



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 12 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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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, as amended, 12 April 2016].

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

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

68

Joanna Cherry
Gavin Newlands

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

94

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.”
- Keir Starmer
Jo Stevens
Christian Matheson
Peter Kyle
Stephen Kinnock
Sue Hayman
- 72
- Clause 30, page 25, line 3, leave out subsection (12)

Investigatory Powers Bill, *continued*

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

67

Page 23, line 20, leave out Clause 30

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

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.”

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

73

Page 25, line 22, leave out Clause 31.

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

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

65

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

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.”

66

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

Stephen Kinnock

Sue Hayman

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.

79

Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

118

☆ Clause 53, page 42, line 14, leave out subsection (1) and insert—

“(1) A Judicial Commissioner may grant a communications data access warrant where the judicial commissioner considers—

- (a) that it is necessary to obtain the data for the purposes of a specific investigation or a specific operation, and
- (b) that the conduct authorised by the warrant is proportionate to what is sought to be achieved.

(2) The grant of a warrant is subject to restrictions set out in the rest of this Part.”

Joanna Cherry
Gavin Newlands

228

☆ Clause 53, page 42, line 21, leave out subsection (1)(b)(ii)

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

Joanna Cherry

Gavin Newlands

125

☆ Clause 53, page 42, line 25, at end insert—

“(1A) The Judicial Commissioner may grant a warrant on application from—

- (a) an officer from a relevant public authority involved in the relevant investigation; or,
- (b) an individual designated by the relevant public authority to make applications for warrants to the Judicial Commissioner.”

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

Joanna Cherry

Gavin Newlands

126

☆ Clause 53, page 42, line 25, at end insert—

“(1B) A warrant must—

- (a) name or otherwise identify the person or persons, organisation, premises, or location to which the warrant relates; and
- (b) describe the investigation or operation to which the warrant relates.”

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

229

- ☆ Clause 53, page 42, line 26, leave out from beginning to end of line and insert “A warrant granted by a judicial commissioner may authorise the applicant or a telecommunications operator to”

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

119

- ☆ Clause 53, page 42, line 26, leave out “designated senior officer” and insert “warrant”

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

Joanna Cherry

Gavin Newlands

120

- ☆ Clause 53, page 42, line 32, leave out subsection (3)

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

Joanna Cherry

Gavin Newlands

121

- ☆ Clause 53, page 43, line 4, leave out “authorisation” and insert “warrant”

Joanna Cherry
Gavin Newlands

231

- ☆ Clause 53, page 43, line 5, leave out subsection (4)(d)

Member’s explanatory statement

These amendments to Clause 53 provide that in order to access communications data, a relevant public authority must seek a warrant from a Judicial Commissioner rather than undertake a system of internal authorisation. These amendments also provide for warrants to authorise conduct of a relevant public authority and require steps be taken by a telecommunications operator, removing the need for separate “authorisations” to public authorities and “authorisation notices” to telecommunications operators.

Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

☆ Clause 53, page 43, line 14, leave out “authorisation” and insert “warrant”

122

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

Joanna Cherry

Gavin Newlands

☆ Clause 53, page 43, line 16, leave out “authorisation” and insert “warrant”

123

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

☆ Clause 53, page 43, line 25, leave out “authorisation” and insert “warrant”

124

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

Joanna Cherry

Gavin Newlands

☆ Clause 53, page 43, line 39, leave out “or of preventing disorder”

109

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

Joanna Cherry

Gavin Newlands

☆ Clause 53, page 43, line 39, after “detecting”, insert “serious”

110

 Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

111

- ☆ Clause 53, page 43, line 40, at end insert “which includes to assist in investigations into alleged miscarriages of justice”

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

Joanna Cherry

Gavin Newlands

112

- ☆ Clause 53, page 43, line 41, leave out subsections (7)(c) to (f)

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

114

- ☆ Clause 53, page 44, line 1, after first “or”, insert “serious”

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

115

- ☆ Clause 53, page 44, line 1, after “any”, insert “serious”

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

116

- ☆ Clause 53, page 44, line 2, after “any”, insert “serious”

Investigatory Powers Bill, *continued*

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

☆ Clause 53, page 44, line 3, at beginning insert “serious”

117

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

Joanna Cherry

Gavin Newlands

☆ Clause 53, page 44, line 5, leave out subsections (7)(i) and (j)

113

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

Joanna Cherry

Gavin Newlands

☆ Clause 54, page 44, line 20, leave out subsections (1), (2) and (3)

127

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

Joanna Cherry

Gavin Newlands

☆ Clause 55, page 45, line 15, leave out “authorisation” and insert “warrant”

130

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

Joanna Cherry

Gavin Newlands

☆ Clause 55, page 45, line 16, leave out subsection (1)(a)

128

Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

131

☆ Clause 55, page 45, line 24, leave out subsection (2)

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

Joanna Cherry

Gavin Newlands

132

☆ Clause 55, page 45, leave out line 31

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

Joanna Cherry

Gavin Newlands

129

☆ Clause 55, page 45, line 37, leave out subsection (4)

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

Joanna Cherry

Gavin Newlands

133

☆ Clause 57, page 46, line 20, leave out “authorisation” and insert “warrant”

Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

☆ Clause 57, page 46, line 24, leave out “authorisation” and insert “warrant”

134

Joanna Cherry
Gavin Newlands

☆ Page 46, line 40, leave out Clause 58

232

Joanna Cherry
Gavin Newlands

☆ Page 47, line 36, leave out Clause 59

233

Joanna Cherry
Gavin Newlands

☆ Page 48, line 16, leave out Clause 60

Member’s explanatory statement

Clauses 58 to 60 would remove provisions for the establishment and use of a filter to gather communications data.

234

Investigatory Powers Bill, continued

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

135

☆ Clause 61, page 49, line 32, leave out subsections (1) and (2) and insert—

- “(1) For the purposes of this Part, a relevant public authority is—
- (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) the GCHQ,
 - (n) the National Crime Agency and
 - (o) the Criminal Cases Review Commission.
- (2) For the purposes of authorisations sought pursuant to section 53(7)(g) a relevant public authority also includes—
- (a) a National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 whose functions include the provision of emergency ambulance service,
 - (b) a fire and rescue authority under the Fire and Rescue Services Act 2004,
 - (c) the Northern Ireland Ambulance Service Health and Social Care trust,
 - (d) the Northern Ireland Fire and Rescue Service Board
 - (e) the Scottish Ambulance Service Board and
 - (f) the Welsh Ambulance Services National Health Service Trust.
- (3) For the purposes of authorisations sought pursuant to Section 53(7)(h), a relevant public authority also includes—
- (a) the Criminal Cases Review Commission and
 - (b) the Scottish Criminal Cases Review Commission”

Investigatory Powers Bill, continuedJoanna Cherry
Gavin Newlands

236

- ☆ Clause 61, page 49, line 34, leave out subsection (2) and insert—
- “(2) For the purposes of this Part, a relevant public authority is—
- (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,
 - (n) the National Crime Agency,
 - (o) the Criminal Cases Review Commission, or
 - (p) the Scottish Criminal Cases Review Commission.
- (2A) For the purposes of authorisations sought pursuant to 53(7)(g), a relevant public authority also includes—
- (a) a National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990 whose functions include the provision of emergency ambulance service,
 - (b) a fire and rescue authority under the Fire and Rescue Services Act 2004,
 - (c) the Northern Ireland Ambulance Service Health and Social Care trust,
 - (d) the Northern Ireland Fire and Rescue Service Board,
 - (e) the Scottish Ambulance Service Board, and
 - (f) the Welsh Ambulance Services National Health Service Trust.
- (2B) For the purposes of authorisations sought pursuant to Section 57(3)(h), a relevant public authority also includes—
- (a) the Criminal Cases Review Commission and
 - (b) the Scottish Criminal Cases Review Commission.”

Member's explanatory statement

This amendment ensures that only police forces and security agencies may request a communications data warrant, except where the warrant is issued for the purpose of preventing death, in which circumstances emergency and rescue services also fall within the definition.

 Investigatory Powers Bill, *continued*

Mr John Hayes

105

☆ Schedule 4, page 206, line 40, at end insert—

“An ambulance trust in England	Duty Manager of Ambulance Trust Control Rooms	All	(g)”
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Member’s explanatory statement

This amendment and amendments 106 and 108 replace the existing entry for ambulance trusts in England with a new entry containing a revised definition for such trusts and restricting the purposes for which data may be obtained.

Mr John Hayes

106

☆ Schedule 4, page 207, leave out lines 24 to 35

Member’s explanatory statement

See the explanatory statement for amendment 105.

Mr John Hayes

107

☆ Schedule 4, page 207, line 39, leave out—

“Group Manager (Control) All (b) and (d)”

Member’s explanatory statement

This amendment prevents the Northern Ireland Fire and Rescue Service Board from obtaining data for the purpose of preventing or detecting crime or of preventing disorder, or in the interests of public safety.

Mr John Hayes

108

☆ Schedule 4, page 208, line 10, after “Schedule” insert “—

“ambulance trust in England” means—

- (a) an NHS trust all or most of whose hospitals, establishments and facilities are in England and which provides ambulance services, or
- (b) an NHS foundation trust which provides such services,”

Member’s explanatory statement

See the explanatory statement for amendment 105.

Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

136

☆ Page 50, line 22, leave out Clause 62

Joanna Cherry
Gavin Newlands

237

☆ Page 50, line 35, leave out Clause 63

Joanna Cherry
Gavin Newlands

238

☆ Page 51, line 9, leave out Clause 64

Member's explanatory statement

This amendment to Clause 64 would delete the provision that states that local authorities are relevant public authorities for the purposes of the Bill and would delete associated Clauses 65 and 66.

Joanna Cherry
Gavin Newlands

239

☆ Page 51, line 30, leave out Clause 65

Joanna Cherry
Gavin Newlands

240

☆ Page 52, line 6, leave out Clause 66

 Investigatory Powers Bill, *continued*

Joanna Cherry
Gavin Newlands

241

- ☆ Clause 67, page 53, line 8, leave out subsections (4)(a) and (b) and insert—
- “(a) is an officer appointed by the Investigatory Powers Commissioner;
 - (b) works subject to the supervision of the Investigatory Powers Commissioner; and is responsible for advising—
 - (i) officers of the relevant public authorities about applying for authorisations; or
 - (ii) designated senior officers of public authorities about granting authorisations.”

Member’s explanatory statement

The amendment provides for the SPoC scheme to be operated under the authority of the Investigatory Powers Commissioner.

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

137

- ☆ Clause 67, page 53, line 25, leave out “, and”

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

138

- ☆ Clause 67, page 53, line 26, at end insert—
- “() the public interest in the protection of privacy and the integrity of personal data; and
 - () the public interest in the integrity of communications systems and computer networks.”

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

139

- ☆ Clause 67, page 53, line 37, leave out “, and”

 Investigatory Powers Bill, *continued*

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

140

☆ Clause 67, page 53, line 38, at end insert—

- “() the public interest in the protection of privacy and the integrity of personal data;
 and
 () the public interest in the integrity of communications systems and computer networks.”

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

141

☆ Clause 68, page 54, leave out lines 3 to 13 and insert—

- “() An application for an order shall be made on notice to the journalist or journalists affected unless the Judicial Commissioner determines that an application without such notice is required in order to avoid prejudice to the investigation.
 () Paragraphs 7 – 9 of Schedule 1 to the Police and Criminal Evidence Act 1984 shall apply in relation to the service of a notice of application for an order under subsection (1) as if the application were for an order under Schedule 1 Police and Criminal Evidence Act 1984.
 () Criminal Procedure Rules may make provision about proceedings under this section where the Judicial Commissioner determines that an application without such notice is required.
 () A Judicial Commissioner may only make an order if the person making the application has convincingly established that—
 (a) the order is directed to one or more of the legitimate aims specified in Article 10.2 of the Convention, and
 (b) there is an overriding public interest necessitating the order, and
 (c) reasonable alternative measures to the order do not exist or have been exhausted, and
 (d) the order is proportionate to the legitimate aim or aims being pursued.
 () The costs of any application and of anything done or to be done in pursuance of an order made under it shall be in the discretion of the Judicial Commissioner”

 Investigatory Powers Bill, *continued*

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

Joanna Cherry

Gavin Newlands

142

- ☆ Clause 68, page 54, line 5, leave out from “data” to “and” on line 7 and insert “further to this Part”

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

Joanna Cherry

Gavin Newlands

143

- ☆ Clause 68, page 54, line 18, leave out “considers” and insert “determines”

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

Joanna Cherry

Gavin Newlands

144

- ☆ Clause 68, page 54, line 19, leave out subsections (5) (a) and (b) and insert—
- “() that the conduct permitted by the authorisation is necessary for one or more of the purposes in section 53(7); and
 - () that the conduct permitted by the authorisation is proportionate to what is sought to be achieved by that conduct.”

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

145

- ☆ Clause 68, page 54, line 29, leave out subsection (7) and insert—
- “() The Investigatory Powers Commissioner may for the purposes of approving authorisations under this Section appoint Deputy Judicial Commissioners.
 - () A “Deputy Judicial Commissioner” must be—
 - (a) in relation to England and Wales, a justice of the peace,
 - (b) in relation to Scotland, a sheriff, and
 - (c) in relation to Northern Ireland, a district judge (magistrates’ courts) in Northern Ireland.

Investigatory Powers Bill, *continued*

- () An authorisation under this Section may not grant authorisation in relation to the obtaining by a relevant public authority of communications data—
 - (a) 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.
- () 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.
- () An application which contains a statement that the purpose of a warrant is to access communications data in connection with communications made for the purpose of furthering a criminal purpose, but which would otherwise attract legal privilege must be considered by a Judicial Commissioner.
- () A Judicial Commissioner may issue an authorisation sought under subsection (3), if satisfied that—
 - (a) there are reasonable grounds to believe that the communications data relates to communications made with the intent of furthering a criminal purpose;
 - (b) that the data is likely to be of substantial value to the investigation in connection with which the application is made; and
 - (c) that the data concerned is likely to be relevant evidence;
 - (d) other proportionate methods of obtaining the data have been tried without success or were not tried because they were bound to fail;
 - (e) it is in the public interest that the authorisation is granted, having regard to—
 - (i) the benefit likely to accrue to the investigation and prosecution if the data 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,
- () 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.
- () Where an authorisation issued under this Part would seek to authorise any activity which may involve access to special procedure material, the following subclauses apply.

Investigatory Powers Bill, *continued*

- () Special procedure material subject to subsection (1) will include—
 - (a) journalistic material other than material which a person holds in confidence and
 - (b) communications sent by, or intended for, a member of the relevant legislature.
- () The special procedure authorisation may only be granted on application to a Judicial Commissioner.
- () The Judicial Commissioner must be satisfied that there are reasonable grounds to believe 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—
 - (i) the benefit likely to accrue to the investigation and prosecution if the information is accessed,
 - (ii) the importance of the prosecution,
 - (iii) the importance of maintaining public confidence in the integrity of journalists' work product, and/or communications with members of relevant legislatures and
 - (iv) the public interest in the freedom of expression enjoyed by journalists and the members of the relevant legislatures, including as protected by Article 10 ECHR.
- () Where data could reasonably be obtained by means of a search and seizure order pursuant to the Police and Criminal Evidence Act 1984, a warrant under this Part will not be in the public interest.
- () An application for an authorisation concerning journalistic material held in confidence or information for the purpose of identifying or confirming a source of journalistic information, may only be considered by the Investigatory Powers Commissioner, who must be satisfied that there are reasonable grounds to believe—
 - (a) a criminal offence has been committed,
 - (b) the communications data 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 authorisation is granted, having regard to—
 - (i) the benefit likely to accrue to the investigation and prosecution if the information is accessed;
 - (ii) the importance of the prosecution;
 - (iii) the importance of maintaining public confidence in the integrity of journalists' work product and
 - (iv) the public interest in the freedom of expression enjoyed by journalists and the members of the relevant legislatures, including as protected by Article 10 ECHR.
- () In considering an authorisation concerning journalistic material held in confidence, the Investigatory Powers Commissioner must give notice to the journalist concerned, unless it would not be in the public interest to do so.
- () If an authorisation is considered without notice, the Investigatory Powers Commissioner must appoint a Special Advocate to represent the interests of the

Investigatory Powers Bill, *continued*

journalist and the person to whom confidence is owed, and the wider public interest in the integrity of journalists sources and freedom of expression, including as protected by Article 10 ECHR.

- () Journalistic material is held in confidence for the purposes of this section if—
 - (a) it is held subject to such an undertaking, restriction or obligation and
 - (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.”

Joanna Cherry
Gavin Newlands

242

☆ Clause 68, page 54, line 29, leave out subsection (7) and insert—

- “() The Investigatory Powers Commissioner may for the purposes of approving authorisations under this Section appoint Deputy Judicial Commissioners.
- () A “Deputy Judicial Commissioner” must be—
 - (a) in relation to England and Wales, a justice of the peace,
 - (b) in relation to Scotland, a sheriff, and
 - (c) in relation to Northern Ireland, a district judge (magistrates’ courts) in Northern Ireland.
- () An authorisation under this Section may not grant authorisation in relation to the obtaining by a relevant public authority of communications data—
 - (a) 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.
- () 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.
- () An application which contains a statement that the purpose of a warrant is to access communications data in connection with communications made for the purpose of furthering a criminal purpose, but which would otherwise attract legal privilege must be considered by a Judicial Commissioner.
- () A Judicial Commissioner may issue an authorisation sought under subsection (3), if satisfied that—
 - (a) there are reasonable grounds to believe that the communications data relates to communications made with the intent of furthering a criminal purpose;
 - (b) that the data is likely to be of substantial value to the investigation in connection with which the application is made;
 - (c) that the data concerned is likely to be relevant evidence;

Investigatory Powers Bill, *continued*

- (d) other proportionate methods of obtaining the data have been tried without success or were not tried because they were bound to fail;
- (e) it is in the public interest that the authorisation is granted, having regard to the—
 - (i) benefit likely to accrue to the investigation and prosecution if the data is accessed;
 - (ii) importance of the prosecution; and
 - (iii) importance of maintaining public confidence in the confidentiality of material subject to legal professional privilege.
- () 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.
- () Where an authorisation issued under this Part would seek to authorise any activity which may involve access to special procedure material, the following subclauses apply.
- () Special procedure material subject to subsection (1) will include—
 - (a) journalistic material other than material which a person holds in confidence;
 - (b) communications sent by, or intended for, a member of the relevant legislature.
- () The special procedure authorisation may only be granted on application to a Judicial Commissioner.
- () The Judicial Commissioner must be satisfied that there are reasonable grounds to believe 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;
 - (d) 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) importance of the prosecution;
 - (iii) importance of maintaining public confidence in the integrity of journalists' work product; and
 - (iv) public interest in the freedom of expression enjoyed by journalists and the members of the relevant legislatures, including as protected by Article 10 ECHR.
- () In considering an authorisation concerning journalistic material held in confidence, the Investigatory Powers Commissioner must give notice to the journalist concerned, unless it would not be in the public interest to do so.
- () If an authorisation is considered without notice, the Investigatory Powers Commissioner must appoint a Special Advocate to represent the interests of the journalist and the person to whom confidence is owed, and the wider public interest in the integrity of journalists sources and freedom of expression, including as protected by Article 10 ECHR.

Investigatory Powers Bill, *continued*

- () Journalistic material is held in confidence for the purposes of this section if—
- (a) it is held subject to such an undertaking, restriction or obligation;
 - (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 proposes special procedures for communications data subject to legal professional privilege and for the protection of journalistic material and the communications data of politicians. It also provides for the Investigatory Powers Commissioner to appoint Deputy Judicial Commissioners to consider applications for the authorisation of access to Communications Data.

Joanna Cherry
Gavin Newlands

243

- ☆ Page 54, line 33, leave out Clause 69

Member’s explanatory statement

This amendment is consequential on amendments to clause 67, which provide for the senior point of contact scheme to be operated under the authority of the Investigatory Powers Commissioner.

Joanna Cherry
Gavin Newlands

244

- ☆ Page 55, line 39, leave out Clause 70

Member’s explanatory statement

See explanatory statement for amendment 243.

Joanna Cherry
Gavin Newlands

245

- ☆ Page 56, line 16, leave out Clause 71

Member’s explanatory statement

See explanatory statement for amendment 243.

 Investigatory Powers Bill, *continued*

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

- 146**
- ☆ Clause 72, page 57, line 27, leave out from “by” to “and” in line 29 and insert “a warrant”

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

- 147**
- ☆ Clause 72, page 57, line 30, leave out “authorisation or notice” and insert “warrant”

Joanna Cherry
 Gavin Newlands

- 246**
- ☆ Clause 72, page 57, line 35, leave out from “subsection (1)” to end of line 40
Member’s explanatory statement
This amendment ensures that if conduct cannot be justified it must remain unlawful.

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

- 148**
- ☆ Clause 72, page 57, line 36, leave out paragraph (b)
-

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

- 149**
- ☆ Clause 73, page 58, line 33, 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.”
-

 Investigatory Powers Bill, *continued*

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

227

☆ Page 58, line 34, leave out Clause 74

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

150

☆ Clause 76, page 59, line 26, after “Kingdom”, insert “the notice 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,”

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

151

☆ Clause 76, page 59, line 39, leave out subsection (4) and insert—

“(4) Subsections (1) or (2) of section 57 shall not be applicable where the taking of any steps by a relevant operator outside the United Kingdom—

(a) 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) could be achieved via a notice served pursuant to an international mutual assistance agreement or subject to an EU mutual assistance instrument.”

Joanna Cherry
 Gavin Newlands

247

☆ Page 59, line 21, leave out Clause 76

Member’s explanatory statement

This amendment and amendment 248 would delete provisions which purport to give communications data access authorisations (authorisations and notices issued under Part 3) and data retention notices (notices issued under Part 4) extraterritorial effect.

Investigatory Powers Bill, *continued*

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

164

- ☆ Clause 78, page 61, line 5, leave out subsection (1) and insert—
- “(1) A Judicial Commissioner may issue a data retention warrant under this Part to authorise the retention of relevant communications data if the Judicial Commissioner considers that the authorisation is necessary and proportionate for 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, or
 - (c) for the purpose of preventing death or serious injury.”

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

165

- ☆ Clause 78, page 61, line 10, leave out “A retention notice may” and insert “A data retention warrant must”

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

154

- ☆ Clause 78, page 61, line 19, leave out “notice” and insert “warrant”

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

155

- ☆ Clause 78, page 61, line 30, leave out “retention notice” and insert “retention warrant”

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

235

- ☆ Clause 78, page 61, line 30, leave out second “notice” and insert “warrant”

 Investigatory Powers Bill, *continued*

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

156

☆ Clause 78, page 61, line 32, leave out “notice” and insert “warrant”

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

157

☆ Clause 78, page 61, line 33, leave out “notice” and insert “warrant”

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

158

☆ Clause 78, page 61, line 34, leave out “notice” and insert “warrant”

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

159

☆ Clause 78, page 61, line 36, leave out “notice” and insert “warrant”

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

152

☆ Clause 78, page 61, line 36, at end insert “, and
 (c) only when approved by the Investigatory Powers Commissioner.
 (5A) In deciding whether to approve a notice, the Investigatory Powers Commissioner must determine whether a notice is—
 (a) that the conduct required by the notice is necessary for one or more of the purposes in section 53(7); and
 (b) that the conduct required by the notice is proportionate to what is sought to be achieved by that conduct.”

Investigatory Powers Bill, *continued*

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

160

☆ Clause 78, page 61, line 37, leave out “notice” and insert “warrant”

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

153

☆ Clause 78, page 61, line 38, leave out “Secretary of State” and insert “Investigatory Powers Commissioner”

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

161

☆ Clause 78, page 61, line 38, leave out “Secretary of State” and insert “Judicial Commissioner”

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

162

☆ Clause 78, page 61, line 41, leave out “notice” and insert “warrant”

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

163

☆ Clause 78, page 62, line 23, at end insert—

“78A 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,

Investigatory Powers Bill, *continued*

- (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) the GCHQ, and
 - (n) the National Crime Agency”
-

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

166

☆ Clause 79, page 62, line 26, leave out “notice” and insert “warrant”

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

220

☆ Clause 79, page 62, line 26, leave out “Secretary of State” and insert “Judicial Commissioner”

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

167

☆ Clause 79, page 62, line 26, leave out “notice” and insert “warrant”

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

168

☆ Clause 79, page 62, line 28, leave out “notice” and insert “warrant”

 Investigatory Powers Bill, *continued*

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

169

☆ Clause 79, page 62, line 30, leave out “notice” and insert “warrant”

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

170

☆ Clause 79, page 62, line 31, leave out “notice” and insert “warrant”

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

171

☆ Clause 79, page 62, line 32, leave out “notice” and insert “warrant”

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

172

☆ Clause 79, page 62, line 33, leave out “notice” and insert “warrant”

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

175

☆ Clause 79, page 62, line 34, at end insert—

- “() the public interest in the protection of privacy and the integrity of personal data; and
- () the public interest in the integrity of communications systems and computer networks.”

Investigatory Powers Bill, *continued*

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

173

☆ Clause 79, page 62, line 35, leave out “notice” and insert “warrant”

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

174

☆ Clause 79, page 62, line 35, leave out “Secretary of State” and insert “Judicial Commissioner”

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

176

☆ Clause 80, page 62, line 38, leave out “notice” and insert “warrant”

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

198

☆ Clause 80, page 62, line 40, leave out “back to the Secretary of State” and insert “to the Investigatory Powers Commissioner for review”

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

179

☆ Clause 80, page 62, line 40, leave out “Secretary of State” and insert “Judicial Commissioner”

 Investigatory Powers Bill, *continued*

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

177

☆ Clause 80, page 62, line 41, leave out “notice” and insert “warrant”

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

178

☆ Clause 80, page 62, line 42, leave out “notice” and insert “warrant”

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

180

☆ Clause 80, page 63, line 5, leave out “notice” and insert “warrant”

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

181

☆ Clause 80, page 63, line 6, leave out “notice” and insert “warrant”

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

190

☆ Clause 80, page 63, line 7, leave out “Secretary of State” and insert “Judicial Commissioner”

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

199

☆ Clause 80, page 63, line 7, leave out “Secretary of State” and insert “the Investigatory Powers Commissioner”

Investigatory Powers Bill, *continued*

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

182

☆ Clause 80, page 63, line 7, leave out “notice” and insert “warrant”

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

191

☆ Clause 80, page 63, line 8, leave out “Secretary of State” and insert “Judicial Commissioner”

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

183

☆ Clause 80, page 63, line 8, leave out “notice” and insert “warrant”

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

200

☆ Clause 80, page 63, line 10, leave out “Secretary of State” and insert “the Investigatory Powers Commissioner”

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

192

☆ Clause 80, page 63, line 10, leave out “Secretary of State” and insert “Judicial Commissioner”

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

201

☆ Clause 80, page 63, line 12, leave out subsection (b)

 Investigatory Powers Bill, *continued*

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

184

☆ Clause 80, page 63, line 14, leave out “notice” and insert “warrant”

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

185

☆ Clause 80, page 63, line 16, leave out “notice” and insert “warrant”

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

193

☆ Clause 80, page 63, line 19, leave out “Secretary of State” and insert “Judicial Commissioner”

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

194

☆ Clause 80, page 63, line 24, leave out “Secretary of State” and insert “Judicial Commissioner”

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

195

☆ Clause 80, page 63, line 25, leave out “Secretary of State” and insert “Judicial Commissioner”

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

202

☆ Clause 80, page 63, line 25, leave out “Secretary of State”

Investigatory Powers Bill, *continued*

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

249

☆ Clause 80, page 63, line 25, leave out “and the Commissioner”

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

186

☆ Clause 80, page 63, line 27, leave out “notice” and insert “warrant”

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

187

☆ Clause 80, page 63, line 28, leave out “notice” and insert “warrant”

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

188

☆ Clause 80, page 63, line 30, leave out “notice” and insert “warrant”

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

203

☆ Clause 80, page 63, line 31, leave out “Secretary of State” and insert “Investigatory Powers Commissioner”

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

196

☆ Clause 80, page 63, line 31, leave out “Secretary of State” and insert “Judicial Commissioner”

Investigatory Powers Bill, *continued*

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

- ☆ Clause **80**, page **63**, line **33**, leave out “Secretary of State” and insert “Judicial Commissioner” **197**

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

- ☆ Clause **80**, page **63**, line **33**, leave out “notice” and insert “warrant” **189**

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

- ☆ Clause **83**, page **64**, line **13**, leave out “Secretary of State” and insert “Judicial Commissioner” **204**

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

- ☆ Clause **83**, page **64**, line **13**, leave out “notice” and insert “warrant” **210**

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

- ☆ Clause **83**, page **64**, line **14**, leave out “Secretary of State” and insert “Judicial Commissioner” **205**

Investigatory Powers Bill, *continued*

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

206

☆ Clause 83, page 64, line 15, leave out “Secretary of State” and insert “Judicial Commissioner”

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

222

☆ Clause 83, page 64, line 21, at end insert “and
() the variation has been approved by the Investigatory Powers
Commissioner.”

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

211

☆ Clause 83, page 64, line 22, leave out “notice” and insert “warrant”

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

207

☆ Clause 83, page 64, line 23, leave out “Secretary of State” and insert “Judicial
Commissioner”

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

212

☆ Clause 83, page 64, line 27, leave out “notice” and insert “warrant”

Investigatory Powers Bill, continued

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

213

☆ Clause 83, page 64, line 28, leave out “notice” and insert “warrant”

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

214

☆ Clause 83, page 64, line 31, leave out “notice” and insert “warrant”

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

215

☆ Clause 83, page 64, line 32, leave out “notice” and insert “warrant”

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

216

☆ Clause 83, page 64, line 34, leave out “notice” and insert “warrant”

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

217

☆ Clause 83, page 64, line 36, leave out “notice” and insert “warrant”

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

218

☆ Clause 83, page 64, line 37, leave out “notice” and insert “warrant”

Investigatory Powers Bill, *continued*

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

208

☆ Clause 83, page 64, line 38, leave out “Secretary of State” and insert “Judicial Commissioner”

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

209

☆ Clause 83, page 64, line 41, leave out “Secretary of State” and insert “Judicial Commissioner”

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

219

☆ Clause 83, page 65, line 7, leave out “notice” and insert “warrant”

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

221

☆ Clause 83, page 65, line 9, leave out “notice” and insert “warrant”

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

225

☆ Clause 84, page 65, line 20, after “not”, insert “, without reasonable excuse,”

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

223

☆ Clause 84, page 65, line 21, after “person”, insert “except the Investigatory Powers Commissioner or a Judicial Commissioner”

 Investigatory Powers Bill, *continued*

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

224

☆ Clause 84, page 65, line 26, leave out “Secretary of State” and insert “Investigatory Powers Commissioner”

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

226

☆ Clause 84, page 66, line 15, at end insert—

“(2B) No notice shall be served under subsection (1) where the relevant telecommunications operator outside the United Kingdom.

- (a) is already subject to a comparable retention requirement in the country or territory where it is established, for the provision of services, or
- (b) where there is no comparable retention requirement under its domestic law, any extraterritorial requirement is limited to the making of preservation requests to the telecommunications operator.”

Joanna Cherry
 Gavin Newlands

248

☆ Page 66, line 10, leave out Clause 86

Member’s explanatory statement

See explanatory statement for amendment 247.

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;”.

 Investigatory Powers Bill, *continued*

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

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

Investigatory Powers Bill, *continued*

to certify warrants in cases concerning defence or foreign policy before they are considered by a judicial commissioner.

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

Investigatory Powers Bill, *continued*

- (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.
- (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.

Investigatory Powers Bill, *continued*

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.

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

Investigatory Powers Bill, *continued*

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

- (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.
- (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.

Investigatory Powers Bill, *continued*

- (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.

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.
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Investigatory Powers Bill, *continued*

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:

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.

Investigatory Powers Bill, *continued*

NOTICES WITHDRAWN

The following Notices were withdrawn on 23 March 2016:

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