



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Friday 8 April 2016

New Amendments handed in are marked thus ★

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

PUBLIC BILL COMMITTEE

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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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].

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

Stephen Kinnock

Sue Hayman

57

☆ Clause 13, page 10, line 16, after “content”, insert “or secondary data”

Member’s explanatory statement

This amendment, and others to Clause 13, seek to expand the requirement of targeted examination warrants to cover the examination of all information or material obtained through bulk interception warrant, or bulk equipment interference warrant, irrespective of whether the information is referable to an individual in the British Islands. They would also expand the requirement of targeted examination warrants to cover the examination of “secondary data” obtained through bulk interception warrants and “equipment data” and “information” obtained through bulk equipment interference warrants.

 Investigatory Powers Bill, *continued*

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

58

- ☆ Clause 13, page 10, line 17, leave out from “examination” to “islands)” to end of line 18

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

59

- ☆ Clause 13, page 10, line 17, leave out from “examination.” to end of line 18 and insert “of material referable to an individual known to be in the British Islands at that time, or British citizen outside the British Islands at that time.”

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

60

- ☆ Clause 13, page 10, line 17, leave out from “examination.” to end of line 18 and insert “of material referable to an individual known to be in the British Islands at that time, or British, Canadian, American, New Zealand or Australian citizen outside the British Islands at that time.”

Joanna Cherry
 Gavin Newlands

83

- ☆ Clause 13, page 10, line 22, after “6”, insert—
 “In this Part “secondary data” means—
 (a) in relation to a communication transmitted by means of a postal service, means any data falling within subsection (5);
 (b) in relation to a communication transmitted by means of a telecommunication system, means any data falling within subsection (5) or (6).”
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Joanna Cherry
 Gavin Newlands

84

- ☆ Page 11, line 15, leave out Clause 14
-

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

4

☆ Clause 15, page 12, line 3, leave out “or organisation”

Member’s explanatory statement

This amendment, and others to Clause 15, seek to preserve the capacity of a single warrant to permit the interception of multiple individuals while requiring an identifiable subject matter or premises to be provided.

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

Stephen Kinnock

Sue Hayman

5

☆ Clause 15, page 12, line 8, after “activity” insert “where each person is named or otherwise identified”

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

Stephen Kinnock

Sue Hayman

6

☆ Clause 15, page 12, line 9, leave out “or organisation”

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

Stephen Kinnock

Sue Hayman

7

☆ Clause 15, page 12, line 11, after “operation”, insert “where each person is named or otherwise identified”

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

8

☆ Clause 15, page 12, line 12, leave out paragraph (2)(c)

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

Stephen Kinnock

Sue Hayman

9

☆ Clause 15, page 12, line 13, leave out subsection (3)

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

Stephen Kinnock

Sue Hayman

10

☆ Clause 17, page 13, line 4, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

11

☆ Clause 17, page 13, line 5, leave out “Secretary of State” and insert “Judicial Commissioners”

Member’s explanatory statement

This amendment, and others to Clause 17, seeks to remove the role of the Secretary of State in formally issuing interception warrants and instead requires Judicial Commissioners to issue such warrants.

Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

12

☆ Clause 17, page 13, line 8, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

13

☆ Clause 17, page 13, line 10, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

14

☆ Clause 17, page 13, line 12, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

15

☆ Clause 17, page 13, line 16, leave out paragraph (1)(d)

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

- 16**
- ☆ Clause 17, page 13, line 20, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

- 17**
- ☆ Clause 17, page 13, line 22, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

- 18**
- ☆ Clause 17, page 13, line 24, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

- 19**
- ☆ Clause 17, page 13, line 27, leave out “Secretary of State” and insert “Judicial Commissioners”

Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

20

☆ Clause 17, page 13, line 31, leave out paragraph (2)(d)

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

Stephen Kinnock

Sue Hayman

21

☆ Clause 17, page 13, line 35, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

22

☆ Clause 17, page 13, line 37, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

23

☆ Clause 17, page 13, line 39, leave out “Secretary of State” and insert “Judicial Commissioners”

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

- 24**
- ☆ Clause 17, page 13, line 42, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

- 25**
- ☆ Clause 17, page 13, line 45, leave out paragraph (3)(d)

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

- 61**
- ☆ Clause 17, page 14, line 1, leave out subsection (4) and insert—
 “(4) No warrant issued under this Part will be proportionate if the information sought could reasonably be obtained by other less intrusive means”

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

Stephen Kinnock

Sue Hayman

- 26**
- ☆ Clause 17, page 14, line 5, leave out “Secretary of State” and insert “Judicial Commissioners”

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

27

- ☆ Clause 17, page 14, line 8, leave out “Secretary of State” and insert “Judicial Commissioners”

Joanna Cherry
 Gavin Newlands

101

- ☆ Clause 17, page 14, line 11, leave out “For the power of the Scottish Ministers to issue warrants under this Chapter, see section 19.”

Member’s explanatory statement

This amendment reflects the removal of the role of the Scottish Ministers in formally issuing interception warrants sought by Amendment 36 (which proposes leaving out section 19).

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

Stephen Kinnock

Sue Hayman

28

- ☆ Clause 17, page 14, line 13, leave out “Secretary of State” and insert “Judicial Commissioners”
-

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

Stephen Kinnock

Sue Hayman

29

- ☆ Clause 18, page 14, line 16, leave out “Secretary of State” and insert “Judicial Commissioners”

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

30

☆ Clause 18, page 14, line 20, after “security”, insert “or”

Joanna Cherry
 Gavin Newlands

85

☆ Clause 18, page 14, line 20, after “security” insert “where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed”

Member’s explanatory statement

This amendment, and others to Clause 18, seeks to require that the grounds for an interception or examination warrant are tied to a threshold of reasonable suspicion of criminal behaviour; and that reference to a separate ground of “economic well-being, etc.” is deleted from the face of the bill.

Joanna Cherry
 Gavin Newlands

86

☆ Clause 18, page 14, line 21, after “crime” insert “where there is a reasonable suspicion that a serious criminal offence has been or is likely to be committed”

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

Stephen Kinnock

Sue Hayman

31

☆ Clause 18, page 14, line 21, leave out “or”

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

Stephen Kinnock

Sue Hayman

32

☆ Clause 18, page 14, line 22, leave out paragraph (2)(c)

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

33

- ☆ Clause 18, page 14, line 30, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

34

- ☆ Clause 18, page 14, line 31, leave out “Secretary of State” and insert “Judicial Commissioners”

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

Stephen Kinnock

Sue Hayman

35

- ☆ Clause 18, page 14, line 33, leave out subsection (4)
-

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

Stephen Kinnock

Sue Hayman

36

- ☆ Page 14, line 39, leave out Clause 19

Member’s explanatory statement

This amendment would remove the role of Scottish Ministers in formally issuing interception warrants and instead require Judicial Commissioners to issue such warrants.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

87

- ☆ Page 16, line 8, leave out Clause 20
Member's explanatory statement
This amendment is consequential on the leaving out of clause 19
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Joanna Cherry
Gavin Newlands
Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle

Stephen Kinnock

Sue Hayman

62

- ☆ Clause 21, page 17, line 4, leave out from “must” to “the following matters” in line 5 and insert “determine”

Joanna Cherry
Gavin Newlands

89

- ☆ Clause 21, page 17, line 10, leave out subsection (2)

Mr John Hayes

2

- ☆ Clause 21, page 17, line 13, leave out from “a” to “grounds” and insert “decision of the Secretary of State to issue a warrant,”
Member's explanatory statement
This amendment makes a minor drafting change to take account of the fact that Clause 21 may also apply in a case where a warrant has already been issued (see Clause 22).

Mr John Hayes

3

- ☆ Clause 21, page 17, line 15, leave out from “a” to “grounds” and insert “decision of the Scottish Ministers to issue a warrant,”
Member's explanatory statement
This amendment makes a minor drafting change to take account of the fact that Clause 21 may also apply in a case where a warrant has already been issued (see Clause 22).

Joanna Cherry
Gavin Newlands

102

- ☆ Clause 21, page 17, line 23, at end insert—
“(6) In consideration of any warrant pursuant to this Part, a Judicial Commissioner may instruct a special advocate to represent the interests of any person or persons subject to the warrant or the wider public interest.
(7) A Judicial Commissioner must instruct a special advocate when considering applications for a warrant—
(a) in the interests of national security; or

Investigatory Powers Bill, *continued*

- (b) involving the consideration of items subject to legal professional privilege.
- (8) For the purposes of these proceedings special advocates are persons appointed by the relevant law officer.
- (9) The “appropriate law officer” is—
 - (a) in relation to warrants in England and Wales, the Attorney General,
 - (b) in relation to warrants in Scotland, in relation to (7)(a), the Advocate General for Scotland, and in relation to (7)(b), the Lord Advocate, and
 - (c) in relation to warrants in Northern Ireland, the Advocate General for Northern Ireland.
- (10) A person may be appointed as a special advocate only if—
 - (a) in the case of an appointment by the Attorney General, the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990,
 - (b) in the case of an appointment by the Advocate General for Scotland or the Lord Advocate, the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980, and
 - (c) in the case of an appointment by the Advocate General for Northern Ireland, the person is a member of the Bar of Northern Ireland.”

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

38

☆ Clause 21, page 17, line 23, at end add—

- “(6) In considering a warrant pursuant to this Part, a Judicial Commissioner may instruct a special advocate to represent the interests of any person or persons subject to the warrant or the wider public interest.
- (7) In considering a warrant pursuant to this Part which is being sought—
 - (a) in the interests of national security;
 - (b) in the interest of the economic well-being of the United Kingdom in so far as those interests are also relevant to the interests of national security;
 - or
 - (c) involving the consideration of items subject to legal professional privilege,
 a Judicial Commissioner must instruct a special advocate to represent the interests of any person or persons subject to the warrant or the wider public interest.
- (8) For the purposes of this section a special advocate is a person appointed by the appropriate law officer for the country of the United Kingdom to which the warrant relates or mostly relates—
 - (a) for England and Wales, the Attorney General,
 - (b) for Scotland, the Advocate General for Scotland, and
 - (c) for Northern Ireland, the Advocate General for Northern Ireland.
- (9) A person may only be appointed as a special advocate by the—
 - (a) Attorney General, if the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990,
 - (b) the Advocate General for Scotland, if the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High

Investigatory Powers Bill, *continued*

Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980, and

- (c) the Advocate General for Northern Ireland, if the person is a member of the Bar of Northern Ireland.”

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

39

☆ Clause 21, page 17, line 23, at end insert—

- “(6) In consideration of any warrant pursuant to this Part, a Judicial Commissioner may instruct a special advocate to represent the interests of any person or persons subject to the warrant or the wider public interest.
- (7) For the purposes of this section a special advocate is a person appointed by the appropriate law officer for the country of the United Kingdom to which the warrant relates or mostly relates—
- (a) for England and Wales, the Attorney General,
- (b) for Scotland, the Advocate General for Scotland, and
- (c) for Northern Ireland, the Advocate General for Northern Ireland.
- (8) A person may only be appointed as a special advocate by the—
- (a) Attorney General, if the person has a general qualification for the purposes of section 71 of the Courts and Legal Services Act 1990,
- (b) the Advocate General for Scotland, if the person is an advocate or a solicitor who has rights of audience in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980, and
- (c) the Advocate General for Northern Ireland, if the person is a member of the Bar of Northern Ireland.”

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

Stephen Kinnock

Sue Hayman

37

☆ Page 17, line 1, leave out Clause 21

Member’s explanatory statement

A paving amendment for new clause (Power of Secretary of State to certify warrants).

Joanna Cherry
Gavin Newlands

91

☆ Clause 22, page 17, line 29, at end insert—

Investigatory Powers Bill, *continued*

“(1A) A warrant under this section can only be issued in an emergency situation posing immediate danger of death or serious physical injury to a person.”

Member’s explanatory statement

This amendment, and others to Clause 22, seek to require urgent warrants can only be issued where it is necessary in an emergency situation posing immediate danger of death or serious physical injury; require that a Judicial Commissioner must immediately be informed that such a warrant has been issued; and reduce the period within which a Judicial Commissioner must decide whether to authorise the warrant to 24 hours after issue.

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

Stephen Kinnock

Sue Hayman

40

☆ Clause 22, page 17, line 30, after “must”, insert “immediately”

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

Stephen Kinnock

Sue Hayman

41

☆ Clause 22, page 17, line 35, leave out from “ending” to the end of line 36 and insert “24 hours after the warrant was issued.”

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

42

☆ Clause 22, page 17, line 35, leave out from “ending” to the end of line 36 and insert “48 hours after the warrant was issued.”

Joanna Cherry
Gavin Newlands

90

☆ Page 17, line 24, leave out Clause 22

Member’s explanatory statement

This amendment seeks to leave out Clause 22, which provides for the modification of warrants without judicial authorisation.

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

43

- ☆ Clause 23, page 18, line 7, leave out “may” and insert “must”

Member’s explanatory statement

This amendment, and others to Clause 23, would require a Judicial Commissioner to order that material collected under an emergency warrant which he does not subsequently authorise, be destroyed, except in exceptional circumstances.

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

Stephen Kinnock

Sue Hayman

44

- ☆ Clause 23, page 18, line 9, leave out paragraphs (3)(b) and (c) and insert—

“(3A) If the Judicial Commissioner determines that there are exceptional circumstances, the Judicial Commissioner must instead impose conditions as to the use or retention of any of that material.”

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

Stephen Kinnock

Sue Hayman

45

- ☆ Clause 23, page 18, line 22, after “addressed”, insert—

“(c) any Special Advocate appointed.”

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

Stephen Kinnock

Sue Hayman

46

- ☆ Clause 23, page 18, line 23, after “warrant”, insert “, or any Special Advocate appointed,”
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Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

92

☆ Clause 24, page 18, line 38, leave out subsections (1) and (2) and insert—

- “(1) This section applies where a warrant issued under this Part would seek to authorise any activity which may involve access to special procedure material.
- (2) Special procedure material under subsection (1) will include—
- (a) communications which are subject to legal professional privilege;
 - (b) journalistic material which a person holds in confidence;
 - (c) communications sent by, or intended for, a member of a relevant legislature.
- (3) A warrant under subsection (1) may only be granted on application to a Judicial Commissioner.
- (4) To approve a warrant under subsection (3), a Judicial Commissioner must be satisfied that there are reasonable grounds for believing that—
- (a) a criminal offence has been committed,
 - (b) the material is likely to be of substantial value to the investigation of that offence,
 - (c) other proportionate methods of obtaining the information have been tried without success or were not tried because they were bound to fail, and
 - (d) 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, the integrity of journalists’ sources, and/or communications with members of a relevant legislature.
- (5) Material subject to legal professional 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 professional privilege.
- (6) A person holds journalistic material in confidence for the purposes of this section if—
- (a) it is held subject to such an undertaking, restriction or obligation; or

Investigatory Powers Bill, *continued*

- (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.”

Member’s explanatory statement

This amendment establishes a consistent approach to the safeguards afforded to parliamentarians, legally privileged material and journalists seeking to protect their sources.

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

63

- ☆ Clause 24, page 19, line 7, leave out subsection (2)

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

64

- ☆ Clause 24, page 19, line 8, at end insert—

- “(2A) Where a warrant is likely to cover special procedure material, the procedure set out in subsection (2C) applies.
- (2B) Where a warrant is likely to cover excluded procedure material, the procedure set out in subsection (2D) applies.
- (2C) Further to requirements set out elsewhere in this part, the Judicial Commissioner may only issue a warrant likely to cover special procedure material if—
- (a) There are reasonable grounds for believing that an indictable offence has been committed,
 - (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),
 - (c) Other proportionate methods of obtaining the material have been tried without success or have not been tried because it appeared that they were bound to fail,
 - (d) It is in the public interest having regard to—
 - (i) the democratic importance of freedom of expression under article 10 ECHR to grant the warrant; or
 - (ii) the democratic interest in the confidentiality of correspondence with members of a relevant legislature.
- (2D) Further to the requirements set out elsewhere in this part, the Judicial Commissioner may only issue a warrant likely to cover excluded procedure material in accordance with provisions in Schedule 1 of the Police and Criminal Evidence Act 1984 (PACE) and Schedule 5 of the Terrorism Act 2000.
- (2E) An application for a warrant under this Part must not be granted where the information could be sought using a warrant under Schedule 1 of PACE, unless seeking this information under PACE would defeat the purpose of the investigation.
- (2F) In this section “special procedure material” means—
- (a) special material as defined in section 14 of the Police and Criminal Evidence Act 1984; or

Investigatory Powers Bill, *continued*

- (b) correspondence sent by or intended for a member of the relevant legislature.
- (2G) In this section “excluded procedure material” has the same meaning as in section 11 of the Police and Criminal Evidence Act 1984.”

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

Stephen Kinnock

Sue Hayman

48

- ☆ Page 15, line 38, leave out Clause 25

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

49

- ☆ Clause 25, page 19, line 22, after ‘items’, insert ‘presumptively’

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

51

- ☆ Clause 25, page 19, line 31, leave out paragraph (3)(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 the interception, or (in the case of a targeted examination warrant) selection for examination, of those items, and”

Joanna Cherry
Gavin Newlands

93

- ☆ Clause 27, page 21, line 6, at end insert—
“(2A) A warrant issued under this Chapter must state the specific purpose that is to be achieved by the warrant.
(2B) A warrant issued under this Chapter must outline the options for obtaining the relevant data and confirm that other less intrusive options have been tried but

Investigatory Powers Bill, *continued*

failed or have not been tried because they were bound to fail and the reasons why.”

Member’s explanatory statement

This amendment, and others to Clause 27, seek to preserve the capacity of a single warrant to permit the interception of multiple individuals but would require an identifiable subject matter or premises to be provided (in similar vein to the amendments to Clause 15).

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

Stephen Kinnock

Sue Hayman

52

☆ Clause 27, page 21, line 7, leave out ‘or organisation’

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

Stephen Kinnock

Sue Hayman

53

☆ Clause 27, page 21, line 8, leave out ‘or organisation’

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

Stephen Kinnock

Sue Hayman

54

☆ Clause 27, page 21, line 13, leave out ‘or describe as many of those persons as is reasonably practicable to name or describe’ and insert ‘or otherwise identify all of those persons’

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

Stephen Kinnock

Sue Hayman

55

☆ Clause 27, page 21, line 15, leave out ‘or organisation’

 Investigatory Powers Bill, *continued*

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

Stephen Kinnock

Sue Hayman

56

- ☆ Clause 27, page 21, line 19, leave out ‘or describe as many of those persons or organisations or as many of those sets of premises, as it is reasonably practicable to name or describe’ and insert ‘all of those persons or sets of premises’

Joanna Cherry
 Gavin Newlands

103

- ☆ Page 23, line 20, leave out Clauses 30 and 31.

Member’s explanatory statement

This amendment seeks to remove the power to modify warrants without judicial authorisation.

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

67

- ☆ Page 23, line 20, leave out Clause 30

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

68

- ☆ Clause 30, page 23, line 41, leave out paragraph (5)(c)

Joanna Cherry
 Gavin Newlands

94

- ☆ Clause 30, page 24, line 3, leave out subsections (7), (11) and (13)

Member’s explanatory statement

This amendment, and others to Clause 30, seeks to circumscribe the power to modify warrants without judicial authorisation.

 Investigatory Powers Bill, *continued*

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

69

☆ Clause 30, page 24, line 5, leave out paragraphs (6)(d) and (e)

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

70

☆ Clause 30, page 24, line 8, leave out subsections (7) and (8)

Joanna Cherry
 Gavin Newlands

95

☆ Clause 30, page 24, line 32, after “major”, insert “or minor”

Joanna Cherry
 Gavin Newlands

96

☆ Clause 30, page 24, line 32, leave out from “warrant” to end of line 33 and insert “pursuant to subsection (5) or (6), if a Judicial Commissioner determines”

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

71

☆ Clause 30, page 24, line 46, leave out subsection (11) and insert—

“(11) In any case where a major modification of a warrant is sought under paragraph (4)(a), section 21 (Approval of warrant by Judicial Commissioners) applies to the decision to modify a warrant as it applies in relation to a decision to issue a warrant.

(11A) In a case where any modification under subsection (4) is sought to a warrant to which section 24 (Members of Parliament etc.) or section 25 (Items subject to legal privilege) applies, section 21 (Approval of warrant by Judicial Commissioners) applies to the decision to modify the warrant as it applies in relation to a decision to issue the warrant.”

Investigatory Powers Bill, *continued*

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

72

☆ Clause 30, page 25, line 3, leave out subsection (12)

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

73

☆ Page 25, line 22, leave out Clause 31.

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

74

☆ Clause 31, page 26, line 13, at end insert—

“(8) Where, by virtue of section 30(11), section 25 (items subject to legal privilege) applies in relation to the making of a major modification of a warrant pursuant to section 30(7), this section applies as if each reference in subsections (2), (5) and (6) to a designated senior official were a reference to a Judicial Commissioner.”

Joanna Cherry
Gavin Newlands

97

☆ Page 29, line 3, leave out Clause 35

Member's explanatory statement

This amendment, and amendment 98, seeks to remove provisions that purport to give interception warrants extraterritorial effect.

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

98

☆ Page 29, line 31, leave out Clause 36

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

82

☆ Clause 37, page 31, line 7, at end insert—

“(3) But this section does not authorise interception of a communication containing items presumptively subject to legal privilege.”

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

75

☆ Clause 42, page 33, line 30, at end insert—

“(4) But this section, nor section 43 or section 44, do not authorise interception of a communication containing items presumptively subject to legal privilege.”

Joanna Cherry
Gavin Newlands

99

☆ Page 34, line 21, leave out Clause 44

Member’s explanatory statement

This amendment seeks to prevent the creation of additional interception rules in immigration detention facilities.

 Investigatory Powers Bill, *continued*

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

76

☆ Clause 45, page 35, line 9, at end insert—

“(5) But this section does not authorise interception of a communication containing items subject to legal privilege.”

Joanna Cherry
 Gavin Newlands

100

☆ Page 37, line 32, leave out Clause 48

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

77

☆ Clause 49, page 39, line 2, after “not”, insert “, without reasonable excuse,”

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

78

☆ Clause 49, page 39, line 19, at end insert—

“(3A) 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 provision adds a “reasonable excuse” defence to the “unauthorised disclosure” offence and expressly provides that the defence applies where the permission is given by the person issuing the warrant or the person to whom it is issued, the equivalent of a similar provision in clause 73(2) in relation to communications data authorisations.

 Investigatory Powers Bill, *continued*

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

65

☆ Clause 50, page 40, line 27, leave out paragraph (7)(a)

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

66

☆ Clause 50, page 40, line 35, leave out “under Chapter 1 of this Part” and insert “described in sub-paragraphs (2)(a)(i) and (ii) of section 49.”

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

Stephen Kinnock

Sue Hayman

79

☆ Clause 51, page 41, line 18, at end insert—

“(4) 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 seeks to provide a public interest defence to the offence of disclosure in relation to a warrant issued under this Part.

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

Investigatory Powers Bill, *continued*

- (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;”.

NEW CLAUSES

Joanna Cherry
Gavin Newlands
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.

Investigatory Powers Bill, *continued*

- (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.

Joanna Cherry
Gavin Newlands
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;

Investigatory Powers Bill, *continued*

- (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) he importance of the prosecution, or
 - (iii) the importance of maintaining public confidence in the confidentiality of material subject to legal professional privilege.
- (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—

Investigatory Powers Bill, *continued*

“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.

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]

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;

Investigatory Powers Bill, *continued*

- (h) at 9.25 am and 2.00 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:

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
- (4) 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;
- (5) 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: