subsection (3)

652

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 121, page 98, line 26, at end insert—

653

“(7) Where an application made by, or on behalf of, the Secretary of State includes the activities set out in section 119(4)(c) or (d), a bulk interception warrant can only be issued if the Secretary of State considers that selection for examination or disclosure is necessary—

(a) for a purpose under subsection (8), and

Investigatory Powers Bill, *continued*

- (b) it is necessary to obtain the data—
 - (i) for a specific investigation or a specific operation, or
 - (ii) for the purposes of testing, maintaining or developing equipment, systems or other capabilities relating to the availability or obtaining of data.
- (8) The paragraph 7(a) purposes are—
 - (a) the interests of national security,
 - (b) preventing or detecting serious crime or preventing serious disorder,
 - (c) the interests of public safety,
 - (d) protecting public health,
 - (e) preventing death or serious injury or any serious damage to one or more person’s physical or mental health,
 - (f) assisting investigations into alleged miscarriages of justice,
 - (g) where a person (“P”) has died or is unable to identify themselves because of a physical or mental condition—
 - (i) to assist in identifying P, or
 - (ii) to obtain information about P’s next of kin or other persons connected with P or about the reason for P’s death or condition, or
 - (h) exercising functions relating to—
 - (i) the regulation of financial services and markets, or
 - (ii) financial stability.”

Joanna Cherry
Gavin Newlands

537

Page 97, line 21, leave out Clause 121

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

661

Clause 122, page 98, line 44, at end insert—

“(4) Material obtained via a warrant under this Part may only be shared with overseas authorities in accordance with the terms of an information sharing treaty”

Joanna Cherry
Gavin Newlands

538

Page 98, line 27, leave out Clause 122

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

662

Clause 123, page 99, line 3, leave out “review the Secretary of State’s conclusions as to the following matters” and insert “determine”

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

663

Clause 123, page 99, line 18, leave out subsection (2)

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

531

Clause 123, page 99, line 19, at end insert “but a Judicial Commissioner may not approve a warrant unless he is satisfied that there are reasonable grounds for believing that it is both necessary and proportionate to do so”

Member’s explanatory statement

This amendment would clarify the judicial review process by ensuring that both the process and underlying facts of an interception of communications warrant are considered by a Judicial Commissioner.

Joanna Cherry
 Gavin Newlands

539

Page 99, line 1, leave out Clause 123

Joanna Cherry
 Gavin Newlands

540

Page 99, line 27, leave out Clause 124

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

664

Clause 125, page 99, line 42, leave out “but the purposes may still be general purposes” and insert “and any specification must be described in as much detail as is reasonably practicable”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

665

Clause 125, page 100, line 1, leave out “may” and insert “must”

Joanna Cherry
Gavin Newlands

541

Page 99, line 32, leave out Clause 125

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

666

Clause 126, page 100, line 11, leave out “6” and insert “1”

Joanna Cherry
Gavin Newlands

542

Page 100, line 9, leave out Clause 126

Joanna Cherry
Gavin Newlands

543

Page 100, line 17, leave out Clause 127

Investigatory Powers Bill, *continued*

Mr John Hayes

610

Clause 128, page 101, line 24, after “requires” insert “(to the extent that it did so previously)”

Member’s explanatory statement

This amendment makes a minor drafting clarification (to address the case where, before its modification by virtue of clause 128(2)(b), a bulk interception warrant authorised or required only one of the activities mentioned in that provision).

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

667

Clause 128, page 101, line 39, at end insert—

“(c) may only be made if the Secretary of State considers that it is proportionate to the operational purposes specified in the warrant.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

668

Clause 128, page 102, line 5, at end insert—

“(7A) A minor modification—

- (a) may be made only if the Secretary of State or a senior official acting on behalf of the Secretary of State considers that it is necessary on any of the grounds on which they consider the warrant to be necessary (see section 121(1)(b)).
- (b) may only be made if the Secretary of State considers that it is proportionate to the operational purposes specified in the warrant.

(7B) Except where the Secretary of State considers that there is an urgent need to make the modification, a minor modification has effect only if the decision to make the modification is approved by a Judicial Commissioner.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

669

Clause 128, page 102, line 5, at end insert—

“(7C) In a case where any modification is sought under this section to which section [NC2 Items subject to legal privilege] or section [NC11 Confidential and privileged material] applies, section 97 (approval of warrants by Judicial Commissioners) applies to a decision to modify a warrant as it applies in relation to a decision to issue such a warrant (and accordingly any reference in that section to the person who decided to issue the warrant is to be read as a reference to the person who decided to modify it)”

 Investigatory Powers Bill, *continued*

Mr John Hayes

611

Clause 128, page 102, line 16, leave out “(urgent cases)”

Member’s explanatory statement

This amendment is consequential on amendment 612.

Mr John Hayes

612

Clause 128, page 102, line 17, leave out from beginning to “the” in line 22 and insert—

“() If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.

() In such a case, the instrument making the modification must contain a statement that—

(a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and

(b) ”

Member’s explanatory statement

This amendment enables an instrument making a major modification of a bulk interception warrant to be signed by a senior official in any case where it is not reasonably practicable for the Secretary of State to sign it.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

670

Clause 128, page 102, line 29, at end insert—

“(14) Any modification which constitutes the adding or varying of any matter must be approved by a Judicial Commissioner in accordance with section 123.”

Joanna Cherry
Gavin Newlands

544

Page 101, line 17, leave out Clause 128

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

671

Clause 129, page 102, line 41, leave out “ending with the fifth working day after the day on which” and insert “of 48 hours after”

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

672

Clause 129, page 102, line 41, leave out “ending with the fifth working day after the day on which” and insert “of 24 hours after”

Joanna Cherry
 Gavin Newlands

545

Page 102, line 30, leave out Clause 129

Joanna Cherry
 Gavin Newlands

546

Page 103, line 14, leave out Clause 130

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

520

Clause 131, page 104, line 9, at end insert—

“(3B) Subsection (3) shall not be applicable where the person outside the United Kingdom has its principal office in a country or territory where it is established, for the provision of services with which the United Kingdom has entered in to an international mutual assistance agreement or is subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This amendment would exclude the extraterritorial provision in cases where any mutual assistance arrangement exists between the UK and the provider’s jurisdiction. This amendment would continue to enable government to seek voluntary assistance from CSPs in non-MLA countries.

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

528

Clause 131, page 104, line 23, at end insert—

“(7) A warrant may be implemented only to the extent required for the purpose for which the warrant was issued.”

Member’s explanatory statement

This amendment would bring the implementation of warrants into line with section 16(8) of PACE 1984.

Joanna Cherry
Gavin Newlands

547

Page 103, line 37, leave out Clause 131

Joanna Cherry
Gavin Newlands

548

Page 104, line 25, leave out Clause 132

Joanna Cherry
Gavin Newlands

549

Page 106, line 1, leave out Clause 133

Mr John Hayes

613

Clause 134, page 106, line 31, leave out “any selection” and insert “the selection of any”

Member’s explanatory statement

This amendment makes a minor drafting correction.

Joanna Cherry
Gavin Newlands

550

Page 106, line 27, leave out Clause 134

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 135, page 108, line 12, after “items”, insert “presumptively”.

504

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 135, page 108, line 14, at end insert “and

- (c) where paragraph (b)(i) applies, compelling evidence indicates that the items in question consist of, or relate to, communications made for a criminal purpose such that it is necessary to authorise or require the selection for examination of those items.”

505

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 135, page 108, line 16, leave out from “a” to “has” and insert “Judicial Commissioner”

506

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 135, page 108, line 18, leave out “senior official” and insert “Judicial Commissioner”

507

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Clause 135, page 108, line 19, leave out “official” and insert “Judicial Commissioner”

508

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

509

Clause 135, page 108, line 22, leave out from “privilege” to end of line 25

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

510

Clause 135, page 108, line 26, after “item”, insert “presumptively”.

Joanna Cherry
 Gavin Newlands

551

Page 108, line 4, leave out Clause 135

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

511

Clause 136, page 108, line 40, at end insert—
 “(3) Section 25 (*items subject to legal privilege*) applies in relation to an application for a bulk interception warrant as it applies in relation to an application for a targeted interception warrant.”

Joanna Cherry
 Gavin Newlands

552

Page 108, line 32, leave out Clause 136

Joanna Cherry
 Gavin Newlands

553

Page 108, line 42, leave out Clause 137

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

673

Clause 138, page 109, line 30, leave out paragraph (c) and insert—
“(c) the Secretary of State considers the requirements of section 141 are met by the warrant,”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

674

Clause 138, page 110, line 1, leave out subsection (b)

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

675

Clause 138, page 110, line 4, leave out subsection (3)

Mr John Hayes

614

Clause 138, page 110, line 8, leave out subsection (4)

Member's explanatory statement

This amendment leaves out provision that is not relevant in the context of bulk acquisition warrants.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

676

Clause 138, page 110, line 46, at end insert—

- “(11) Where an application made by, or on behalf of, the Secretary of State includes the activities set out in section 138(7)(b) or (c), a bulk acquisition warrant can only be issued if the Secretary of State considers that selection for examination or disclosure is—
- (a) necessary for a purpose within subsection (12), or
 - (b) that it is necessary to obtain the data—
 - (i) for the purposes of a specific investigation or a specific operation, or
 - (ii) for the purposes of testing, maintaining or developing equipment, systems or other capabilities relating to the availability or obtaining of data.

Investigatory Powers Bill, *continued*

- (12) A paragraph 11(a) purpose is—
- (a) the interests of national security,
 - (b) preventing or detecting serious crime or of preventing serious disorder,
 - (c) the interests of public safety,
 - (d) protecting public health,
 - (e) preventing death or serious injury or any serious damage to one or more person’s physical or mental health,
 - (f) assisting investigations into alleged miscarriages of justice,
 - (g) where a person (“P”) has died or is unable to identify themselves because of a physical or mental condition—
 - (i) to assist in identifying P, or
 - (ii) to obtain information about P’s next of kin or other persons connected with P or about the reason for P’s death or condition, or
 - (h) exercising functions relating to—
 - (i) the regulation of financial services and markets, or
 - (ii) financial stability.”

Joanna Cherry
Gavin Newlands

Page **109**, line **20**, leave out Clause 138

554

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnoack
Sue Hayman

Clause **139**, page **111**, line **3**, leave out “review the Secretary of State’s conclusions as to the following matters” and insert “determine”

677

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnoack
Sue Hayman

Clause **139**, page **111**, line **15**, leave out subsection (2)

678

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnoack
Sue Hayman

Clause **139**, page **111**, line **16**, at end insert “but a Judicial Commissioner may not

532

Investigatory Powers Bill, *continued*

approve a warrant unless he is satisfied that there are reasonable grounds for believing that it is both necessary and proportionate to do so”

Member’s explanatory statement

This amendment would clarify the judicial review process by ensuring that both the process and underlying facts of an interception of communications warrant are considered by a Judicial Commissioner.

Joanna Cherry
Gavin Newlands

555

Page 111, line 1, leave out Clause 139

Joanna Cherry
Gavin Newlands

556

Page 111, line 24, leave out Clause 140

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

680

Clause 141, page 111, line 35, after “specify”, insert “by name or description the person, persons or single set of premises to which it relates and”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

681

Clause 141, page 111, line 39, leave out “but the purposes may still be general purposes” and insert “and any specification must be described in as much detail as is reasonably practicable”

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

- 682**
- Clause 141, page 111, line 39, leave out “but the purposes may still be general purposes” and insert “The descriptions must specify—
- (a) a basis for the reasonable suspicion that the target is connected to a serious crime or a specific threat to national security,
 - (b) a high probability that evidence of the serious crime or specific threat to national security will be obtained by the conduct authorised, and
 - (c) the manner in which all less intrusive methods of obtaining the information sought have been exhausted or can be shown to be futile.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

- 683**
- Clause 141, page 111, line 41, leave out “may” and insert “must”

Joanna Cherry
Gavin Newlands

- 557**
- Page 111, line 29, leave out Clause 141

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

- 684**
- Clause 142, page 112, line 7, leave out “6” and insert “1”

Joanna Cherry
Gavin Newlands

- 558**
- Page 112, line 5, leave out Clause 142
-

Investigatory Powers Bill, *continued*

Mr John Hayes

615

Clause 143, page 113, line 2, leave out “one or more”
Member’s explanatory statement
This amendment is consequential on amendment 616.

Joanna Cherry
Gavin Newlands

559

Page 112, line 13, leave out Clause 143

Mr John Hayes

616

Clause 144, page 113, line 21, leave out “one or more”
Member’s explanatory statement
This amendment makes it clear that Clause 144(2)(b) only permits a bulk acquisition warrant to be modified where, as a result of the modification, all the activities falling within Clause 138(7)(a) which were authorised or required by the warrant cease to be so authorised or required.

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

685

Clause 144, page 113, line 32, at end insert—
“(c) may only be made if the Secretary of State considers that it is proportionate to the purposes specified in the warrant.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

686

Clause 144, page 114, line 1, at beginning insert—
“(8A) A minor modification may only be made—
(a) if the Secretary of State or a senior official acting on behalf of the Secretary of State considers that it is necessary on any of the grounds on which they consider the warrant to be necessary (see section 121(1)(b)).
(b) if the Secretary of State considers that it is proportionate to the purposes specified in the warrant.
(8B) Except where the Secretary of State considers that there is an urgent need to make the modification, a minor modification has effect only if the decision to make the modification is approved by a Judicial Commissioner.
(8C) In a case where any modification is sought under this section to which section [NC2 Items subject to legal privilege] or section [NC11 Confidential and privileged material] applies, section 97 (approval of warrants by Judicial Commissioners) applies to a decision to modify a warrant as it applies in relation

Investigatory Powers Bill, continued

to a decision to issue such a warrant (and accordingly any reference in that section to the person who decided to issue the warrant is to be read as a reference to the person who decided to modify it).”

Mr John Hayes

617

Clause 144, page 114, line 9, leave out “(urgent cases)”

Member’s explanatory statement

This amendment is consequential on amendment 618.

Mr John Hayes

618

Clause 144, page 114, line 10, leave out from beginning to “the” in line 15 and insert—

- “() If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.
- () In such a case, the instrument making the modification must contain a statement that—
 - (a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and
 - (b) ”

Member’s explanatory statement

This amendment enables an instrument making a major modification of a bulk acquisition warrant to be signed by a senior official in any case where it is not reasonably practicable for the Secretary of State to sign it.

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

525

Clause 144, page 114, line 19, at end insert—

“(13) Any modification which constitutes the adding or varying any matter must be approved by a Judicial Commissioner in accordance with section 139.”

Member’s explanatory statement

This amendment adds the requirement to obtain approval from a Judicial Commissioner for any modification which constitutes the adding or varying (but not removing) any matter for each type of warrant.

Joanna Cherry
Gavin Newlands

560

Page 113, line 13, leave out Clause 144

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 114, line 20, leave out Clause 145

561

Mr John Hayes

Clause 146, page 115, line 17, leave out “one or more”

Member’s explanatory statement

This amendment is consequential on amendment 616.

619

Joanna Cherry
Gavin Newlands

Page 115, line 2, leave out Clause 146

562

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 147, page 115, line 39, at end insert—

“(3B) Subsection (3) shall not be applicable where the person outside the United Kingdom has its principal office in a country or territory where it is established, for the provision of services with which the United Kingdom has entered in to an international mutual assistance agreement or is subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This amendment would excludes the extraterritorial provision in cases where any mutual assistance arrangement exists between the UK and the provider’s jurisdiction. This amendment would continue to enable government to seek voluntary assistance from CSPs in non-MLA countries.

521

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 147, page 116, line 6, at end insert—

“(6) A warrant may be implemented only to the extent required for the purpose for which the warrant was issued.”

Member’s explanatory statement

This amendment would bring the implementation of warrants into line with section 16(8) of PACE 1984.

529

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

563

Page 115, line 25, leave out Clause 147

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

522

Clause 148, page 116, line 10, at beginning insert “Where such a warrant is to be given to a person outside the United Kingdom, the warrant shall be served at that person’s principal office outside the United Kingdom where it is established, for the provision of services. Where it is considered unfeasible or inappropriate in the circumstances,”

Member’s explanatory statement

The Home Secretary confirmed at second reading that a UK agency would only serve a notice on an overseas entity that is capable of providing assistance under the warrant. UK agencies today routinely use secure means of communication to transmit notices directly to the main office of overseas CSPs.

Joanna Cherry
Gavin Newlands

564

Page 116, line 7, leave out Clause 148

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

523

Clause 149, page 116, line 43, at end insert “which for a relevant operator outside the United Kingdom shall include—

- (a) any steps which would cause the operator to act contrary to any laws or restrictions under the law of the country or territory where it is established, for the provision of services, or
- (b) where a warrant could be served pursuant to an international mutual assistance agreement or subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This amendment clarifies the reasonableness test for overseas CSPs.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 116, line 35, leave out Clause 149

565

Joanna Cherry
Gavin Newlands

Page 117, line 11, leave out Clause 150

566

Joanna Cherry
Gavin Newlands

Page 118, line 39, leave out Clause 151

567

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 152, page 119, line 17, at end insert—

“(2A) In proceedings against any person for an offence under this section in respect of any disclosure, it is a defence for the person to show that the disclosure was in the public interest.”

687

Joanna Cherry
Gavin Newlands

Page 119, line 8, leave out Clause 152

568

Joanna Cherry
Gavin Newlands

Page 119, line 36, leave out Clause 153

569

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

570

Page 120, line 10, leave out Clause 154

Joanna Cherry
Gavin Newlands

571

Page 121, line 33, leave out Clause 155

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

688

Clause 156, page 122, line 17, leave out paragraph (d) and insert—
“(d) the Secretary of State considers the requirements of section 161 are met
by the warrant,”

Joanna Cherry
Gavin Newlands

572

Page 122, line 4, leave out Clause 156

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

533

Clause 157, page 123, line 16, at end insert “but a Judicial Commissioner may not
approve a warrant unless he is satisfied that there are reasonable grounds for believing that
it is both necessary and proportionate to do so”

Member’s explanatory statement

*This amendment would clarify the judicial review process by ensuring that both the process and
underlying facts of an interception of communications warrant are considered by a Judicial
Commissioner.*

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 123, line 1, leave out Clause 157

573

Joanna Cherry
Gavin Newlands

Page 123, line 24, leave out Clause 158

574

Joanna Cherry
Gavin Newlands

Page 123, line 41, leave out Clause 159

575

Joanna Cherry
Gavin Newlands

Page 124, line 34, leave out Clause 160

576

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 161, page 125, line 9, after “describe”, insert “precisely and explicitly”

689

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 161, page 125, line 10, at end insert “including the method and extent of the proposed intrusion and the measures taken to minimise access to irrelevant and immaterial information.”

690

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

691

Clause 161, page 125, line 11, after “specify”, insert “by name or description the person, persons or single set of premises to which it relates and”

Keir Starmer
 Jo Stevens
 Chris Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

692

Clause 161, page 125, line 15, leave out “but the purposes may still be general purposes” and insert “; the descriptions must specify—

- (a) the basis for the reasonable suspicion that the target is connected to a serious crime or a specific threat to national security,
- (b) the manner in which all less intrusive methods of obtaining the information sought have been exhausted or can be shown to be futile.”

Joanna Cherry
 Gavin Newlands

577

Page 125, line 3, leave out Clause 161

Joanna Cherry
 Gavin Newlands

578

Page 125, line 25, leave out Clause 162

Mr John Hayes

620

Clause 163, page 126, line 6, at end insert—
 “This is subject to subsection (5).”

Member’s explanatory statement

This drafting amendment is for consistency with clauses 127 and 143.

Mr John Hayes

621

Clause 163, page 126, line 31, at end insert—
 “This is subject to subsection (5).”

Member’s explanatory statement

This drafting amendment is for consistency with clauses 127 and 143.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 126, line 3, leave out Clause 163

579

Mr John Hayes

Clause 164, page 127, line 42, leave out “(urgent cases)”

Member’s explanatory statement

This amendment is consequential on amendment 623.

622

Mr John Hayes

Clause 164, page 127, line 43, leave out from beginning to “the” in line 2 on page 128 and insert—

“() If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.

() In such a case, the instrument making the modification must contain a statement that—

(a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and

(b) ”

Member’s explanatory statement

This amendment enables an instrument making a major modification of a bulk equipment interference warrant to be signed by a senior official in any case where it is not reasonably practicable for the Secretary of State to sign it.

623

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnoch
Sue Hayman

Clause 164, page 128, line 10, at end insert—

“(14) Any modification which constitutes the adding or varying any matter must be approved by a Judicial Commissioner in accordance with section 157.”

Member’s explanatory statement

This amendment adds the requirement to obtain approval from a Judicial Commissioner for any modification which constitutes the adding or varying (but not removing) any matter for each type of warrant.

526

Joanna Cherry
Gavin Newlands

Page 127, line 1, leave out Clause 164

580

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

581

Page 128, line 11, leave out Clause 165

Joanna Cherry
Gavin Newlands

582

Page 129, line 1, leave out Clause 166

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnoek
Sue Hayman

524

Clause 167, page 129, line 39, at end insert—

“(3b) Subsection (3) shall not be applicable where the person outside the United Kingdom has its principal office in a country or territory where it is established, for the provision of services with which the United Kingdom has entered in to an international mutual assistance agreement or is subject to an EU mutual assistance instrument.”

Member’s explanatory statement

This amendment excludes the extraterritorial provision in cases where any mutual assistance arrangement exists between the UK and the provider’s jurisdiction. This amendment would continue to enable government to seek voluntary assistance from CSPs in non-MLA countries.

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnoek
Sue Hayman

530

Clause 167, page 130, line 12, at end insert—

“(7) A warrant may be implemented only to the extent required for the purpose for which the warrant was issued.”

Member’s explanatory statement

This amendment would bring the implementation of warrants into line with section 16(8) of PACE 1984.

 Investigatory Powers Bill, *continued*

Joanna Cherry Gavin Newlands		583
Page 129, line 25, leave out Clause 167		
<hr/>		
Joanna Cherry Gavin Newlands		584
Page 130, line 14, leave out Clause 168		
<hr/>		
Joanna Cherry Gavin Newlands		585
Page 131, line 33, leave out Clause 169		
<hr/>		
Mr John Hayes		624
Clause 170, page 132, line 7, leave out from beginning to “is” and insert “the selection of any of the material obtained under the warrant for examination”		
<i>Member’s explanatory statement</i>		
<i>This amendment makes a minor drafting correction.</i>		
Mr John Hayes		625
Clause 170, page 132, line 14, after “warrant”, insert “for examination”		
<i>Member’s explanatory statement</i>		
<i>This amendment makes a minor drafting correction.</i>		
Joanna Cherry Gavin Newlands		586
Page 132, line 4, leave out Clause 170		
<hr/>		
Keir Starmer Jo Stevens Christian Matheson Peter Kyle Stephen Kinnock Sue Hayman		512
Clause 171, page 133, line 38, after “items”, insert “presumptively”		

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

513

Clause 171, page 133, line 40, at end insert “and
(c) where paragraph (b)(i) applies, compelling evidence indicates that the items in question consist of, or relate to, communications made for a criminal purpose such that it is necessary to authorise or require the selection for examination of those items.”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

514

Clause 171, page 133, line 42, leave out from “a” to “has” and insert “Judicial Commissioner”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

515

Clause 171, page 133, line 44, leave out “senior official” and insert “Judicial Commissioner”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

516

Clause 171, page 133, line 45, leave out “official” and insert “Judicial Commissioner”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

517

Clause 171, page 134, line 2, leave out from “privilege” to end of line 5

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 171, page 134, line 6, after “item”, insert “presumptively”

518

Joanna Cherry
Gavin Newlands

Page 133, line 30, leave out Clause 171

587

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

Clause 172, page 134, line 17, at end insert—

“(2) Section 100 (*items subject to legal privilege*) applies in relation to an application for a bulk equipment interference warrant as it applies in relation to an application for a targeted equipment interference.”

519

Joanna Cherry
Gavin Newlands

Page 134, line 12, leave out Clause 172

588

Joanna Cherry
Gavin Newlands

Page 134, line 19, leave out Clause 173

589

Joanna Cherry
Gavin Newlands

Page 135, line 4, leave out Clause 174

590

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

591

Page 135, line 21, leave out Clause 175

Mr John Hayes

626

Clause 176, page 136, line 4, after “Sections”, insert “181(7A),”

Member’s explanatory statement

This amendment and amendments 627 and 628 clarify that there is no breach of Clause 175(1) and (2) where a bulk personal dataset is retained or examined in accordance with conditions imposed by a Judicial Commissioner under Clause 181(3) (following a decision by the Judicial Commissioner not to approve the issue of a warrant in an urgent case under Part 7).

Mr John Hayes

627

Clause 176, page 136, line 5, after “with”, insert “cases where a Judicial Commissioner refuses to approve a specific BPD warrant,”

Member’s explanatory statement

See the explanatory statement for amendment 626.

Joanna Cherry
Gavin Newlands

592

Page 135, line 37, leave out Clause 176

Joanna Cherry
Gavin Newlands

593

Page 136, line 8, leave out Clause 177

Joanna Cherry
Gavin Newlands

594

Page 137, line 1, leave out Clause 178

 Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

534

Clause 179, page 138, line 23, at end insert “but a Judicial Commissioner may not approve a warrant unless he is satisfied that there are reasonable grounds for believing that it is both necessary and proportionate to do so”

Member’s explanatory statement

This amendment would clarify the judicial review process by ensuring that both the process and underlying facts of an interception of communications warrant are considered by a Judicial Commissioner.

Joanna Cherry
 Gavin Newlands

595

Page 138, line 3, leave out Clause 179

Joanna Cherry
 Gavin Newlands

596

Page 138, line 31, leave out Clause 180

Mr John Hayes

628

Clause 181, page 139, line 32, at end insert—

“(7A) An intelligence service is not to be regarded as in breach of section 175(1) or (2) where it retains or (as the case may be) examines a bulk personal dataset in accordance with conditions imposed under subsection (3)(b).”

Member’s explanatory statement

See the explanatory statement for amendment 626.

Joanna Cherry
 Gavin Newlands

597

Page 139, line 4, leave out Clause 181

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 139, line 39, leave out Clause 182

598

Joanna Cherry
Gavin Newlands

Page 140, line 11, leave out Clause 183

599

Joanna Cherry
Gavin Newlands

Page 141, line 2, leave out Clause 184

600

Joanna Cherry
Gavin Newlands

Page 141, line 24, leave out Clause 185

601

Mr John Hayes

Clause 186, page 143, line 9, leave out “(urgent cases)”

Member’s explanatory statement

This amendment is consequential on amendment 630.

629

Mr John Hayes

Clause 186, page 143, line 10, leave out from beginning to “the” in line 15 and insert—

“() If it is not reasonably practicable for an instrument making a major modification to be signed by the Secretary of State, the instrument may be signed by a senior official designated by the Secretary of State for that purpose.

() In such a case, the instrument making the modification must contain a statement that—

(a) it is not reasonably practicable for the instrument to be signed by the Secretary of State, and

(b) ”

Member’s explanatory statement

This amendment enables an instrument making a major modification of a warrant under Part 7 to

630

Investigatory Powers Bill, *continued*

be signed by a senior official in any case where it is not reasonably practicable for the Secretary of State to sign it.

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

527

Clause 186, page 143, line 16, at end insert—

“(12) Any modification which constitutes the adding or varying any matter must be approved by a Judicial Commissioner in accordance with section 179.”

Member’s explanatory statement

This amendment adds the requirement to obtain approval from a Judicial Commissioner for any modification which constitutes the adding or varying (but not removing) any matter for each type of warrant.

Joanna Cherry
Gavin Newlands

602

Page 142, line 9, leave out Clause 186

Joanna Cherry
Gavin Newlands

603

Page 143, line 17, leave out Clause 187

Joanna Cherry
Gavin Newlands

604

Page 144, line 1, leave out Clause 188

Joanna Cherry
Gavin Newlands

605

Page 144, line 19, leave out Clause 189

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

Page 145, line 37, leave out Clause 190

606

Joanna Cherry
Gavin Newlands

Page 146, line 41, leave out Clause 191

607

Mr John Hayes

Clause 192, page 147, line 37, after “that”, insert “—
(a) ”

631

Member’s explanatory statement

This amendment is consequential on amendment 632.

Mr John Hayes

Clause 192, page 147, line 40, at end insert—

632

“(b) where sections 49 to 51 applied in relation to the bulk personal dataset immediately before the giving of the direction, they continue to apply in relation to it with the modification that the reference in section 50(6)(a) to the provisions of Part 2 is to be read as including a reference to the provisions of this Part.”

Member’s explanatory statement

This amendment provides that, where the Secretary of State gives a direction under Clause 192(3) with the effect that Part 7 applies to a bulk personal dataset obtained under a warrant issued under Part 2 of the Bill, the direction must ensure that clauses 49 to 51 of that Part continue to apply in relation to the disclosure of the bulk personal dataset (with a modification to ensure that certain disclosures made in connection with the giving of legal advice about Part 7 are excepted disclosures for the purposes of Clause 49).

Mr John Hayes

Clause 192, page 148, line 8, at end insert—

633

“(10A) Subsections (7) to (9) apply in relation to the variation of a direction under subsection (3) as they apply in relation to the giving of a direction under that subsection.”

Member’s explanatory statement

This amendment provides that a direction under Clause 192(3) may be varied by the Secretary of State only with the approval of a Judicial Commissioner.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

608

Page 147, line 12, leave out Clause 192

Joanna Cherry
Gavin Newlands

609

Page 148, line 20, leave out Clause 193

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

80

Clause 225, page 176, line 44, at end insert “and for the purposes (and only the purposes) of this Act, including the application of paragraphs (a), (b) and (c), a “criminal purpose” includes the purpose of—

- (i) doing or facilitating anything involving an imminent threat of death or serious injury or an imminent and serious threat to national security, or
- (ii) concealing, or impeding the detection or prevention of, the doing or facilitation of any of those things;”.

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

81

Clause 225, page 177, line 6, at end insert—

“presumptively subject to legal privilege”, in relation to an item, means that disregarding any question of criminal purpose, the item falls to be treated as subject to legal privilege;”.

Investigatory Powers Bill, *continued*

Mr John Hayes

634

Schedule 10, page 235, line 33, leave out paragraph 46

Member's explanatory statement

This amendment omits the amendments of paragraph 19ZD of Schedule 3 to the Police Reform Act 2002. Paragraph 19ZD is to be repealed by the Policing and Crime Bill.

 NEW CLAUSES

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

NC1

To move the following Clause—

“Power of Secretary of State to certify warrants

- (1) The Secretary of State may certify a warrant in those cases where—
 - (a) The Secretary of State has reasonable grounds to believe that the conduct authorised by the warrant is necessary pursuant to section 18(2)(a) (national security) and relates to—
 - (i) the defence of the United Kingdom by Armed Forces; or
 - (ii) the foreign policy of the United Kingdom.
 - (b) The Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.
- (2) A warrant certified by the Secretary of State under subsection (1) is subject to approval by a Judicial Commissioner.
- (3) In deciding whether to approve a warrant certified by the Secretary of State under subsection (1), the Judicial Commissioner must determine whether—
 - (a) the warrant is capable of certification by the Secretary of State under subsection (1); and
 - (b) in the opinion of the Judicial Commissioner, approving the warrant is necessary on relevant grounds under section 18(2)(a) and subsection (1)(a) or (b) of this section.
- (4) Where a Judicial Commissioner refuses to approve a warrant certified by the Secretary of State under this Section, the Judicial Commissioner must produce written reasons for that decision.
- (5) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, refuses to approve a warrant under subsection (3), the Secretary of State, or any special advocate appointed may ask the investigatory Powers Commissioner to decide whether to approve the warrant.”

Member's explanatory statement

This new clause is intended to replace existing Clause 21 and provides for the Secretary of State to certify warrants in cases concerning defence or foreign policy before they are considered by a judicial commissioner.

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

NC2

To move the following Clause—

“Items subject to legal privilege

- (1) A warrant under this Chapter, or under Chapter 1 of Part 6, may not authorise conduct undertaken for the purpose of doing anything in relation to—
 - (a) a communication, insofar as the communication consists of matters subject to legal privilege; or
 - (b) related communications data, insofar as the data relate to the communication of matters subject to legal privilege.
- (2) For the purposes of subsection (1), legal privilege means—
 - (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client or any person representing his client and any other person with or in contemplation of legal proceedings or for the purposes of such proceedings;
 - (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice, or
 - (ii) in connection with the contemplation of legal proceedings or for the purposes of such proceedings.
- (3) Communications made with the intention of furthering a criminal purpose are not subject to legal privilege.
- (4) An application which contains a statement that the purpose of a warrant is to access communications made for the purpose of furthering a criminal purpose, but which would otherwise attract legal privilege must be considered by a Judicial Commissioner.
- (5) A Judicial Commissioner may issue a warrant sought under subsection (3), if satisfied that—
 - (a) there are reasonable grounds to believe that the communications are made with the intent of furthering a criminal purpose;
 - (b) that the material is likely to be of substantial value to the investigation in connection with which the application is made;
 - (c) that the material concerned is likely to be relevant evidence;
 - (d) other proportionate methods of obtaining the information have been tried without success or were not tried because they were bound to fail; and
 - (e) it is in the public interest that the warrant is granted, having regard to the—
 - (i) benefit likely to accrue to the investigation and prosecution if the information is accessed,
 - (ii) the importance of the prosecution, or
 - (iii) the importance of maintaining public confidence in the confidentiality of material subject to legal professional privilege.

Investigatory Powers Bill, *continued*

- (6) A code of practice issued under Schedule 6 must contain provision about—
- (a) the steps to be taken to minimise the risk of conduct undertaken pursuant to a warrant to which this section applies resulting in accidental acquisition of a communication, or communications data, falling within subsection (1); and
 - (b) the steps to be taken if it appears that such conduct has accidentally resulted in acquisition of such a communication or data.”

Member’s explanatory statement

This new clause is intended to replace existing clause 25 and seeks to clarify the approach to legal privilege in line with existing law.

Joanna Cherry
Gavin Newlands

NC3

To move the following Clause—

“Tort or delict of unlawful interception

Any interception of a communication which is carried out without lawful authority at any place in the United Kingdom by, or with the express or implied consent of, a person having the right to control the operation or the use of a private telecommunication system shall be actionable by the sender or recipient, or intended recipient, of the communication if it is either—

- (a) an interception of that communication in the course of its transmission by means of that private system; or
- (b) an interception of that communication in the course of its transmission, by means of a public telecommunication system, to or from apparatus comprised in that private telecommunication system.”

Member’s explanatory statement

This new clause creates a civil wrong of unlawful interception.

Joanna Cherry
Gavin Newlands

NC4

To move the following Clause—

“Tort or delict of unlawfully obtaining communications data

The collection of communications data from a telecommunications operator, telecommunications service, telecommunications system or postal operator without lawful authority shall be actionable as a civil wrong by any person who has suffered loss or damage by the collection of the data.”

Member’s explanatory statement

This new clause creates a civil wrong of unlawful obtaining of communications data.

Investigatory Powers Bill, *continued*Joanna Cherry
Gavin Newlands

NC5

To move the following Clause—

“Power of Secretary of State to certify warrants

- (1) The Secretary of State may certify an application for a warrant in those cases where the Secretary of State has reasonable grounds to believe that an application is necessary pursuant to section 18(2)(a) (national security) and involves—
 - (a) the defence of the United Kingdom by Armed Forces; or
 - (b) the foreign policy of the United Kingdom.
- (2) A warrant may be certified by the Secretary of State if—
 - (a) the Secretary of State considers that the warrant is necessary on grounds falling within section 18; and
 - (b) the Secretary of State considers that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.
- (3) Any warrant certified by the Secretary of State subject to subsection (1) is subject to approval by a Judicial Commissioner.
- (4) In deciding to approve a warrant pursuant to this section, the Judicial Commissioner must determine whether—
 - (a) the warrant is capable of certification by the Secretary of State subject to subsection (1);
 - (b) the warrant is necessary on relevant grounds subject to section 18(2)(a) and subsection (1)(a) or (b); and
 - (c) the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct.
- (5) Where a Judicial Commissioner refuses to approve the person’s decision to approve a warrant under this section, the Judicial Commissioner must produce written reasons for the refusal.
- (6) Where a Judicial Commissioner, other than the Investigatory Powers Commissioner, approves or refuses to approve a warrant under this Section, the person, or any Special Advocate appointed, may ask the Investigatory Powers Commissioner to decide whether to approve the decision to issue the warrant.”

Joanna Cherry
Gavin Newlands

NC6

To move the following Clause—

“Items subject to legal privilege (No. 2)

- (1) A warrant under this Chapter, or under Chapter 1 of Part 6, may not authorise conduct undertaken for the purpose of doing anything in relation to—
 - (a) a communication, insofar as the communication consists of matters subject to legal privilege;
 - (b) related communications data, insofar as the data relate to the communication of matters subject to legal privilege.

Investigatory Powers Bill, *continued*

- (2) For the purposes of subsection (1), legal privilege means—
- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client or any person representing his client and any other person with or in contemplation of legal proceedings or for the purposes of such proceedings;
 - (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with the contemplation of legal proceedings or for the purposes of such proceedings.
 - (d) communications made with the intention of furthering a criminal purpose are not subject to legal privilege.
- (3) An application which contains a statement that the purpose of a warrant is to access communications made for the purpose of furthering a criminal purpose, but which would otherwise attract legal privilege must be considered by a Judicial Commissioner.
- (4) A Judicial Commissioner may issue a warrant sought under subsection (3), if satisfied that—
- (a) there are reasonable grounds to believe that the communications are made with the intent of furthering a criminal purpose;
 - (b) that the material is likely to be of substantial value to the investigation in connection with which the application is made; and
 - (c) that the material concerned is likely to be relevant evidence;
 - (d) other proportionate methods of obtaining the information have been tried without success or were not tried because they were bound to fail;
 - (e) it is in the public interest that the warrant is granted, having regard to the—
 - (i) the benefit likely to accrue to the investigation and prosecution if the information is accessed;
 - (ii) the importance of the prosecution; and
 - (iii) the importance of maintaining public confidence in the confidentiality of material subject to legal professional privilege.
- (5) A code of practice issued under Schedule 6 must contain provision about—
- (a) the steps to be taken to minimise the risk of conduct undertaken pursuant to a warrant to which this section applies resulting in accidental acquisition of a communication, or communications data, falling within subsection (1);
 - (b) the steps to be taken if it appears that such conduct has accidentally resulted in acquisition of such a communication or data.”

Member's explanatory statement

This new clause clarifies the approach to legal professional privilege on the face of the Bill and brings it into line with the spirit of existing case-law, the common law and PACE.

Investigatory Powers Bill, *continued*

Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle
 Stephen Kinnock
 Sue Hayman

Joanna Cherry

Gavin Newlands

NC7

To move the following Clause—

“Persons who may apply for issue of warrant

- (1) Each of the following organisations may apply for a communications data retention warrant—
- (a) a police force maintained under section 2 of the Police Act 1996,
 - (b) the Metropolitan Police Force,
 - (c) the City of London Police Force,
 - (d) the Police Service of Scotland,
 - (e) the Police Service of Northern Ireland,
 - (f) the British Transport Police Force,
 - (g) the Ministry of Defence Police,
 - (h) the Royal Navy Police,
 - (i) the Royal Military Police,
 - (j) the Royal Air Force Police,
 - (k) the Security Service,
 - (l) the Secret Intelligence Service,
 - (m) GCHQ, and
 - (n) the National Crime Agency.”

Joanna Cherry
 Gavin Newlands

NC8

To move the following Clause—

“Equipment interference: risk assessment

A person making an application for a warrant involving equipment interference must make a detailed assessment of—

- (a) the risk to the security or integrity of systems or networks that the proposed activity may involve;
 - (b) the risk to the privacy of those not being specifically targeted;
 - (c) the steps they propose to take to minimise the risks in subsection (a) and (b).”
-

Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

NC9

To move the following Clause—

“Critical national infrastructure: risk assessment

The person making an application for a warrant under this part must make a detailed assessment of the risks of the proposed activity to any critical national infrastructure.”

Joanna Cherry
Gavin Newlands

NC10

To move the following Clause—

“Requirements that must be met by warrants

- (1) A warrant issued under this Part must name or otherwise identify the person or persons, organisation, premises, or location to which the warrant relates.
- (2) A warrant issued under this Part must describe the investigation or operation to which the warrant relates..
- (3) A warrant issued under this Part must relate to one or more of the following purposes—
 - (a) in the interests of national security, or
 - (b) for the purpose of preventing or detecting serious crime, where there is reasonable suspicion that a serious criminal offence has been or is likely to be committed, or
 - (c) for the purpose of preventing death or injury.
- (4) A warrant may only be issued under this Part if there are reasonable grounds for believing that the material is likely to be of substantial value to the investigation or operation to which the warrant relates.”

Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

NC11

To move the following Clause—

“Confidential and privileged material

- (1) Where any conduct under this Part will cover or is likely to cover special procedure material, or relates to individuals handling special procedure material, the application must contain—
 - (a) a statement that the conduct will cover or is likely to cover special procedure material, or relates to individuals handling special procedure material, and
 - (b) an assessment of how likely it is that the material is likely to cover special procedure material.
- (2) Where any conduct under this Part is likely to cover excluded procedure material, or relates to individuals handling excluded procedure material, the application must contain—
 - (a) a statement that the conduct will cover or is likely to cover excluded procedure material, or relates to individuals handling excluded procedure material, and
 - (b) an assessment of how likely it is that the material is likely to cover excluded procedure material.
- (3) Where a warrant issued under this Part will cover or is likely to cover special procedure material, or relates to individuals handling special procedure material, the procedure set out at section 5 below must be followed.
- (4) Where a warrant issued under this Part will cover or is likely to cover excluded procedure material, or relates to individuals handling excluded procedure material, the procedure set out at section 6 below must be followed.
- (5) Further to the requirements set out elsewhere in this part, the Judicial Commissioner may only issue a warrant if—
 - (a) there are reasonable grounds for believing that an indictable offence has been committed, and
 - (b) there are reasonable grounds for believing that the material is likely to be of substantial value to the investigation in connection to the offence at (a), and
 - (c) other proportionate methods of obtaining the material have been tried without success or have not been tried because they were assessed to be bound to fail, and
 - (d) it is in the public interest having regard to—
 - (i) the public interest in the protection of privacy and the integrity of personal data, and
 - (ii) the public interest in the integrity of communications systems and computer networks, and
 - (iii) the democratic importance of freedom of expression under article 10 ECHR to grant the warrant; or
 - (iv) the democratic interest in the confidentiality of correspondence with members of a relevant legislature; or

Investigatory Powers Bill, *continued*

- (v) the importance of maintaining public confidence in the confidentiality of material subject to legal professional privilege.
 - (6) Further to the requirements set out elsewhere in this part, the Judicial Commissioner may only issue a warrant in accordance with provisions made in Schedule 1 of the Police and Criminal Evidence Act and Schedule 5 of the Terrorism Act.
 - (7) An application for a warrant under this Part must not be granted where the information could be sought using a warrant under schedule 1 PACE, unless seeking this information under PACE would defeat the purpose of the investigation.
 - (8) Special procedure material means—
 - (a) special material as defined in section 14 of the Police and Criminal Evidence Act 1984;
 - (b) correspondence sent by or intended for a member of the relevant legislature.
 - (9) Excluded material procedure has the same meaning as in section 11 of the Police and Criminal Evidence Act 1984.
 - (10) A warrant under this Part may not authorise any conduct undertaken for the purpose of accessing any material relating to matters subject to legal privilege.
 - (11) For the purposes of subsection (10), “legal privilege” means—
 - (a) communications between a professional legal adviser and their client or any person representing their client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and their client or any person representing their client and any other person with or in contemplation of legal proceedings or for the purposes of such proceedings;
 - (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice, or
 - (ii) in connection with the contemplation of legal proceedings or for the purposes of such proceedings;
 - (d) communications made with the intention of furthering a criminal purpose are not subject to legal privilege.
 - (12) Where the purpose of the warrant is to conduct interference to obtain material that would normally be subject to legal privilege but that falls within subsection (11)(d), the interference and examination conduct authorised must relate—
 - (a) to the offence as specified under subsection (5)(a), or
 - (b) to some other indictable offence which is connected with or similar to the offence as specified under subsection (5)(a).”
-

 Investigatory Powers Bill, *continued*

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

NC12

To move the following Clause—

“Notification

- (1) Upon completion of conduct authorised by a warrant under this Part, or the cancellation of a warrant issued under this Part, a Judicial Commissioner must notify the affected party, in writing, of—
 - (a) the conduct that has taken place, and
 - (b) the provisions under which the conduct has taken place.
- (2) The notification under subsection (1) must be sent within thirty days of the completion of the conduct or cancellation of the warrant.
- (3) A Judicial Commissioner may postpone the notification under subsection (1) beyond the time limit under subsection (2) if the Judicial Commissioner assesses that notification may defeat the purposes of an ongoing serious crime or national security investigation relating to the affected party.
- (4) A Judicial Commissioner must consult with the person to whom the warrant is addressed in order to fulfil an assessment under subsection (3).”

Member’s explanatory statement

This amendment would introduce a requirement that all equipment interference produces a verifiable audit trail. This will be particularly vital to the success and legitimacy of prosecutions. It is recommended that further provision for the independent verification of audit trails is included in Part 8 (Oversight Arrangements).

Joanna Cherry
 Gavin Newlands
 Keir Starmer
 Jo Stevens
 Christian Matheson
 Peter Kyle

Stephen Kinnock

Sue Hayman

NC13

To move the following Clause—

“Audit trail of equipment interference

Any conduct authorised under a warrant issued under this Part must be conducted in a verifiable manner, so as to produce a chronological record of documentary evidence detailing the sequence of activities (referred to hereafter as “the audit trail”).”

Investigatory Powers Bill, *continued*

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

NC14

To move the following Clause—

“Authorisations in relation to items subject to legal privilege

- (1) Subsections (2) and (3) apply if—
 - (a) an application is made by or on behalf of a relevant public authority for authorisation under this Part, and
 - (b) the purpose, or one of the purposes, of the authorisation is to obtain communications data which contains, or might tend to reveal the content of, items presumptively subject to legal privilege.
- (2) The application must contain a statement that the purpose, or one of the purposes, of the authorisation is to obtain communications data which contains, or might tend to reveal the content of, items presumptively subject to legal privilege.
- (3) The person to whom the application is made may grant the authorisation only if the person considers—
 - (a) that compelling evidence indicates that the items in question consist of, or relate to, communications made for a criminal purpose such that it is necessary to authorise the acquisition of the communications data in question, and
 - (b) that the relevant public authority has made arrangements of the kind described in section 46 (*safeguards relating to retention and disclosure of intercepted material*), including specific arrangements for the handling, retention, use and destruction of such items.
- (4) Subsections (5) and (6) apply if—
 - (a) an application is made by or on behalf of a relevant public authority for authorisation under this Part,
 - (b) the relevant public authority considers that the relevant communications data is likely to include communications data which contains, or might tend to reveal the content of, items subject to legal privilege, and
 - (c) subsections (2) and (3) do not apply.
- (5) The application must contain—
 - (a) a statement that the relevant public authority considers that the relevant communications data is likely to include communications data which contains, or might tend to reveal the content of, items subject to legal privilege, and
 - (b) an assessment of how likely it is that the relevant communications data will include communications data which contains, or might tend to reveal the content of, such items.
- (6) The person to whom the application is made may grant the authorisation only if the person considers that the relevant public authority has made arrangements of the kind described in section 46 (*safeguards relating to retention and disclosure of material*), including specific arrangements for the handling, retention, use and destruction of any communications data which contains, or might tend to reveal the content of, items subject to legal privilege.
- (7) Subsections (1) to (6) of section 68 (*commissioner approval for authorisations in relation to journalistic sources*) apply to an authorisation to which this section applies as they apply to an authorisation in relation to the obtaining by a relevant

Investigatory Powers Bill, *continued*

public authority of communications data for the purpose mentioned in subsection (1)(a) of that section.

- (8) In this section “relevant communications data” means any communications data the obtaining of which is authorised by the authorisation.”

Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

NC15

To move the following Clause—

“Safeguards relating to items subject to legal privilege

- (1) Section [*Authorisations in relation to items subject to legal privilege*] applies, with the necessary modifications, in relation to an application for a bulk acquisition warrant as it applies in relation to an application for an authorisation under Part 3.
- (2) Section 135 [*additional safeguards for items subject to legal privilege*] applies, with the necessary modifications, to the selection for examination of communications data obtained under a bulk acquisition warrant as it applies to the selection for examination of intercepted content obtained under a bulk interception warrant.”

Keir Starmer
Jo Stevens
Chris Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman

NC16

To move the following Clause—

“Review of Bulk Powers

Saving this section, Part 6 shall not come into force until—

- (a) the Secretary of State has established an independent review of the operational case for bulk powers contained in sections 119 to 173; and
- (b) the review has been published and a copy laid before each House of Parliament.”
-

Investigatory Powers Bill, *continued*

ORDER OF THE HOUSE [15 MARCH 2016]

That the following provisions shall apply to the Investigatory Powers Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 5 May 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and up to and including Third Reading shall be taken in two days in accordance with the following provisions of this Order.
5. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the second day.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.
7. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.

ORDER OF THE COMMITTEE [24 MARCH 2016, AS AMENDED, 12 APRIL 2016]

That—

- (1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 24 March) meet—
 - (a) at 2.00 pm on Thursday 24 March;
 - (b) at 9.25 am and 2.00 pm on Tuesday 12 April;
 - (c) at 11.30 am and 2.00 pm on Thursday 14 April;
 - (d) at 9.25 am and 2.00 pm on Tuesday 19 April;
 - (e) at 11.30 am and 2.00 pm on Thursday 21 April;
 - (f) at 9.25 am and 2.00 pm on Tuesday 26 April;
 - (g) at 11.30 am and 2.00 pm on Thursday 28 April;
 - (h) at 4.30 pm and 7.00 pm on Tuesday 3 May;
 - (i) at 11.30 am and 2.00 pm on Thursday 5 May;
- (2) the Committee shall hear oral evidence on Thursday 24 March in accordance with the following Table:

 Investigatory Powers Bill, *continued*

TABLE

<i>Time</i>	<i>Witness</i>
Until no later than 12.00 pm	David Anderson Q.C., independent reviewer of terrorism legislation
Until no later than 12.30 pm	Don't Spy on Us; Liberty
Until no later than 1.00 pm	International Institute for Strategic Studies; Lord Evans of Weardale
Until no later than 2.30 pm	NSPCC; Mr Ray McClure
Until no later than 3.00 pm	BT
Until no later than 3.30 pm	National Crime Agency; HM Revenue and Customs
Until no later than 4.00 pm	National Anti-Fraud Network
Until no later than 4.30 pm	Lord Judge, Chief Surveillance Commissioner; Interception of Communications Commissioner's Office
Until no later than 5.00 pm	The Rt. Hon. the Lord Reid of Cardowan; The Rt. Hon. Charles Clarke

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 6; Schedule 1; Clauses 7 to 10; Schedule 2; Clauses 11 to 48; Schedule 3; Clauses 49 to 61; Schedule 4; Clauses 62 to 74; Schedule 5; Clauses 75 to 96; Schedule 6; Clauses 97 to 207; Schedule 7; Clauses 208 to 212; Schedule 8; Clauses 213 to 231; Schedule 9; Clause 232; Schedule 10; Clause 233; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 5 May.

 NOTICES WITHDRAWN

The following Notices were withdrawn on 23 March 2016:

1

The following Notices were withdrawn on 13 April 2016:

163, 167
