



House of Commons

Tuesday 20 March 2018

PUBLIC BILL COMMITTEE PROCEEDINGS

DATA PROTECTION BILL [*LORDS*]

[*FIFTH AND SIXTH SITTINGS*]

GLOSSARY

This document shows the fate of each clause, schedule, amendment and new clause.

The following terms are used:

Agreed to: agreed without a vote.

Agreed to on division: agreed following a vote.

Negatived: rejected without a vote.

Negatived on division: rejected following a vote.

Not called: debated in a group of amendments, but not put to a decision.

Not moved: not debated or put to a decision.

Question proposed: debate underway but not concluded.

Withdrawn after debate: moved and debated but then withdrawn, so not put to a decision.

Not selected: not chosen for debate by the Chair.

Schedule 9 agreed to.

Margot James

Agreed to 117

Schedule 10, page 187, line 5, at end insert—

“Safeguarding of children and of individuals at risk

3A (1) This condition is met if—

(a) the processing is necessary for the purposes of—

- (i) protecting an individual from neglect or physical, mental or emotional harm, or
- (ii) protecting the physical, mental or emotional well-being of an individual,

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- (b) the individual is—
 - (i) aged under 18, or
 - (ii) aged 18 or over and at risk,
 - (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
 - (d) the processing is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are—
- (a) in the circumstances, consent to the processing cannot be given by the data subject;
 - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
 - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—
- (a) has needs for care and support,
 - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
 - (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.”

Schedule, as amended, agreed to.

Clauses 87 to 93 agreed to.

Margot James

Clause 94, page 55, line 8, leave out “day” and insert “time”

Agreed to 35

Margot James

Clause 94, page 55, line 9, leave out “day” and insert “time”

Agreed to 36

Margot James

Clause 94, page 55, line 10, leave out “days”

Agreed to 37

Margot James

Clause 94, page 55, line 11, leave out “the day on which” and insert “when”

Agreed to 38

Margot James

Clause 94, page 55, line 12, leave out “the day on which” and insert “when”

Agreed to 39

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Margot James

Clause 94, page 55, line 13, leave out “the day on which” and insert “when” *Agreed to* 40

Clause, as amended, agreed to.

Clause 95 agreed to.

Brendan O’Hara
Stuart C. McDonald

Clause 96, page 56, line 8, after “law” insert “unless the decision engages an individual’s rights under the Human Rights Act 1998”. *Not called* 135

Clause agreed to.

Margot James

Clause 97, page 56, line 34, leave out “21 days” and insert “1 month” *Agreed to* 41

Margot James

Clause 97, page 56, line 39, leave out “21 days” and insert “1 month” *Agreed to* 42

Clause, as amended, agreed to.

Clause 98 agreed to.

Margot James

Clause 99, page 57, line 28, leave out “day” and insert “time” *Agreed to* 43

Margot James

Clause 99, page 58, line 3, leave out “day” and insert “time” *Agreed to* 44

Margot James

Clause 99, page 58, line 5, leave out “the day on which” and insert “when” *Agreed to* 45

Margot James

Clause 99, page 58, line 6, leave out “the day on which” and insert “when” *Agreed to* 46

Data Protection Bill [Lords], continued

Clause, as amended, agreed to.

Clauses 100 to 108 agreed to.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

Negatived on division 159

Clause 109, page 61, line 13, after “is” insert “provided by law and is”

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

Not called 160

Clause 109, page 61, line 18, at end insert—

- “(3) The transfer falls within this subsection if the transfer—
- (a) is based on an adequacy decision (see section 74),
 - (b) if not based on an adequacy decision, is based on there being appropriate safeguards (see section 75), or
 - (c) if not based on an adequacy decision or on there being appropriate safeguards, is based on special circumstances (see section 76 as amended by subsection (5)).
- (4) A transfer falls within this subsection if—
- (a) the intended recipient is a person based in a third country that has (in that country) functions comparable to those of the controller or an international organisation, and
 - (b) the transfer meets the following conditions—
 - (i) the transfer is strictly necessary in a specific case for the performance of a task of the transferring controller as provided by law or for the purposes set out in subsection (2),
 - (ii) the transferring controller has determined that there are no fundamental rights and freedoms of the data subject concerned that override the public interest necessitating the transfer,
 - (iii) the transferring controller informs the intended recipient of the specific purpose or purposes for which the personal data may, so far as necessary, be processed, and
 - (iv) the transferring controller documents any transfer and informs the Commissioner about the transfer on request.
- (5) The reference to law enforcement purposes in subsection (4) of section 76 is to be read as a reference to the purposes set out in subsection (2).”

Clause agreed to.

Clauses 110 to 112 agreed to.

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Margot James

Schedule 11, page 190, line 4, leave out “day falls before the day on which” and insert “time falls before” *Agreed to* 118

Margot James

Schedule 11, page 190, line 7, leave out “day” and insert “time” *Agreed to* 119

Margot James

Schedule 11, page 190, line 9, leave out “the date of” *Agreed to* 120

Margot James

Schedule 11, page 190, line 17, leave out “day” and insert “time” *Agreed to* 121

Schedule, as amended, agreed to.

Brendan O’Hara
Stuart C. McDonald
Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

Page 63, line 1, leave out Clause 113

Not selected 136

Clause agreed to.

Clause 114 agreed to.

Schedule 12 agreed to.

Clause 115 and 116 agreed to.

Margot James

Schedule 13, page 194, line 36, leave out from beginning to end of line 4 on page 195 *Agreed to* 122

Schedule, as amended, agreed to.

Clauses 117 and 118 agreed to.

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Schedule 14 agreed to.

Clauses 119 and 120 agreed to.

Margot James

Not selected 47

Page **66**, line **23**, leave out Clause 121

Clause negated on division.

Clauses 122 and 123 agreed to.

Margot James

Agreed to 48

Clause **124**, page **68**, line **24**, leave out “with the day on which” and insert “when”

Clause, as amended, agreed to.

Margot James

Agreed to 49

Clause **125**, page **69**, line **9**, leave out “with the day on which” and insert “when”

Clause, as amended, agreed to.

Clauses 126 to 141 agreed to.

Brendan O’Hara
Stuart C. McDonald

Negated on division 137

Clause **142**, page **77**, line **34**, at end insert—

“(3) The Secretary of State must consult the Scottish Government and obtain its consent before establishing an inquiry under subsection (1).”

Margot James

Not selected 50

Page **77**, line **18**, leave out Clause 142

Clause negated on division.

Data Protection Bill [Lords], continued

Margot James

Clause 143, page 77, line 37, after “notice”)” insert “—
(a) ”

Agreed to 51

Margot James

Clause 143, page 77, line 40, at end insert “, or
(b) require any person to provide the Commissioner with information that the Commissioner reasonably requires for the purposes of determining whether the processing of personal data is carried out by an individual in the course of a purely personal or household activity.”

Agreed to 52

Margot James

Clause 143, page 78, line 23, leave out “with the day on which” and insert “when”

Agreed to 53

Margot James

Clause 143, page 78, line 30, at end insert—
“(10) Section 3(14)(b) does not apply to the reference to the processing of personal data in subsection (1)(b).”

*Agreed to 54**Clause, as amended, agreed to.*

Clauses 144 and 145 agreed to.

Margot James

Clause 146, page 81, line 3, leave out “with the day on which” and insert “when”

*Agreed to 55**Clause, as amended, agreed to.**Clauses 147 and 148 agreed to.*

Margot James

Clause 149, page 83, line 36, leave out “with the day on which” and insert “when”

*Agreed to 56**Clause, as amended, agreed to.*

Clauses 150 to 153 agreed to.
Schedule 15 agreed to.

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Margot James

Agreed to 179

Clause 154, page 85, line 39, leave out from the beginning to “when” and insert “Subject to subsection (3A),”

Margot James

Agreed to 57

Clause 154, page 86, line 10, at end insert “or distress”

Margot James

Agreed to 180

Clause 154, page 86, line 28, at end insert—
“(3A) Subsections (2) and (3) do not apply in the case of a decision or determination relating to a failure described in section 148(5).”

Clause, as amended, agreed to.

Margot James

Agreed to 123

Schedule 16, page 203, line 26, leave out “with the day after” and insert “when”

Margot James

Agreed to 124

Schedule 16, page 204, line 10, leave out “with the day on which” and insert “when”

Margot James

Agreed to 125

Schedule 16, page 205, line 5, leave out “with the day after the day on which” and insert “when”

Margot James

Agreed to 126

Schedule 16, page 205, line 37, leave out “controller or processor” and insert “person to whom the penalty notice was given”

Schedule, as amended, agreed to.

Clauses 155 to 158 agreed to.

Margot James

Agreed to 58

Clause 159, page 89, line 37, leave out from “a” to end of line 38 and insert “person to make oral representations about the Commissioner’s intention to give the person a penalty notice;”

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Clause, as amended, agreed to.

Clauses 160 to 163 agreed to.

Margot James

Clause 164, page 93, line 4, leave out “with the day on which” and insert “when” *Agreed to* 59

Clause, as amended, agreed to.

Clauses 165 to 167 agreed to.

Margot James

Page 94, line 36, leave out Clause 168

Not selected 60

Clause negatived on division.

Margot James

Page 95, line 20, leave out Clause 169

Not selected 61

Clause negatived on division.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

Clause 170, page 96, line 25, at end insert “or
(d) was done in the process of making a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)).” *Withdrawn* 157

Clause agreed to.

Data Protection Bill [Lords], continued

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

Not called 158

Clause 171, page 97, line 28, at end insert “or

- (d) was done in the process of making a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)).”

Clause agreed to.

Clause 172 agreed to.

Louise Haigh
 Liam Byrne
 Chris Elmore

Not selected 230

☆ Clause 173, page 99, line 12, leave out from “applies” to the end of line 38 and insert—

“where a request has been made—

- (a) in exercise of an information right, and
 (b) the person making the request would have been entitled to receive information in response to that request.
- (2) In this section, “information right” means a right under—
- (a) Article 15 of the GDPR (right of access by the data subject);
 (b) Article 20 of the GDPR (right to data portability);
 (c) section 45 of this Act (law enforcement processing: right of access by the data subject);
 (d) section 94 of this Act (intelligence services processing: right of access by the data subject);
 (e) section 1 of the Freedom of Information Act 2000 (general right of access to information held by public authorities);
 (f) regulation 5 of the Environmental Information Regulations 2004 (duty to make available environmental information on request).
- (3) In this section information which a person is “entitled to receive” means information which a person is entitled to receive or to have communicated or made available to him or her under any of the rights referred to in subsection (2).
- (4) It is an offence for a person listed in subsection (5) to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the person making the request would have been entitled to receive.
- (5) Those persons are—
- (a) in the case of a request made under any of the provisions referred to in paragraphs (a) to (d) of subsection (2)—
- (i) the controller, and
 (ii) a person who is employed by the controller, an officer of the controller or subject to the direction of the controller,
 (b) in the case of a request made under either of the provisions referred to in paragraphs (e) to (f) of subsection (2) the public authority and any person

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who is employed by, is an officer of, is subject to the direction of, or holds information on behalf of, the public authority.

- (6) It is a defence for a person charged with an offence under subsection (4) to prove that—
- (a) the alteration, defacing, blocking, erasure, destruction or concealment of the information would have occurred in the absence of a request made in exercise of an information right, or
 - (b) the person acted in the reasonable belief that the person making the request was not entitled to receive the information.”

Clause agreed to.

Clauses 174 to 176 agreed to.

Darren Jones

Negatived on division 151

Clause 177, page 102, line 13, at end insert—

- “(4) Notwithstanding any provision in section 6 of the European Union (Withdrawal) Act 2018, a court or tribunal shall have regard to decisions made by the European Court after exit day so far as they relate to any provision under this Act.”

Clause agreed to.

Clause 178 agreed to.

Margot James

Agreed to 62

Clause 179, page 103, line 35, at end insert—

- “() If a draft of a statutory instrument containing regulations under section 7 would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.”

Clause, as amended, agreed to.

Clauses 180 and 181 agreed to.

[Adjourned until Thursday at 11.30 am]