



House of Commons

NOTICES OF AMENDMENTS

given up to and including
Tuesday 6 March 2018

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*
Amendments tabled since the last publication: 1 to 128 and NC1 to NC2

PUBLIC BILL COMMITTEE

DATA PROTECTION BILL [*LORDS*]

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Margot James

- ★ Clause 3, page 2, line 25, leave out “personal data” and insert “information” 1
Member’s explanatory statement
This amendment and Amendment 2 enable the definition of “processing” to be used in relation to any information, not just personal data.

Margot James

- ★ Clause 3, page 2, line 26, leave out “personal data, or on sets of personal data” and insert “information, or on sets of information” 2
Member’s explanatory statement
See the explanatory statement for Amendment 1.

 Data Protection Bill [*Lords*], *continued*

Margot James

3

- ★ Clause 3, page 2, line 41, after “83” insert “and see also subsection (14)(c)”
Member’s explanatory statement
This amendment is consequential on Amendment 6.

Margot James

4

- ★ Clause 3, page 3, line 27, at end insert —
 “(aa) references to Chapter 2 of Part 2, or to a provision of that Chapter, include that Chapter or that provision as applied by Chapter 3 of Part 2;”
Member’s explanatory statement
This amendment makes clear that references to Chapter 2 of Part 2 in Parts 5 to 7 of the bill include that Chapter as applied by Chapter 3 of Part 2.

Margot James

5

- ★ Clause 3, page 3, line 28, leave out “processing and personal data are to processing and personal data” and insert “personal data, and the processing of personal data, are to personal data and processing”
Member’s explanatory statement
This amendment is consequential on Amendment 1.

Margot James

6

- ★ Clause 3, page 3, line 29, at end insert —
 “(c) references to a controller or processor are to a controller or processor in relation to the processing of personal data to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.”
Member’s explanatory statement
This amendment and Amendment 3 make clear that references to controllers and processors in Parts 5 to 7 of the bill are to controllers and processors in relation to processing to which the GDPR, the applied GDPR or Part 3 or 4 of the bill applies.
-

Margot James

7

- ★ Clause 7, page 5, line 8, leave out “a body specified” and insert “body specified or described”
Member’s explanatory statement
This amendment and Amendment 8 make clear that regulations under Clause 7 may identify an authority or body by describing a type of authority or body, as well as by specifying an authority or body.

 Data Protection Bill [*Lords*], *continued*

Margot James

8

- ★ Clause 7, page 5, line 13, after “specified” insert “or described”
Member’s explanatory statement
 See the explanatory statement for Amendment 7.
-

Margot James

9

- ★ Clause 8, page 5, line 29, at end insert—
 “() an activity that supports or promotes democratic engagement.”
Member’s explanatory statement
 This amendment adds a reference to processing of personal data that is necessary for activities that support or promote democratic engagement to Clause 8 (lawfulness of processing: public interest etc).
-

Margot James

10

- ★ Clause 14, page 8, line 4, leave out “21 days” and insert “1 month”
Member’s explanatory statement
 Clause 14(4)(b) provides that where a controller notifies a data subject under Clause 14(4)(a) that the controller has taken a “qualifying significant decision” in relation to the data subject based solely on automated processing, the data subject has 21 days to request the controller to reconsider or take a new decision not based solely on automated processing. This amendment extends that period to one month.

Margot James

11

- ★ Clause 14, page 8, leave out line 10 and insert “within the period described in Article 12(3) of the GDPR—”
Member’s explanatory statement
 This amendment removes provision from Clause 14(5) dealing with the time by which a controller has to respond to a data subject’s request under Clause 14(4)(b) and replaces it with a requirement for the controller to respond within the time periods set out in Article 12(3) of the GDPR, which is directly applicable.

Margot James

12

- ★ Clause 14, page 8, line 16, at end insert—
 “(5A) In connection with this section, a controller has the powers and obligations under Article 12 of the GDPR (transparency, procedure for extending time for acting on

Data Protection Bill [Lords], continued

request, fees, manifestly unfounded or excessive requests etc) that apply in connection with Article 22 of the GDPR.”

Member’s explanatory statement

This amendment inserts a signpost to Article 12 of the GDPR which is directly applicable and which confers powers and places obligations on controllers to whom Clause 14 applies.

Margot James

13

- ★ Clause 15, page 8, line 31, after “21” insert “and 34”

Member’s explanatory statement

This amendment is consequential on Amendment 94.

Margot James

14

- ★ Clause 15, page 8, line 34, after “21” insert “and 34”

Member’s explanatory statement

This amendment is consequential on an amendment made in the Lords which added Article 34 of the GDPR (communication of personal data breach to the data subject) to the list of GDPR provisions that are disapplied by paragraph 11 of Schedule 2 to the Bill.

Margot James

15

- ★ Clause 17, page 10, line 16, leave out “authority” and insert “body”

Member’s explanatory statement

This amendment corrects the reference in Clause 17(7) to the “national accreditation authority” by amending it to refer to the “national accreditation body”, which is defined in Clause 17(8).

Margot James

16

- ★ Clause 19, page 12, line 2, leave out “(d)” and insert “(e)”

Member’s explanatory statement

This amendment amends the definition of “relevant NHS body” in this Clause by adding special health and social care agencies established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (which fall within paragraph (e) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009).

Data Protection Bill [Lords], continued

Margot James

- ★ Clause 25, page 15, line 40, leave out “individual” and insert “data subject” 17
Member’s explanatory statement
Clause 25 makes provision about the processing of manual unstructured data used in longstanding historical research. This amendment aligns Clause 25(1)(b)(i) with similar provision in Clause 19(2).
-

Margot James

- ★ Clause 30, page 19, line 4, after “specified” insert “or described” 18
Member’s explanatory statement
This amendment changes a reference to persons specified in Schedule 7 into a reference to persons specified or described there.

Margot James

- ★ Clause 30, page 19, line 10, leave out from “add” to end of line and insert “or remove a person or description of person” 19
Member’s explanatory statement
This amendment makes clear that regulations under Clause 30 may identify a person by describing a type of person, as well as by specifying a person.
-

Margot James

- ★ Clause 41, page 23, line 34, leave out “an individual” and insert “a data subject” 20
Member’s explanatory statement
Clause 41 makes provision about the processing of personal data for archiving purposes, for scientific or historical research purposes or for statistical purposes. This amendment aligns Clause 41(2)(b) with similar provision in Clause 19(2).
-

Margot James

- ★ Clause 42, page 24, line 29, leave out “with the day” and insert “when” 21
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

 Data Protection Bill [*Lords*], *continued*

Margot James

22

- ★ Clause 47, page 28, line 20, leave out second “data”

Member’s explanatory statement

This amendment changes a reference to a “data controller” into a reference to a “controller” (as defined in Clauses 3 and 32).

Margot James

23

- ★ Clause 50, page 30, line 11, leave out “21 days” and insert “1 month”

Member’s explanatory statement

Clause 50(2)(b) provides that where a controller notifies a data subject under Clause 50(2)(a) that the controller has taken a “qualifying significant decision” in relation to the data subject based solely on automated processing, the data subject has 21 days to request the controller to reconsider or take a new decision not based solely on automated processing. This amendment extends that period to one month.

Margot James

24

- ★ Clause 50, page 30, line 17, leave out “21 days” and insert “1 month”

Member’s explanatory statement

Clause 50(3) provides that where a data subject makes a request to a controller under Clause 50(2)(b) to reconsider or retake a decision based solely on automated processing, the controller has 21 days to respond. This amendment extends that period to one month.

Margot James

25

- ★ Clause 51, page 31, line 2, leave out from first “the” to end of line 3 and insert “restriction imposed by the controller was lawful;”

Member’s explanatory statement

This amendment changes the nature of the request that a data subject may make to the Commissioner in cases where rights to information are restricted under Clause 44(4) or 45(4). The effect is that a data subject will be able to request the Commissioner to check that the restriction was lawful.

Margot James

26

- ★ Clause 51, page 31, line 11, leave out from first “the” to end of line 12 and insert “restriction imposed by the controller was lawful;”

Member’s explanatory statement

This amendment is consequential on Amendment 25.

Data Protection Bill [Lords], continued

Margot James

27

- ★ Clause 53, page 31, line 39, leave out “or 47” and insert “, 47 or 50”

Member’s explanatory statement

Clause 53(1) provides that where a request from a data subject under Clause 45, 46 or 47 is manifestly unfounded or excessive, the controller may charge a reasonable fee for dealing with the request or refuse to act on the request. This amendment applies Clause 53(1) to requests under Clause 50 (automated decision making). See also Amendment 28.

Margot James

28

- ★ Clause 53, page 32, line 4, leave out “or 47” and insert “, 47 or 50”

Member’s explanatory statement

Clause 53(3) provides that where there is an issue as to whether a request under Clause 45, 46 or 47 is manifestly unfounded or excessive, it is for the controller to show that it is. This amendment applies Clause 53(3) to requests under Clause 50 (automated decision making). See also Amendment 27.

Margot James

29

- ★ Clause 54, page 32, line 14, leave out “day” and insert “time”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

30

- ★ Clause 54, page 32, line 15, leave out “day” and insert “time”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

31

- ★ Clause 54, page 32, line 15, leave out “days”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

32

- ★ Clause 54, page 32, line 16, leave out “the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

33

- ★ Clause 54, page 32, line 17, leave out “the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

 Data Protection Bill [*Lords*], *continued*

Margot James

- ★ Clause 54, page 32, line 19, leave out “the day on which” and insert “when” 34
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

Margot James

- ★ Clause 94, page 55, line 8, leave out “day” and insert “time” 35
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

- ★ Clause 94, page 55, line 9, leave out “day” and insert “time” 36
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

- ★ Clause 94, page 55, line 10, leave out “days” 37
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

- ★ Clause 94, page 55, line 11, leave out “the day on which” and insert “when” 38
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

- ★ Clause 94, page 55, line 12, leave out “the day on which” and insert “when” 39
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

- ★ Clause 94, page 55, line 13, leave out “the day on which” and insert “when” 40
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

Margot James

- ★ Clause 97, page 56, line 34, leave out “21 days” and insert “1 month” 41
Member’s explanatory statement
Clause 97(4) provides that where a controller notifies a data subject under Clause 97(3) that the

Data Protection Bill [Lords], continued

controller has taken a decision falling under Clause 97(1) (automated decisions required or authorised by law), the data subject has 21 days to request the controller to reconsider or take a new decision not based solely on automated processing. This amendment extends that period to one month.

Margot James

42

- ★ Clause 97, page 56, line 39, leave out “21 days” and insert “1 month”

Member’s explanatory statement

Clause 97(5) provides that where a data subject makes a request to a controller under Clause 97(4) to reconsider or retake a decision based solely on automated processing, the controller has 21 days to respond. This amendment extends that period to one month.

Margot James

43

- ★ Clause 99, page 57, line 28, leave out “day” and insert “time”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

44

- ★ Clause 99, page 58, line 3, leave out “day” and insert “time”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

45

- ★ Clause 99, page 58, line 5, leave out “the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

46

- ★ Clause 99, page 58, line 6, leave out “the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

47

- ★ Page 66, line 23, leave out Clause 121
-

 Data Protection Bill [*Lords*], *continued*

Margot James

48

- ★ Clause 124, page 68, line 24, leave out “with the day on which” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

Margot James

49

- ★ Clause 125, page 69, line 9, leave out “with the day on which” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

Margot James

50

- ★ Page 77, line 18, leave out Clause 142
-

Margot James

51

- ★ Clause 143, page 77, line 37, after “notice”)” insert “—
 (a) ”
Member’s explanatory statement
See the explanatory statement for Amendment 52.

Margot James

52

- ★ 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.”
Member’s explanatory statement
This amendment and Amendments 51 and 54 enable the Information Commissioner to obtain information in order to work out whether processing is carried out in the course of purely personal or household activities. Such processing is not subject to the GDPR or the applied GDPR (see Article 2(2)(c) of the GDPR and Clause 21(3)).

Margot James

53

- ★ Clause 143, page 78, line 23, leave out “with the day on which” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

 Data Protection Bill [*Lords*], *continued*

Margot James

54

- ★ 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).”

Member’s explanatory statement

This amendment secures that the reference to “processing” in the new paragraph (b) inserted by Amendment 52 includes all types of processing of personal data. It disapplies Clause 3(14)(b), which provides that references to processing in Parts 5 to 7 of the bill are usually to processing to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.

Margot James

55

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

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

56

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

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

57

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

Member’s explanatory statement

This amendment is for consistency with Clause 149(2). It requires the Commissioner, when deciding whether to give a penalty notice to a person in respect of a failure to which the GDPR does not apply and when determining the amount of the penalty, to have regard to any action taken by the controller or processor to mitigate the distress suffered by data subjects as a result of the failure.

 Data Protection Bill [*Lords*], *continued*

Margot James

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;”

Member’s explanatory statement

This amendment is consequential on Amendment 52.

Margot James

59

- ★ Clause 164, page 93, line 4, leave out “with the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

60

- ★ Page 94, line 36, leave out Clause 168
-

Margot James

61

- ★ Page 95, line 20, leave out Clause 169
-

Margot James

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.”

Member’s explanatory statement

This amendment disapplies the procedure for hybrid instruments in the House of Lords (and any similar procedure that may be introduced in the House of Commons) in relation to regulations under Clause 7 (meaning of “public authority” and “public body” for the purposes of the GDPR).

 Data Protection Bill [*Lords*], *continued*

Margot James

63

- ★ Clause 183, page 105, line 42, leave out “80” and insert “80(1)”

Member’s explanatory statement

This amendment changes a reference to Article 80 of the GDPR into a reference to Article 80(1) and is consequential on NC2.

Margot James

64

- ★ Clause 183, page 105, line 44, leave out “certain rights” and insert “the data subject’s rights under Articles 77, 78 and 79 of the GDPR (rights to lodge complaints and to an effective judicial remedy)”

Member’s explanatory statement

In words summarising Article 80(1) of the GDPR, this amendment adds information about the rights of data subjects that may be exercised by representative bodies under that provision.

Margot James

65

- ★ Clause 183, page 106, line 7, leave out “under the following provisions” and insert “of a data subject”

Member’s explanatory statement

This amendment and Amendments 66, 67 and 68 tidy up Clause 183(2).

Margot James

66

- ★ Clause 183, page 106, line 9, at beginning insert “rights under”

Member’s explanatory statement

See the explanatory statement for Amendment 65.

Margot James

67

- ★ Clause 183, page 106, line 10, at beginning insert “rights under”

Member’s explanatory statement

See the explanatory statement for Amendment 65.

Margot James

68

- ★ Clause 183, page 106, line 11, at beginning insert “rights under”

Member’s explanatory statement

See the explanatory statement for Amendment 65.

 Margot James

69

- ★ Clause 184, page 106, line 41, leave out “(including as applied by Chapter 3 of that Part)”

Member’s explanatory statement

This amendment is consequential on Amendment 4.

Data Protection Bill [Lords], continued

Margot James

That Clause 184 be transferred to the end of line 39 on page 105

Margot James

- 70**
- ★ Clause 198, page 114, line 25, at end insert “the following (except in the expression “United Kingdom government department”)”
- Member’s explanatory statement***
This amendment makes clear that the definition of “government department” does not operate on references to a “United Kingdom government department” (which can be found in Clause 185 and paragraph 1 of Schedule 7).

Margot James

- 71**
- ★ Clause 198, page 115, line 8, at end insert—
- “(2) References in this Act to a period expressed in hours, days, weeks, months or years are to be interpreted in accordance with Article 3 of Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits, except in—
- (a) section 125(4), (7) and (8);
 - (b) section 160(3), (5) and (6);
 - (c) section 176(2);
 - (d) section 179(8) and (9);
 - (e) section 180(4);
 - (f) section 186(3), (5) and (6);
 - (g) section 190(3) and (4);
 - (h) paragraph 18(4) and (5) of Schedule 1;
 - (i) paragraphs 5(4) and 6(4) of Schedule 3;
 - (j) Schedule 5;
 - (k) paragraph 11(5) of Schedule 12;
 - (l) Schedule 15;
- (and the references in section 5 to terms used in Chapter 2 or 3 of Part 2 do not include references to a period expressed in hours, days, weeks, months or years).”
- Member’s explanatory statement***
This amendment provides that periods of time referred to in the bill are generally to be interpreted in accordance with Article 3 of EC Regulation 1182/71, which makes provision about the calculation of periods of hours, days, weeks, months and years.
-

 Data Protection Bill [Lords], continued

Margot James

72

- ★ Clause 205, page 120, line 37, leave out paragraph (b)

Member's explanatory statement

This amendment is consequential on the omission of Clauses 168 and 169 (see Amendments 60 and 61).

Margot James

73

- ★ Clause 207, page 121, line 12, after “(2)” insert “, (2A)”

Member's explanatory statement

See the explanatory statement for Amendment 74.

Margot James

74

- ★ Clause 207, page 121, line 14, at end insert—

“(2A) Sections (*Representation of data subjects with their authority: collective proceedings*) and (*Duty to review provision for representation of data subjects*) extend to England and Wales and Northern Ireland only.”

Member's explanatory statement

This amendment and Amendment 73 provide that NC1 and NC2 extend only to England and Wales and Northern Ireland.

Margot James

75

- ★ Clause 208, page 121, line 24, leave out subsection (2)

Member's explanatory statement

This amendment removes the privilege amendment inserted by the Lords.

Margot James

NC1

- ★ To move the following Clause—

“Representation of data subjects with their authority: collective proceedings

- (1) The Secretary of State may by regulations make provision for representative bodies to bring proceedings before a court or tribunal in England and Wales or Northern Ireland combining two or more relevant claims.
- (2) In this section, “relevant claim”, in relation to a representative body, means a claim in respect of a right of a data subject which the representative body is authorised to exercise on the data subject’s behalf under Article 80(1) of the GDPR or section 183.
- (3) The power under subsection (1) includes power—
 - (a) to make provision about the proceedings;

Data Protection Bill [Lords], continued

- (b) to confer functions on a person, including functions involving the exercise of a discretion;
 - (c) to make different provision in relation to England and Wales and in relation to Northern Ireland.
- (4) The provision mentioned in subsection (3)(a) includes provision about—
- (a) the effect of judgments and orders;
 - (b) agreements to settle claims;
 - (c) the assessment of the amount of compensation;
 - (d) the persons to whom compensation may or must be paid, including compensation not claimed by the data subject;
 - (e) costs.
- (5) Regulations under this section are subject to the negative resolution procedure.”

Member's explanatory statement

This new clause confers power on the Secretary of State to make regulations enabling representative bodies (defined in Clause 183) to bring collective proceedings in England and Wales or Northern Ireland combining two or more claims in respect of data subjects' rights.

Margot James

NC2

- ★ To move the following Clause—

“Duty to review provision for representation of data subjects

- (1) Before the end of the review period, the Secretary of State must—
- (a) review the matters listed in subsection (2) in relation to England and Wales and Northern Ireland,
 - (b) prepare a report of the review, and
 - (c) lay a copy of the report before Parliament.
- (2) Those matters are—
- (a) the operation of Article 80(1) of the GDPR,
 - (b) the operation of section 183,
 - (c) the merits of exercising the power under Article 80(2) of the GDPR (power to enable a body or other organisation which meets the conditions in Article 80(1) of the GDPR to exercise some or all of a data subject's rights under Articles 77, 78 and 79 of the GDPR without being authorised to do so by the data subject), and
 - (d) the merits of making equivalent provision in relation to data subjects' rights under Article 82 of the GDPR (right to compensation).
- (3) “The review period” is the period of 30 months beginning when section 183 comes into force.
- (4) After the report under subsection (1) is laid before Parliament, the Secretary of State may by regulations—
- (a) exercise the powers under Article 80(2) of the GDPR in relation to England and Wales and Northern Ireland, and
 - (b) make provision enabling a body or other organisation which meets the conditions in Article 80(1) of the GDPR to exercise a data subject's rights under Article 82 of the GDPR in England and Wales and Northern Ireland without being authorised to do so by the data subject.

Data Protection Bill [Lords], continued

- (5) The powers under subsection (4) include power—
- (a) to make provision enabling a data subject to prevent a body or other organisation from exercising, or continuing to exercise, the data subject’s rights;
 - (b) to make provision about proceedings before a court or tribunal where a body or organisation exercises a data subject’s rights,
 - (c) to make provision for bodies or other organisations to bring proceedings before a court or tribunal combining two or more claims in respect of a right of a data subject;
 - (d) to confer functions on a person, including functions involving the exercise of a discretion;
 - (e) to amend sections 164 to 166, 177, 183, 196, 198 and 199;
 - (f) to insert new sections and Schedules into Part 6 or 7;
 - (g) to make different provision in relation to England and Wales and in relation to Northern Ireland.
- (6) The provision mentioned in subsection (5)(b) and (c) includes provision about—
- (a) the effect of judgments and orders;
 - (b) agreements to settle claims;
 - (c) the assessment of the amount of compensation;
 - (d) the persons to whom compensation may or must be paid, including compensation not claimed by the data subject;
 - (e) costs.
- (7) Regulations under this section are subject to the affirmative resolution procedure.”

Member’s explanatory statement

This new clause imposes a duty on the Secretary of State to review the operation of provisions enabling a representative body to exercise data subjects’ rights with their authority in England and Wales and Northern Ireland and to consider exercising powers under the GDPR to enable a representative body to exercise such rights there without being authorised to do so by the data subjects.

Margot James

76

- ★ Schedule 1, page 123, line 21, at beginning insert “Except as otherwise provided,”

Member’s explanatory statement

This amendment is consequential on Amendments 79, 82 and 90.

Margot James

77

- ★ Schedule 1, page 124, line 24, leave out from “subject” to end of line 25

Member’s explanatory statement

In paragraph 8 of Schedule 1, sub-paragraph (3) contains an exception from the condition in sub-paragraph (1). This amendment would remove from the exception the requirement that the processing is carried out without the data subject’s consent.

Data Protection Bill [Lords], continued

Margot James

78

★ Schedule 1, page 124, line 36, at end insert—

“Racial and ethnic diversity at senior levels of organisations

- 8A (1) This condition is met if the processing—
- (a) is of personal data revealing racial or ethnic origin,
 - (b) is carried out as part of a process of identifying suitable individuals to hold senior positions in a particular organisation, a type of organisation or organisations generally,
 - (c) is necessary for the purposes of promoting or maintaining diversity in the racial and ethnic origins of individuals who hold senior positions in the organisation or organisations, and
 - (d) can reasonably be carried out without the consent of the data subject, subject to the exception in sub-paragraph (3).
- (2) For the purposes of sub-paragraph (1)(d), processing can reasonably be carried out without the consent of the data subject only where—
- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
 - (b) the controller is not aware of the data subject withholding consent.
- (3) Processing does not meet the condition in sub-paragraph (1) if it is likely to cause substantial damage or substantial distress to an individual.
- (4) For the purposes of this paragraph, an individual holds a senior position in an organisation if the individual—
- (a) holds a position listed in sub-paragraph (5), or
 - (b) does not hold such a position but is a senior manager of the organisation.
- (5) Those positions are—
- (a) a director, secretary or other similar officer of a body corporate;
 - (b) a member of a limited liability partnership;
 - (c) a partner in a partnership within the Partnership Act 1890, a limited partnership registered under the Limited Partnerships Act 1907 or an entity of a similar character formed under the law of a country or territory outside the United Kingdom.
- (6) In this paragraph, “senior manager”, in relation to an organisation, means a person who plays a significant role in—
- (a) the making of decisions about how the whole or a substantial part of the organisation’s activities are to be managed or organised, or
 - (b) the actual managing or organising of the whole or a substantial part of those activities.
- (7) The reference in sub-paragraph (2)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”

Member’s explanatory statement

Part 2 of Schedule 1 describes types of processing of special categories of personal data which meet the requirement in Article 9(2)(g) of the GDPR (processing necessary for reasons of substantial public interest) for a basis in UK law (see Clause 10(3)). This amendment adds to Part 2 of Schedule 1 certain processing of personal data for the purposes of promoting or maintaining diversity in the racial and ethnic origins of individuals who hold senior positions in organisations.

 Data Protection Bill [*Lords*], *continued*

Margot James

79

- ★ Schedule 1, page 125, line 3, at end insert—

“() If the processing consists of the disclosure of personal data to a competent authority, or is carried out in preparation for such disclosure, the condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).

Member’s explanatory statement

This amendment, and Amendment 80, provide that where processing falling within paragraph 9 of Part 2 of Schedule 1 (preventing or detecting unlawful acts) consists of, or is carried out in preparation for, the disclosure of personal data to a competent authority, the condition in that paragraph is met even if the controller does not have an appropriate policy document in place when the processing is carried out.

Margot James

80

- ★ Schedule 1, page 125, line 4, at end insert—

““competent authority” has the same meaning as in Part 3 of this Act (see section 30).”

Member’s explanatory statement

See the explanatory statement for Amendment 79.

Margot James

81

- ★ Schedule 1, page 125, line 16, at end insert—

“Regulatory requirements relating to unlawful acts and dishonesty etc

10A (1) This condition is met if—

- (a) the processing is necessary for the purposes of complying with, or assisting other persons to comply with, a regulatory requirement which involves a person taking steps to establish whether another person has—
 - (i) committed an unlawful act, or
 - (ii) been involved in dishonesty, malpractice or other seriously improper conduct,
- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing, and
- (c) the processing is necessary for reasons of substantial public interest.

(2) In this paragraph—

“act” includes a failure to act;

“regulatory requirement” means—

- (a) a requirement imposed by legislation or by a person in exercise of a function conferred by legislation, or
- (b) a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity.”

Member’s explanatory statement

Part 2 of Schedule 1 describes types of processing of special categories of personal data which meet the requirement in Article 9(2)(g) of the GDPR (processing necessary for reasons of substantial public interest) for a basis in UK law (see Clause 10(3)). This amendment adds to Part 2 of Schedule 1 certain processing of personal data for the purposes of complying with, or assisting others to comply with, a regulatory requirement.

Data Protection Bill [Lords], continued

Margot James

82

- ★ Schedule 1, page 125, line 35, at end insert—

“() The condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).”

Member’s explanatory statement

This amendment provides that the condition in paragraph 11 of Part 2 of Schedule 1 (journalism etc in connection with unlawful acts and dishonesty etc) is met even if the controller does not have an appropriate policy document in place when the processing is carried out.

Margot James

83

- ★ Schedule 1, page 126, line 22, at end insert—

“Support for individuals with a particular disability or medical condition

13A (1) This condition is met if the processing—

- (a) is carried out by a not-for-profit body which provides support to individuals with a particular disability or medical condition,
 - (b) is of a type of personal data falling within sub-paragraph (2) which relates to an individual falling within sub-paragraph (3),
 - (c) is necessary for the purposes of—
 - (i) raising awareness of the disability or medical condition, or
 - (ii) providing support to individuals falling within sub-paragraph (3) or enabling such individuals to provide support to each other,
 - (d) can reasonably be carried out without the consent of the data subject, and
 - (e) is necessary for reasons of substantial public interest.
- (2) The following types of personal data fall within this sub-paragraph—
- (a) personal data revealing racial or ethnic origin;
 - (b) genetic data or biometric data;
 - (c) data concerning health;
 - (d) personal data concerning an individual’s sex life or sexual orientation.
- (3) An individual falls within this sub-paragraph if the individual is or has been a member of the body mentioned in sub-paragraph (1)(a) and—
- (a) has the disability or condition mentioned there, has had that disability or condition or has a significant risk of developing that disability or condition, or
 - (b) is a relative or carer of an individual who satisfies paragraph (a) of this sub-paragraph.
- (4) For the purposes of sub-paragraph (1)(d), processing can reasonably be carried out without the consent of the data subject only where—
- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
 - (b) the controller is not aware of the data subject withholding consent.
- (5) In this paragraph—
- “carer” means an individual who provides or intends to provide care for another individual other than—
- (a) under or by virtue of a contract, or
 - (b) as voluntary work;

Data Protection Bill [Lords], continued

“disability” has the same meaning as in the Equality Act 2010 (see section 6 of, and Schedule 1 to, that Act).

- (6) The reference in sub-paragraph (4)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”

Member’s explanatory statement

Part 2 of Schedule 1 describes types of processing of special categories of personal data which meet the requirement in Article 9(2)(g) of the GDPR (processing necessary for reasons of substantial public interest) for a basis in UK law (see Clause 10(3)). This amendment adds to Part 2 of Schedule 1 certain processing of personal data by not-for-profit bodies involved in supporting individuals with a particular disability or medical condition.

Margot James

84

- ★ Schedule 1, page 126, line 27, leave out “a reason” and insert “one of the reasons”
Member’s explanatory statement
This amendment amends paragraph 14(1)(b) of Schedule 1 for consistency with paragraphs 18(2) and 19(2) of that Schedule.

Margot James

85

- ★ Schedule 1, page 126, line 38, at end insert—

“Safeguarding of children and of individuals at risk

14A (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,
 - (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

Data Protection Bill [Lords], continued

- (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.”

Member’s explanatory statement

Part 2 of Schedule 1 describes types of processing of special categories of personal data which meet the requirement in Article 9(2)(g) of the GDPR (processing necessary for reasons of substantial public interest) for a basis in UK law (see Clause 10(3)). This amendment adds to Part 2 of Schedule 1 certain processing of personal data which is necessary for the protection of children or of adults at risk. See also Amendments 116 and 117.

Margot James

86

- ★ Schedule 1, page 126, line 38, at end insert—

“Safeguarding of economic well-being of certain individuals

- 14B (1) This condition is met if the processing—
- (a) is necessary for the purposes of protecting the economic well-being of an individual at economic risk who is aged 18 or over,
 - (b) is of data concerning health,
 - (c) is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
 - (d) 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) In this paragraph, “individual at economic risk” means an individual who is less able to protect his or her economic well-being by reason of physical or mental injury, illness or disability.”

Member’s explanatory statement

Part 2 of Schedule 1 describes types of processing of special categories of personal data which meet the requirement in Article 9(2)(g) of the GDPR (processing necessary for reasons of substantial public interest) for a basis in UK law (see Clause 10(3)). This amendment adds to Part 2 of Schedule 1 certain processing of personal data which is necessary to protect the economic well-being of adults who are less able to protect their economic well-being by reason of a physical or mental injury, illness or disability.

Margot James

87

- ★ Schedule 1, page 127, line 30, at end insert—

- “() The reference in sub-paragraph (4)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”

Member’s explanatory statement

This amendment clarifies the intended effect of the safeguard in paragraph 15(4) of Schedule 1 (processing necessary for an insurance purpose).

Data Protection Bill [Lords], continued

Margot James

88

- ★ Schedule 1, page 127, line 39, at end insert—

“() is of data concerning health which relates to a data subject who is the parent, grandparent, great-grandparent or sibling of a member of the scheme.”

Member’s explanatory statement

This amendment provides that the condition in paragraph 16 of Schedule 1 (occupational pension schemes) can only be relied on in connection with the processing of data concerning health relating to certain relatives of a member of the scheme.

Margot James

89

- ★ Schedule 1, page 128, line 6, at end insert—

“() The reference in sub-paragraph (2)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”

Member’s explanatory statement

This amendment clarifies the intended effect of the safeguard in paragraph 16(2) of Schedule 1 (processing necessary for determinations in connection with occupational pension schemes).

Margot James

90

- ★ Schedule 1, page 131, line 14, at end insert—

“() If the processing consists of the disclosure of personal data to a body or association described in sub-paragraph (1)(a), or is carried out in preparation for such disclosure, the condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).”

Member’s explanatory statement

This amendment provides that when processing consists of the disclosure of personal data to a body or association that is responsible for eliminating doping in sport, or is carried out in preparation for such disclosure, the condition in paragraph 22 of Part 2 of Schedule 1 (anti-doping in sport) is met even if the controller does not have an appropriate policy document in place when the processing is carried out.

Margot James

91

- ★ Schedule 1, page 133, line 17, leave out from “interest” to end of line 21

Member’s explanatory statement

This amendment removes provisions from paragraph 31 of Schedule 1 (extension of conditions in Part 2 of Schedule 1 referring to substantial public interest) which are unnecessary because they impose requirements which are already imposed by paragraph 5 of Schedule 1.

Margot James

92

- ★ Schedule 1, page 134, line 18, leave out “on the day” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Data Protection Bill [Lords], continued

Margot James

93

- ★ Schedule 2, page 135, line 7, at end insert—

“() Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”

Member’s explanatory statement

This amendment adds Article 19 of the GDPR (notification obligation regarding rectification or erasure of personal data or restriction of processing) to the list of GDPR provisions that are disapplied by provisions in Part 1 of Schedule 2 to the Bill.

Margot James

94

- ★ Schedule 2, page 135, line 19, after “provisions” insert “and Article 34(1) and (4) of the GDPR (communication of personal data breach to the data subject)”

Member’s explanatory statement

This amendment adds Article 34 of the GDPR (communication of personal data breach to the data subject) to the list of GDPR provisions that are disapplied by paragraph 2(1) of Schedule 2 to the Bill (crime and taxation: general).

Margot James

95

- ★ Schedule 2, page 138, line 15, at end insert—

“() Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”

Member’s explanatory statement

This amendment adds Article 19 of the GDPR (notification obligation regarding rectification or erasure of personal data or restriction of processing) to the list of GDPR provisions that are disapplied by provisions in Part 2 of Schedule 2 to the Bill.

Margot James

96

- ★ Schedule 2, page 139, leave out lines 17 to 27 and insert—

<p>“2. The function is designed to protect members of the public against—</p> <p>(a) dishonesty, malpractice or other seriously improper conduct, or</p> <p>(b) unfitness or incompetence.</p>	<p>The function is—</p> <p>(a) conferred on a person by an enactment,</p> <p>(b) a function of the Crown, a Minister of the Crown or a government department, or</p> <p>(c) of a public nature, and is exercised in the public interest.”</p>
--	---

Member’s explanatory statement

This amendment extends the exemption provided for in paragraph 7 of Schedule 2. It amends the second entry in the table (functions designed to protect members of the public against dishonesty etc) by removing the requirement that the function relates to people who carry on activities which bring them into contact with members of the public. It also amends column 2 of the table to bring the second entry into line with the first and third entries.

Data Protection Bill [*Lords*], *continued*

Margot James

97

- ★ Schedule 2, page 140, line 42, at end insert—

“Audit functions

- 7A (1) The listed GDPR provisions do not apply to personal data processed for the purposes of discharging a function listed in sub-paragraph (2) to the extent that the application of those provisions would be likely to prejudice the proper discharge of the function.
- (2) The functions are any function that is conferred by an enactment on—
- (a) the Comptroller and Auditor General;
 - (b) the Auditor General for Scotland;
 - (c) the Auditor General for Wales;
 - (d) the Comptroller and Auditor General for Northern Ireland.”

Member’s explanatory statement

This amendment inserts a new paragraph into Schedule 2 to provide for an exemption from “the listed GDPR provisions” (defined in paragraph 6 of Schedule 2) where personal data is processed for the purposes of discharging statutory functions of certain auditors.

Margot James

98

- ★ Schedule 2, page 140, line 42, at end insert—

“Functions of the Bank of England

- 7B (1) The listed GDPR provisions do not apply to personal data processed for the purposes of discharging a relevant function of the Bank of England to the extent that the application of those provisions would be likely to prejudice the proper discharge of the function.
- (2) “Relevant function of the Bank of England” means—
- (a) a function discharged by the Bank acting in its capacity as a monetary authority (as defined in section 244(2)(c) and (2A) of the Banking Act 2009);
 - (b) a public function of the Bank within the meaning of section 349 of the Financial Services and Markets Act 2000;
 - (c) a function conferred on the Prudential Regulation Authority by or under the Financial Services and Markets Act 2000 or by another enactment.”

Member’s explanatory statement

This amendment inserts a new paragraph into Schedule 2 to provide for an exemption from “the listed GDPR provisions” (defined in paragraph 6 of Schedule 2) where personal data is processed for the purposes of discharging specified functions of the Bank of England.

Margot James

99

- ★ Schedule 2, page 141, line 18, leave out “body” and insert “person”

Member’s explanatory statement

This amendment and Amendment 100 amend paragraph 9 of Schedule 2 to replace the reference to a “body” with a “person” for consistency with the table at paragraph 9, which includes functions that are conferred on individuals.

Data Protection Bill [Lords], continued

Margot James

100

- ★ Schedule 2, page 141, line 19, leave out “body” and insert “person”
Member’s explanatory statement
 See the explanatory statement for Amendment 99.

Margot James

101

- ★ Schedule 2, page 142, line 7, column 2, at end insert—

“() section 244 of the Investigatory Powers Act 2016;”
--

Member’s explanatory statement

This amendment amends column 2 of the table at paragraph 9 of Schedule 2 so that functions conferred on the Commissioner by section 244 of the Investigatory Powers Act 2016 will be included within the scope of the exemption provided for by paragraph 9.

Margot James

102

- ★ Schedule 2, page 142, line 37, at end insert—

“1A. The Scottish Information Commissioner.	By or under— (a) the Freedom of Information (Scotland) Act 2002 (asp 13); (b) the Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520); (c) the INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440).”
---	---

Member’s explanatory statement

This amendment amends the table at paragraph 9 of Schedule 2 so that functions conferred on the Scottish Information Commissioner by the legislation listed in column 2 of the table will be included within the scope of the exemption provided for by paragraph 9.

Margot James

103

- ★ Schedule 2, page 143, line 7, leave out “or under any” and insert “an”
Member’s explanatory statement

This amendment amends the reference to functions conferred by or under any enactment in entry 5 of the table at paragraph 9. The words “or under” are not necessary because the definition of “enactment” in Clause 198 includes subordinate legislation.

Data Protection Bill [Lords], continued

Margot James

104

- ★ Schedule 2, page 143, line 7, at end insert—

“5A. The Financial Conduct Authority.	By or under the Financial Services and Markets Act 2000 or by another enactment.”
---------------------------------------	---

Member’s explanatory statement

This amendment amends the table at paragraph 9 of Schedule 2 so that functions conferred on the Financial Conduct Authority by the legislation listed in column 2 of the table will be included within the scope of the exemption provided for by paragraph 9.

Margot James

105

- ★ Schedule 2, page 143, line 22, at end insert—

“12. The Charity Commission.	By or under— (a) the Charities Act 1992; (b) the Charities Act 2006; (c) the Charities Act 2011.”
------------------------------	--

Member’s explanatory statement

This amendment amends the table at paragraph 9 of Schedule 2 so that functions conferred on the Charity Commission by the legislation listed in column 2 of the table will be included within the scope of the exemption provided for by paragraph 9.

Margot James

106

- ★ Schedule 2, page 146, line 22, leave out “16(4)(a) or (b)” and insert “16(4)(a), (b) or (c)”

Member’s explanatory statement

This amendment is consequential on Amendment 112.

Margot James

107

- ★ Schedule 2, page 149, line 23, leave out “with the date on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

108

- ★ Schedule 2, page 149, line 25, leave out “the date of”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Data Protection Bill [Lords], continued

Margot James

109

- ★ Schedule 2, page 150, line 45, at end insert—

“() Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”

Member’s explanatory statement

This amendment adds Article 19 of the GDPR (notification obligation regarding rectification or erasure of personal data or restriction of processing) to the list of GDPR provisions that are disapplied by paragraph 24 of Schedule 2 to the Bill (journalistic, academic, artistic and literary purposes).

Margot James

110

- ★ Schedule 2, page 151, line 1, after “processor” insert “—

(i) Article 34(1) and (4) (communication of personal data breach to the data subject);

(ii) ”

Member’s explanatory statement

This amendment adds Article 34 of the GDPR (communication of personal data breach to the data subject) to the list of GDPR provisions that are disapplied by paragraph 24 of Schedule 2 to the Bill (journalistic, academic, artistic and literary purposes).

Margot James

111

- ★ Schedule 3, page 160, line 21, leave out “with the day on which” and insert “when”

Member’s explanatory statement

This amendment is consequential on Amendment 71.

Margot James

112

- ★ Schedule 3, page 162, line 3, leave out paragraph 16 and insert—

“16 (1) This paragraph applies to a record of information which—

(a) is processed by or on behalf of the Board of Governors, proprietor or trustees of, or a teacher at, a school in Northern Ireland specified in sub-paragraph (3),

(b) relates to an individual who is or has been a pupil at the school, and

(c) originated from, or was supplied by or on behalf of, any of the persons specified in sub-paragraph (4).

(2) But this paragraph does not apply to information which is processed by a teacher solely for the teacher’s own use.

(3) The schools referred to in sub-paragraph (1)(a) are—

(a) a grant-aided school;

(b) an independent school.

(4) The persons referred to in sub-paragraph (1)(c) are—

(a) a teacher at the school;

(b) an employee of the Education Authority, other than a teacher at the school;

(c) an employee of the Council for Catholic Maintained Schools, other than a teacher at the school;

Data Protection Bill [Lords], continued

- (d) the pupil to whom the record relates;
 - (e) a parent, as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).
- (5) In this paragraph, “grant-aided school”, “independent school”, “proprietor” and “trustees” have the same meaning as in the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).”

Member’s explanatory statement

This amendment expands the types of records that are “educational records” for the purposes of Part 4 of Schedule 3.

Margot James

113

- ★ Schedule 3, page 164, line 7, leave out “with the day on which” and insert “when”
- Member’s explanatory statement**
This amendment is consequential on Amendment 71.
-

Margot James

114

- ★ Schedule 5, page 170, line 21, leave out “In this paragraph” and insert—

“Meaning of “working day”

7 In this Schedule”

Member’s explanatory statement

This amendment applies the definition of “working day” for the purposes of the whole of Schedule 5. There are references to “working days” in paragraphs 5(2) and 6(3) of that Schedule.

Margot James

115

- ★ Schedule 6, page 180, line 2, leave out sub-paragraph (b) and insert—
- “(b) in paragraph 2, for “Member States” substitute “The Secretary of State”;
 - (c) after that paragraph insert—

“3 The power under paragraph 2 may only be exercised by making regulations under section (*Duty to review provision for representation of data subjects*) of the 2018 Act.”

Member’s explanatory statement

This amendment is consequential on NC2.

Data Protection Bill [Lords], continued

Margot James

116

★ Schedule 8, page 184, line 32, 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,
 - (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.”

Member’s explanatory statement

Schedule 8 makes provision about the circumstances in which the processing of special categories of personal data is permitted. This amendment adds to that Schedule certain processing of personal data which is necessary for the protection of children or of adults at risk. See also Amendments 85 and 117.

 Data Protection Bill [*Lords*], *continued*

Margot James

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,
 - (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.”

Member’s explanatory statement

Schedule 10 makes provision about the circumstances in which the processing of special categories of personal data is permitted. This amendment adds to that Schedule certain processing of personal data which is necessary for the protection of children or of adults at risk. See also Amendments 85 and 116.

Margot James

118

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

Member’s explanatory statement

This amendment is consequential on Amendment 71.

 Data Protection Bill [*Lords*], *continued*

Margot James

119

- ★ Schedule 11, page 190, line 7, leave out “day” and insert “time”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

120

- ★ Schedule 11, page 190, line 9, leave out “the date of”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

121

- ★ Schedule 11, page 190, line 17, leave out “day” and insert “time”
Member’s explanatory statement
This amendment is consequential on Amendment 71.
-

Margot James

122

- ★ Schedule 13, page 194, line 36, leave out from beginning to end of line 4 on page 195
Member’s explanatory statement
This amendment is consequential on the omission of Clause 121 (see Amendment 47).
-

Margot James

123

- ★ Schedule 16, page 203, line 26, leave out “with the day after” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

124

- ★ Schedule 16, page 204, line 10, leave out “with the day on which” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

125

- ★ Schedule 16, page 205, line 5, leave out “with the day after the day on which” and insert “when”
Member’s explanatory statement
This amendment is consequential on Amendment 71.

 Data Protection Bill [*Lords*], *continued*

Margot James

126

- ★ Schedule 16, page 205, line 37, leave out “controller or processor” and insert “person to whom the penalty notice was given”
- Member’s explanatory statement*
This amendment is consequential on Amendment 52.
-

Margot James

127

- ★ Schedule 17, page 206, line 15, leave out paragraph (a) and insert—
- “(a) a relevant health record (see paragraph 1A),”
- Member’s explanatory statement*
This amendment, with Amendment 128, limits the types of health records (defined in Clause 198) which count as “relevant records” for the purposes of Clause 181 (prohibition of requirement to produce relevant records) to those obtained by a data subject in the exercise of a data subject access right (defined in paragraph 4 of Schedule 17).

Margot James

128

- ★ Schedule 17, page 206, line 21, at end insert—
- “*Relevant health records*
- 1A “Relevant health record” means a health record which has been or is to be obtained by a data subject in the exercise of a data subject access right.”
- Member’s explanatory statement*
See the explanatory statement for Amendment 127.
-

ORDER OF THE HOUSE [5 MARCH 2018]

That the following provisions shall apply to the Data Protection Bill [*Lords*]:*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 Tuesday 27 March 2018.
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 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 day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Data Protection Bill [*Lords*], *continued*

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
-