



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 13 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: 179 to 229

PUBLIC BILL COMMITTEE

DATA PROTECTION BILL [*LORDS*]

NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee 13 March 2018.

Darren Jones

Schedule 6, page 179, line 17, leave out paragraph 2 (as inserted by paragraph 49) and insert— 152

“2 The Commissioner must, in carrying out the Commissioner’s functions under this Regulation, incorporate with any modifications which he or she considers necessary in any guidance or code of practice which the Commissioner issues, decisions, advice, guidelines, recommendations and best practices issued by the European Data Protection Board established under Article 68 of the GDPR.

2A The Commissioner must, in carrying out the Commissioner’s functions under this Regulation, have regard to any implementing acts adopted by the Commission under Article 67 of the GDPR (exchange of information).”

Margot James

Schedule 6, page 180, line 2, leave out sub-paragraph (b) and insert— 115

“(b) in paragraph 2, for “Member States” substitute “The Secretary of State”;

Data Protection Bill [Lords], continued

(c) after that paragraph insert—

““33 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.

Margot James

17

Clause 25, page 15, line 40, leave out “individual” and insert “data subject”

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).

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

161

Clause 27, page 17, line 2, leave out subsection (1) and insert—

“A Minister of the Crown must apply to a Judicial Commissioner for a certificate, if exemptions are sought from specified provisions in relation to any personal data for the purpose of safeguarding national security.”

Member’s explanatory statement

This amendment would introduce a procedure for a Minister of the Crown to apply to a Judicial Commissioner for a National Security Certificate.

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

162

Clause 27, page 17, line 5, at end insert—

“(1A) The decision to issue the certificate must be—

- (a) approved by a Judicial Commissioner,
- (b) laid before Parliament,
- (c) published and publicly accessible on the Information Commissioner’s Office website.

(1B) In deciding whether to approve an application under subsection (1), a Judicial Commissioner must review the Minister’s conclusions as to the following matters—

- (a) whether the certificate is necessary on relevant grounds,
- (b) whether the conduct that would be authorised by the certificate is proportionate to what it sought to be achieved by that conduct, and

Data Protection Bill [Lords], continued

- (c) whether it is necessary and proportionate to exempt all provisions specified in the certificate.”

Member’s explanatory statement

This amendment would ensure that oversight and safeguarding in the application for a National Security Certificate are effective, requiring sufficient detail in the application process.

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

163

Clause 27, page 17, leave out lines 6 to 8 and insert—

“(2) An application for a certificate under subsection (1)—

- (a) must identify the personal data to which it applies by means of a detailed description, and”

Member’s explanatory statement

This amendment would require a National Security Certificate to identify the personal data to which the Certificate applies by means of a detailed description.

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

164

Clause 27, page 17, line 9, leave out subsection (2)(b)

Member’s explanatory statement

This amendment would ensure that a National Security Certificate cannot be expressed to have prospective effect.

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

165

Clause 27, page 17, line 9, at end insert—

“(c) must specify each provision of this Act which it seeks to exempt, and

- (d) must provide a justification for both (a) and (b).”

Member’s explanatory statement

This amendment would ensure effective oversight of exemptions of this Act from the application for a National Security Certificate.

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

166

Clause 27, page 17, line 10, leave out “directly” and insert “who believes they are

Data Protection Bill [Lords], continued

directly or indirectly”

Member’s explanatory statement

This amendment would broaden the application of subsection (3) so that any person who believes they are directly affected by a National Security Certificate may appeal to the Tribunal against the Certificate.

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

167

Clause 27, page 17, line 12, leave out “, applying the principles applied by a court on an application for judicial review,”

Member’s explanatory statement

This amendment removes the application to the appeal against a National Security Certificate of the principles applied by a court on an application for judicial review.

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

168

Clause 27, page 17, line 13, leave out “the Minister did not have reasonable grounds for issuing” and insert “it was not necessary or proportionate to issue”

Member’s explanatory statement

These amendments would reflect that the Minister would not be the only authority involved in the process of applying for a National Security Certificate.

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

169

Clause 27, page 17, line 16, at end insert—

- “(4A) Where a Judicial Commissioner refuses to approve a Minister’s application for a certificate under this Chapter, the Judicial Commissioner must give the Minister of the Crown reasons in writing for the refusal.
- (4B) Where a Judicial Commissioner refuses to approve a Minister’s application for a certificate under this Chapter, the Minister may apply to the Information Commissioner for a review of the decision.
- (4C) It is not permissible for exemptions to be specified in relation to—
 - (a) Chapter II of the applied GDPR (principles)—
 - (i) Article 5 (lawful, fair and transparent processing),
 - (ii) Article 6 (lawfulness of processing),
 - (iii) Article 9 (processing of special categories of personal data),
 - (b) Chapter IV of the applied GDPR—
 - (i) GDPR Articles 24 – 32 inclusive,
 - (ii) GDPR Articles 35 – 43 inclusive,

Data Protection Bill [Lords], continued

- (c) Chapter VIII of the applied GDPR (remedies, liabilities and penalties)—
 - (i) GDPR Article 83 (general conditions for imposing administrative fines),
 - (ii) GDPR Article 84 (penalties),
- (d) Part 5 of this Act, or
- (e) Part 7 of this Act.”

Member’s explanatory statement

This amendment would require a Judicial Commissioner to intimate in writing to the Minister reasons for refusing the Minister’s application for a National Security Certificate and allows the Minister to apply for a review by the Information Commissioner of such a refusal.

Margot James

18

Clause 30, page 19, line 4, after “specified” insert “or described”

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

19

Clause 30, page 19, line 10, leave out from “add” to end of line and insert “or remove a person or description of person”

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.

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

132

Clause 35, page 21, line 29, leave out subsections (6) and (7).

Member’s explanatory statement

This amendment would remove delegated powers that would allow the Secretary of State to vary the conditions and safeguards governing the general processing of sensitive personal data.

Margot James

116

Schedule 8, page 184, line 32, at end insert—

Data Protection Bill [Lords], continued

“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.

Margot James

20

Clause 41, page 23, line 34, leave out “an individual” and insert “a data subject”

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).

Data Protection Bill [Lords], continued

Margot James

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

21

Margot James

- 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).
-

22

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

- Clause 50, page 30, line 5, at end insert “, and
(c) it does not engage the rights of the data subject under the Human Rights Act 1998.”
Member’s explanatory statement
This amendment would ensure that automated decisions should not be authorised by law if they engage an individual’s human rights.

133

Margot James

- 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.

23

Margot James

- 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.
-

24

Data Protection Bill [Lords], continued

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.

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.

Data Protection Bill [Lords], continued

Margot James			
Clause 54, page 32, line 15, leave out “days”			31
<i>Member’s explanatory statement</i>			
<i>This amendment is consequential on Amendment 71.</i>			
Margot James			
Clause 54, page 32, line 16, leave out “the day on which” and insert “when”			32
<i>Member’s explanatory statement</i>			
<i>This amendment is consequential on Amendment 71.</i>			
Margot James			
Clause 54, page 32, line 17, leave out “the day on which” and insert “when”			33
<i>Member’s explanatory statement</i>			
<i>This amendment is consequential on Amendment 71.</i>			
Margot James			
Clause 54, page 32, line 19, leave out “the day on which” and insert “when”			34
<i>Member’s explanatory statement</i>			
<i>This amendment is consequential on Amendment 71.</i>			
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Louise Haigh			
Liam Byrne			
Chris Elmore			
Darren Jones			
Clause 64, page 37, line 2, leave out “is likely to” and insert “may”			142
Louise Haigh			
Liam Byrne			
Chris Elmore			
Darren Jones			
Clause 64, page 37, line 2, leave out “high”			143
Louise Haigh			
Liam Byrne			
Chris Elmore			
Darren Jones			
Clause 64, page 37, line 15, leave out “is likely to” and insert “may”			144

Data Protection Bill [Lords], continued

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

Clause 64, page 37, line 15, leave out “high”

145

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

Clause 65, page 37, line 19, leave out subsection (1) and insert—

“(1) This section applies where a controller intends to—

- (a) create a filing system and process personal data forming part of it, or
- (b) use new technical or organisational measures to acquire, store or otherwise process personal data.”

146

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

Clause 65, page 37, line 23, leave out “would” and insert “could”

147

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

Clause 65, page 37, line 23, leave out “high”

148

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

Clause 65, page 37, line 44, at end insert—

“(8) If the Commissioner is not satisfied that the controller or processor (where the controller is using a processor) has taken sufficient steps to remedy the failing in respect of which the Commissioner gave advice under subsection (4), the Commissioner may exercise powers of enforcement available to the Commissioner under Part 6 of this Act.”

149

Data Protection Bill [Lords], continued

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

134

Clause 86, page 50, line 33, leave out subsections (3) and (4).

Member's explanatory statement

This amendment would remove delegated powers that would allow the Secretary of State to vary the conditions and safeguards governing the general processing of sensitive personal data.

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.

Data Protection Bill [Lords], continued

- (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.

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|--|----|
| Margot James | 35 |
| <p>Clause 94, page 55, line 8, leave out “day” and insert “time”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
| Margot James | 36 |
| <p>Clause 94, page 55, line 9, leave out “day” and insert “time”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
| Margot James | 37 |
| <p>Clause 94, page 55, line 10, leave out “days”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
| Margot James | 38 |
| <p>Clause 94, page 55, line 11, leave out “the day on which” and insert “when”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
| Margot James | 39 |
| <p>Clause 94, page 55, line 12, leave out “the day on which” and insert “when”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
| Margot James | 40 |
| <p>Clause 94, page 55, line 13, leave out “the day on which” and insert “when”</p> <p>Member’s explanatory statement</p> <p><i>This amendment is consequential on Amendment 71.</i></p> | |
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 Data Protection Bill [*Lords*], *continued*

Brendan O'Hara
Stuart C. McDonald

135

Clause 96, page 56, line 8, after “law” insert “unless the decision engages an individual’s rights under the Human Rights Act 1998”.

Margot James

41

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

Member’s explanatory statement

Clause 97(4) provides that where a controller notifies a data subject under Clause 97(3) that the 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.

Data Protection Bill [Lords], continued

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

159

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

Member’s explanatory statement

This amendment would place meaningful safeguards on the sharing of data by the intelligence agencies.

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

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).”
-

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.

Brendan O’Hara
Stuart C. McDonald
Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones 136

Page 63, line 1, leave out Clause 113
Member’s explanatory statement
This amendment would remove delegated powers that would allow the Secretary of State to create new exemptions to Part 4 of the Bill.

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 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.

Brendan O’Hara
Stuart C. McDonald

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).”
Member’s explanatory statement
This amendment would ensure that before any inquiry was established, the UK Government must have consent from Scottish Government.

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

Data Protection Bill [Lords], continued

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

Clause 143, page 78, line 23, leave out “with the day on which” and insert “when” 53
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

Clause 143, page 78, line 30, at end insert— 54
“(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

Clause 146, page 81, line 3, leave out “with the day on which” and insert “when” 55
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

Clause 149, page 83, line 36, leave out “with the day on which” and insert “when” 56
Member’s explanatory statement
This amendment is consequential on Amendment 71.

Margot James

★ Clause 154, page 85, line 39, leave out from the beginning to “when” and insert 179
“Subject to subsection (3A),”
Member’s explanatory statement
This amendment and amendment 180 provide that the requirement in clause 154(2) and (3) for the Commissioner to have regard to listed matters when deciding whether to give a penalty notice, and determining the amount of a penalty, applies not only in the case of failures described in clause 148(2), (3) or (4) but also in the case of failures to comply with an information notice, an assessment notice or an enforcement notice.

Data Protection Bill [Lords], continued

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.

Margot James

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).”

Member’s explanatory statement

See the explanatory statement for amendment 179.

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.

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.

 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

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

157

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)).”

Member’s explanatory statement

This amendment seeks to ensure that the offences listed in the offences of the Bill do not infringe on a worker’s ability to raise public interest concerns about wrongdoing, risk or malpractice.

Data Protection Bill [Lords], continued

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

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)).”

Member’s explanatory statement

This amendment seeks to ensure that the offences listed in the offences of the Bill do not infringe on a worker’s ability to raise public interest concerns about wrongdoing, risk or malpractice.

Darren Jones

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.”
-

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 disappplies 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).

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).

Data Protection Bill [Lords], continued

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.*

Margot James

181

★ Schedule 17, page 207, line 22, leave out sub-paragraph (iii) and insert—

“(iii) Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9));”

Member’s explanatory statement

In a list of functions of the Secretary of State in relation to people sentenced to detention, this amendment removes a reference to section 73 of the Children and Young Persons Act 1968 (which has been repealed) and inserts a reference to Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which replaced it).

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.

Data Protection Bill [Lords], continued

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.

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

154

Clause 183, page 106, line 24, at end insert—

- “(4A) In accordance with Article 80(2) of the GDPR, a person who satisfies the conditions in Article 80(1) and who considers that the rights of a data subject under the GDPR have been infringed as a result of data processing, may bring proceedings, on behalf of the data subject and independently of the data subject’s mandate—
- (a) pursuant to Article 77 (right to lodge a complaint with a supervisory authority),
 - (b) to exercise the rights referred to in Article 78 (right to an effective judicial remedy against a supervisory authority),
 - (c) to exercise the rights referred to in Article 79 (right to an effective judicial remedy against a controller or processor).
- (4B) An individual who considers that rights under the GDPR, this Act or any other enactment relating to data protection have been infringed in respect of a class of individuals of which he or she forms part may bring proceedings in respect of the infringement as a representative of the class (independently of the mandate of other members of the class), and—
- (a) for the purposes of this subsection “proceedings” includes proceedings for damages, and any damages recovered are to be distributed or otherwise applied as directed by the court,
 - (b) in the case of a class consisting of or including children under the age of 18, an individual may bring proceedings as a representative of the class whether or not the individual’s own rights have been infringed,
 - (c) the court in which proceedings are brought may direct that the individual may not act as a representative, or may act as a representative only to a specified extent, for a specified purpose or subject to specified conditions,
 - (d) a direction under paragraph (c) may (subject to any provision of rules of court relating to proceedings under this subsection) be made on the application of a party or a member of the class, or of the court’s own motion, and
 - (e) subject to any direction of the court, a judgment or order given in proceedings in which a party is acting as a representative under this subsection is binding on all individuals represented in the proceedings, but may only be enforced by or against a person who is not a party to the proceedings with the permission of the court.
- (4C) Subsections (4A) and (4B)—

Data Protection Bill [Lords], continued

- (a) apply in respect of infringements occurring (or alleged to have occurred) whether before or after the commencement of this section,
- (b) apply to proceedings begun before the commencement of this section as if references in subsections (4A) and (4B) to bringing proceedings included a reference to continuing proceedings, and
- (c) are without prejudice to the generality of any other enactment or rule of law which permits the bringing of representative proceedings.”

Member’s explanatory statement

This amendment would create a collective redress mechanism whereby a not-for-profit body, organisation or association can represent multiple individuals for infringement of their rights under the General Data Protection Regulation.

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.

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);

Data Protection Bill [Lords], continued

- (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.

Margot James

182

★ Clause 198, page 115, line 8, at end insert—

“() Section 3(14)(aa) (interpretation of references to Chapter 2 of Part 2 in Parts 5 to 7) and the amendments in Schedule 18 which make equivalent provision are not to be treated as implying a contrary intention for the purposes of section 20(2) of the Interpretation Act 1978, or any similar provision in another enactment, as it applies to other references to, or to a provision of, Chapter 2 of Part 2 of this Act.”

Member’s explanatory statement

Clause 3(14)(aa) (inserted by amendment 4) and equivalent provision contained in amendments in Schedule 18 state expressly that references to Chapter 2 of Part 2 of the bill in Parts 5 to 7 of the bill, and in certain amendments in Schedule 18, include that Chapter as applied by Chapter 3 of Part 2. This amendment secures that they are not to be treated as implying a contrary intention for the purposes of section 20(2) of the Interpretation Act 1978. Section 20(2) provides that where an Act refers to an enactment that reference includes that enactment as applied, unless the contrary intention appears.

Margot James

183

★ Clause 200, page 117, line 15, leave out subsections (1) to (4) and insert—

- “(1) This Act applies only to processing of personal data described in subsections (2) and (3).
- (2) It applies to the processing of personal data in the context of the activities of an establishment of a controller or processor in the United Kingdom, whether or not the processing takes place in the United Kingdom.
- (3) It also applies to the processing of personal data to which Chapter 2 of Part 2 (the GDPR) applies where—
 - (a) the processing is carried out in the context of the activities of an establishment of a controller or processor in a country or territory that is not a member State, whether or not the processing takes place in such a country or territory,
 - (b) the personal data relates to a data subject who is in the United Kingdom when the processing takes place, and
 - (c) the processing activities are related to—
 - (i) the offering of goods or services to data subjects in the United Kingdom, whether or not for payment, or

Data Protection Bill [Lords], continued

- (ii) the monitoring of data subjects' behaviour in the United Kingdom."

Member's explanatory statement

This amendment replaces the existing provision on territorial application in clause 200(1) to (4). In the amendment, subsection (2) provides that the bill applies to processing in the context of the activities of an establishment of a controller or processor in the UK. Subsection (3) provides that, in certain circumstances, the bill also applies to processing to which the GDPR applies and which is carried out in the context of activities of an establishment of a controller or processor in a country or territory that is not part of the EU.

Margot James

184

- ★ Clause 200, page 118, line 8, leave out "(4)" and insert "(3)"

Member's explanatory statement

This amendment is consequential on amendment 183.

Margot James

185

- ★ Clause 200, page 118, leave out line 10 and insert "processing of personal data"

Member's explanatory statement

This amendment is consequential on amendment 183.

Margot James

186

- ★ Clause 200, page 118, line 10, at end insert—

"(5A) Section 3(14)(b) does not apply to the reference to the processing of personal data in subsection (2).

(5B) The reference in subsection (3) to Chapter 2 of Part 2 (the GDPR) does not include that Chapter as applied by Chapter 3 of Part 2 (the applied GDPR)."

Member's explanatory statement

New subsection (5A) secures that the reference to "processing" in the new subsection (2) inserted by amendment 183 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 only to processing to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies. New subsection (5B) secures that the reference in the new subsection (3) to Chapter 2 of Part 2 of the bill does not include that Chapter as applied by Chapter 3 of Part 2.

Margot James

187

- ★ Clause 200, page 118, line 11, leave out "established" and insert "who has an establishment"

Member's explanatory statement

This amendment is consequential on amendment 183.

Margot James

188

- ★ Clause 200, page 118, line 21, after "to" insert "a person who has an"

Member's explanatory statement

This amendment is consequential on amendment 183.

Data Protection Bill [Lords], continued

Margot James

189

- ★ Clause 200, page 118, line 23, leave out subsection (7)

Member's explanatory statement

This amendment is consequential on amendment 183.

Margot James

190

- ★ Clause 204, page 120, line 12, leave out subsection (1) and insert—

“(1) In Schedule 18—

- (a) Part 1 contains minor and consequential amendments of primary legislation;
- (b) Part 2 contains minor and consequential amendments of other legislation;
- (c) Part 3 contains consequential modifications of legislation;
- (d) Part 4 contains supplementary provision.”

Member's explanatory statement

This amendment sets out the contents of Schedule 18 and is consequential on the amendments being made to Schedule 18 including in particular the insertion of new Parts 3 and 4 into that Schedule by amendment 224.

Margot James

191

- ★ Schedule 18, page 208, line 25, at end insert—

“Registration Service Act 1953 (c. 37)

- A1 (1) Section 19AC of the Registration Service Act 1953 (codes of practice) is amended as follows.
- (2) In subsection (2), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 122 of the Data Protection Act 2018 (data-sharing code)”.
- (3) In subsection (11), for “section 51(3) of the Data Protection Act 1998” substitute “section 128 of the Data Protection Act 2018”.

Veterinary Surgeons Act 1966 (c. 36)

- A2 (1) Section 1A of the Veterinary Surgeons Act 1966 (functions of the Royal College of Veterinary Surgeons as competent authority) is amended as follows.
- (2) In subsection (8)—
 - (a) omit “personal data protection legislation in the United Kingdom that implements”,
 - (b) for paragraph (a) substitute—
 - ““(a) the GDPR; and”, and
 - (c) in paragraph (b), at the beginning insert “legislation in the United Kingdom that implements”.
- (3) In subsection (9), after “section” insert “—

Data Protection Bill [Lords], continued

“the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

Member’s explanatory statement

This amendment makes consequential amendments to primary legislation.

Margot James

192

★ Schedule 18, page 210, line 4, at end insert—

“Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22))

- 8A The Pharmacy (Northern Ireland) Order 1976 is amended as follows.
- 8B In article 2(2) (interpretation), omit the definition of “Directive 95/46/EC”.
- 8C In article 8D (European professional card), after paragraph (3) insert—
- “4(4) In Schedule 2C, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”
- 8D In article 22A(6) (Directive 2005/36/EC: functions of competent authority etc.), before sub-paragraph (a) insert—
- “26a(a) “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 8E (1) Schedule 2C (Directive 2005/36/EC: European professional card) is amended as follows.
- (2) In paragraph 8(1) (access to data), for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In paragraph 9 (processing data), omit sub-paragraph (2) (deeming the Society to be the controller for the purposes of Directive 95/46/EC).
- 8F (1) The table in Schedule 2D (functions of the Society under Directive 2005/36/EC) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- 8G (1) Paragraph 2 of Schedule 3 (fitness to practice: disclosure of information) is amended as follows.
- (2) In sub-paragraph (2)(a), after “provision” insert “or the GDPR”.
- (3) For sub-paragraph (3) substitute—
- “3 “(3) In determining for the purposes of sub-paragraph (2)(a) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain

Data Protection Bill [Lords], continued

provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this paragraph.”

(4) After sub-paragraph (4) insert—

“5 “(3) In this paragraph, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

Representation of the People Act 1983 (c. 2)

8H (1) Schedule 2 to the Representation of the People Act 1983 (provisions which may be contained in regulations as to registration etc) is amended as follows.

(2) In paragraph 1A(5), for “the Data Protection Act 1998” substitute “Parts 5 to 7 of the Data Protection Act 2018 (see section 3(4) and (14) of that Act)”.

(3) In paragraph 8C(2), for “the Data Protection Act 1998” substitute “Parts 5 to 7 of the Data Protection Act 2018 (see section 3(4) and (14) of that Act)”.

(4) In paragraph 11A—

(a) in sub-paragraph (1) for “who are data users to supply data, or documents containing information extracted from data and” substitute “to supply information”, and

(b) omit sub-paragraph (2).”

Member’s explanatory statement

This amendment makes consequential amendments to primary legislation.

Margot James

193

★ Schedule 18, page 210, leave out lines 5 to 39 and insert—

“Medical Act 1983 (c. 54)

9 The Medical Act 1983 is amended as follows.

10 (1) Section 29E (evidence) is amended as follows.

(2) In subsection (5), after “enactment” insert “or the GDPR”.

(3) For subsection (7) substitute—

““(7) In determining for the purposes of subsection (5) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.”

(4) In subsection (9), at the end insert—

““the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

11 (1) Section 35A (General Medical Council’s power to require disclosure of information) is amended as follows.

(2) In subsection (4), after “enactment” insert “or the GDPR”.

(3) For subsection (5A) substitute—

““(5A) In determining for the purposes of subsection (4) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the

Data Protection Bill [Lords], continued

- data protection legislation: disclosures required by law) that the disclosure is required by this section.”
- (4) In subsection (7), at the end insert—
 ““the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 12 In section 49B(7) (Directive 2005/36: designation of competent authority etc.), after “Schedule 4A” insert “—
 “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 13 In section 55(1) (interpretation), omit the definition of “Directive 95/46/EC”.
- 13A (1) Paragraph 9B of Schedule 1 (incidental powers of the General Medical Council) is amended as follows.
- (2) In sub-paragraph (2)(a), after “enactment” insert “or the GPDR”.
- (3) After sub-paragraph (3) insert—
 “4 “(3) In this paragraph, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”
- 13B (1) Paragraph 5A of Schedule 4 (professional performance assessments and health assessments) is amended as follows.
- (2) In sub-paragraph (8), after “enactment” insert “or the GDPR”.
- (3) For sub-paragraph (8A) substitute—
 “8A“(3) In determining for the purposes of sub-paragraph (8) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this paragraph.”
- (4) After sub-paragraph (13) insert—
 “14“(3) In this paragraph, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 13C (1) The table in Schedule 4A (functions of the General Medical Council as competent authority under Directive 2005/36) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.”

Member’s explanatory statement

This amendment replaces the existing consequential amendments of the Medical Act 1983.

Margot James

194

★ Schedule 18, page 211, line 18, leave out from “GDPR” to “(see” in line 19 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same

Data Protection Bill [Lords], continued

meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 33B of the Dentists Act 1984 references to Schedule 2 to the bill include that Schedule as applied by Chapter 3 of Part 2 of the bill.

Margot James

195

- ★ Schedule 18, page 211, line 20, at end insert—

“15A In section 36ZA(6) (Directive 2005/36: designation of competent authority etc), after “Schedule 4ZA—” insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.”

Member’s explanatory statement

This amendment makes further consequential amendments to the Dentists Act 1984.

Margot James

196

- ★ Schedule 18, page 211, line 39, leave out from “GDPR” to “(see” in line 40 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 36Y of the Dentists Act 1984 references to Schedule 2 to the bill include that Schedule as applied by Chapter 3 of Part 2 of the bill.

Margot James

197

- ★ Schedule 18, page 211, line 41, at end insert—

“16A In section 53(1) (interpretation), omit the definition of “Directive 95/46/EC”.

16B (1) The table in Schedule 4ZA (Directive 2005/36: functions of the General Dental Council under section 36ZA(3)) is amended as follows.

(2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

(3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

Companies Act 1985 (c. 6)

16C In section 449(11) of the Companies Act 1985 (provision for security of information obtained), for “the Data Protection Act 1998” substitute “the data protection legislation”.

Member’s explanatory statement

This amendment makes consequential amendments to primary legislation, including further consequential amendments to the Dentists Act 1984.

Margot James

198

- ★ Schedule 18, page 212, line 16, leave out from “GDPR” to “(see” in line 17 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same

Data Protection Bill [Lords], continued

meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 13B of the Opticians Act 1989 references to Schedule 2 to the bill include that Schedule as applied by Chapter 3 of Part 2 of the bill.

Margot James

199

- ★ Schedule 18, page 212, line 18, at end insert—

“Access to Health Records Act 1990 (c. 23)

18A The Access to Health Records Act 1990 is amended as follows.

18B For section 2 substitute—

“22 Health professionals

In this Act, “health professional” has the same meaning as in the Data Protection Act 2018 (see section 197 of that Act).”

18C (1) Section 3 (right of access to health records) is amended as follows.

(2) In subsection (2), omit “Subject to subsection (4) below,”.

(3) In subsection (4), omit from “other than the following” to the end.”

Member’s explanatory statement

This amendment makes consequential amendments to the Access to Health Records Act 1990.

Margot James

200

- ★ Schedule 18, page 213, line 2, at end insert—

“Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5))

21A (1) Article 90B of the Industrial Relations (Northern Ireland) Order 1992 (prohibition on disclosure of information held by the Labour Relations Agency) is amended as follows.

(2) In paragraph (3), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After paragraph (6) insert—

““7(4) In this Article, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).””

Member’s explanatory statement

This amendment makes consequential amendments to the Industrial Relations (Northern Ireland) Order 1992.

Margot James

201

- ★ Schedule 18, page 216, line 10, leave out from “data” to “(see” in line 11 and insert “; “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 40 of the Freedom of Information Act 2000 references to a provision of Chapter 2 of Part 2 of the bill include that provision as applied by Chapter 3 of Part 2 of the bill.

Data Protection Bill [Lords], continued

Margot James

202

- ★ Schedule 18, page 219, line 15, leave out from “GDPR” to “(see” in line 16 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 7A of the Health and Personal Social Services Act (Northern Ireland) 2001 references to Schedule 2 to the bill include that Schedule as applied by Chapter 3 of Part 2 of the bill.

Margot James

203

- ★ Schedule 18, page 220, line 7, at end insert—

“Enterprise Act 2002 (c. 40)

- 64A (1) Section 237 of the Enterprise Act 2002 (general restriction on disclosure) is amended as follows.
- (2) In subsection (4), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After subsection (6) insert—

““(7(4) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).””

Member’s explanatory statement

This amendment makes consequential amendments to the Enterprise Act 2002.

Margot James

204

- ★ Schedule 18, page 221, line 21, leave out from “data” to “(see” in line 22 and insert “, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in section 38 of the Freedom of Information (Scotland) Act 2002 references to a provision of Chapter 2 of Part 2 of the bill include that provision as applied by Chapter 3 of Part 2 of the bill.

Margot James

205

- ★ Schedule 18, page 222, line 21, at end insert—

“Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)

- 75A (1) Section 279 of the Mental Health Care and Treatment (Scotland) Act 2003 (information for research) is amended as follows.
- (2) In subsection (2), for “research purposes within the meaning given by section 33 of the Data Protection Act 1998 (c. 29) (research, history and statistics)” substitute “purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics)”.
- (3) After subsection (9) insert—

““(10(4) In this section, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal

Data Protection Bill [Lords], continued

data and on the free movement of such data (General Data Protection Regulation).””

Member’s explanatory statement

This amendment makes consequential amendments to the Mental Health (Care and Treatment) (Scotland) Act 2003.

Margot James

206

★ Schedule 18, page 222, line 29, at end insert—

“Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)

76A The Companies (Audit, Investigations and Community Enterprise) Act 2004 is amended as follows.

76B (1) Section 15A (disclosure of information by tax authorities) is amended as follows.

(2) In subsection (2)—

(a) omit “within the meaning of the Data Protection Act 1998”, and

(b) for “that Act” substitute “the data protection legislation”.

(3) After subsection (7) insert—

““8(4) In this section—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

76C (1) Section 15D (permitted disclosure of information obtained under compulsory powers) is amended as follows.

(2) In subsection (7), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After subsection (7) insert—

““8(4) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).””

Member’s explanatory statement

This amendment makes consequential amendments to the Companies (Audit, Investigations and Community Enterprise) Act 2004.

Margot James

207

★ Schedule 18, page 225, line 10, at end insert—

“88A(1) Section 264C (provision and disclosure of information about health service products: supplementary) is amended as follows.

(2) In subsection (2), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After subsection (3) insert—

““4(4) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).””

Member’s explanatory statement

This amendment makes further consequential amendments to the National Health Service Act 2006.

Data Protection Bill [Lords], continued

Margot James

208

★ Schedule 18, page 225, line 28, at end insert—

“Companies Act 2006 (c. 46)

92A The Companies Act 2006 is amended as follows.

92B In section 458(2) (disclosure of information by tax authorities)—

(a) for “within the meaning of the Data Protection Act 1998 (c. 29)” substitute “within the meaning of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act)”, and

(b) for “that Act” substitute “the data protection legislation”.

92C In section 461(7) (permitted disclosure of information obtained under compulsory powers), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

92D In section 948(9) (restrictions on disclosure) for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

92E In section 1173(1) (minor definitions: general), at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”.

92F In section 1224A(7) (restrictions on disclosure), for “the Data Protection Act 1998” substitute “the data protection legislation”.

92G In section 1253D(3) (restriction on transfer of audit working papers to third countries), for “the Data Protection Act 1998” substitute “the data protection legislation”.

92H In section 1261(1) (minor definitions: Part 42), at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”.

92I In section 1262 (index of defined expressions: Part 42), at the appropriate place insert—

“the data protection legislation | section 1261(1)”.

92J In Schedule 8 (index of defined expressions: general), at the appropriate place insert—

“the data protection legislation | section 1173(1)”.

Member’s explanatory statement*This amendment makes consequential amendments to the Companies Act 2006.*

Margot James

209

★ Schedule 18, page 225, line 38, at end insert—

“96A(1) Section 45 (information held by HMRC) is amended as follows.

(2) In subsection (4A), for “section 51(3) of the Data Protection Act 1998” substitute “section 128 of the Data Protection Act 2018”.

Data Protection Bill [Lords], continued

- (3) In subsection (4B), for “the Data Protection Act 1998” substitute “the Data Protection Act 2018”.

Member’s explanatory statement

This amendment makes further consequential amendments to the Statistics and Registration Service Act 2007.

Margot James

210

- ★ Schedule 18, page 230, line 16, at end insert—

“Coroners and Justice Act 2009 (c. 25)

- 122A In Schedule 21 of the Coroners and Justice Act 2009 (minor and consequential amendments), omit paragraph 29(3).”

Member’s explanatory statement

This amendment makes a consequential amendment to the Coroners and Justice Act 2009 and is consequential on the amendments being made to section 3 of the Access to Health Records Act 1990 by amendment 199.

Margot James

211

- ★ Schedule 18, page 232, line 39, after “after “” insert “this”

Member’s explanatory statement

Paragraph 130(3) of Schedule 18 to the bill amends paragraph 8(8) of Schedule 2 to the Welsh Language (Wales) Measure 2011 by inserting new text. This amendment clarifies where that new text is to be inserted in the English language version of that Measure.

Margot James

212

- ★ Schedule 18, page 242, line 40, at end insert—

“Additional Learning Needs and Educational Tribunal (Wales) Act 2018 (anaw 2)

- 186A(1) Section 4 of the Additional Learning Needs and Educational Tribunal (Wales) Act 2018 (additional learning needs code) is amended as follows.

- (2) In the English language text—

- (a) in subsection (9), omit from “and in this subsection” to the end, and
 (b) after subsection (9) insert—

“9A(4) In subsection (9)—

“data subject” (“*testun y data*”) has the meaning given by section 3(5) of the Data Protection Act 2018;

“personal data” (“*data personol*”) has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

- (3) In the Welsh language text—

- (a) in subsection (9), omit from “ac yn yr is-adran hon” to the end, and

Data Protection Bill [Lords], continued

(b) after subsection (9) insert—

“9A(4) Yn is-adran (9)—

mae i “data personol” yr un ystyr ag a roddir i “personal data” yn Rhannau 5 i 7 o Ddeddf Diogelu Data 2018 (gweler adran 3(2) a (14) o’r Ddeddf honno);
mae i “testun y data” yr ystyr a roddir i “data subject” gan adran 3(5) o’r Ddeddf honno.”

Member’s explanatory statement

This amendment makes consequential amendments to the Additional Learning Needs and Educational Tribunal (Wales) Act 2018.

Margot James

213

★ Schedule 18, page 243, line 14, at end insert—

“Estate Agents (Specific Offences) (No. 2) Order 1991 (S.I. 1991/1091)

187A In the table in the Schedule to the Estate Agents (Specified Offences) (No. 2) Order 1991 (specified offences), at the end insert—

“Data Protection Act 2018	Section 145	False statements made in response to an information notice”
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Member’s explanatory statement

This amendment makes a consequential amendment to the Estate Agents (Specific Offences) (No. 2) Order 1991.

Margot James

214

★ Schedule 18, page 243, line 22, after “controller”, insert—

“(ba) after “in the context of” insert “the activities of”,

Member’s explanatory statement

This amendment to the consequential amendment to the Channel Tunnel (International Agreements) Order 1993 is consequential on amendment 183.

Margot James

215

★ Schedule 18, page 243, line 27, after “controller”, insert—

“(ba) after “in the context of” insert “the activities of”,

Member’s explanatory statement

This amendment to the consequential amendment to the Channel Tunnel (International Agreements) Order 1993 is consequential on amendment 183.

Margot James

216

★ Schedule 18, page 243, line 28, at end insert—

“Access to Health Records (Northern Ireland) Order 1993 (S.I. 1993/1250 (N.I. 4))

188A The Access to Health Records (Northern Ireland) Order 1993 is amended as follows.

Data Protection Bill [Lords], continued

- 188B In Article 4 (health professionals), for paragraph (1) substitute—
- ““1(4) In this Order, “health professional” has the same meaning as in the Data Protection Act 2018 (see section 197 of that Act).”
- 188C In Article 5(4)(a) (fees for access to health records), for “under section 7 of the Data Protection Act 1998” substitute “made by the Department”.

Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405)

- 188D In article 4 of the Channel Tunnel (Miscellaneous Provisions) Order 1994 (application of enactments), for paragraphs (2) and (3) substitute—
- ““2(4) For the purposes of section 200 of the Data Protection Act 2018 (“the 2018 Act”), data which is processed in a control zone in Belgium, in connection with the carrying out of frontier controls, by an officer belonging to the United Kingdom is to be treated as processed by a controller established in the United Kingdom in the context of the activities of that establishment (and accordingly the 2018 Act applies in respect of such data).
- “(4) For the purposes of section 200 of the 2018 Act, data which is processed in a control zone in Belgium, in connection with the carrying out of frontier controls, by an officer belonging to the Kingdom of Belgium is to be treated as processed by a controller established in the Kingdom of Belgium in the context of the activities of that establishment (and accordingly the 2018 Act does not apply in respect of such data).”

European Primary and Specialist Dental Qualifications Regulations 1998 (S.I. 1998/811)

- 188E The European Primary and Specialist Dental Qualifications Regulations 1998 are amended as follows.
- 188F(1) Regulation 2(1) (interpretation) is amended as follows.
- (2) Omit the definition of “Directive 95/46/EC”.
- (3) At the appropriate place insert—
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 188G(1) The table in Schedule A1 (functions of the GDC under Directive 2005/36) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

Data Protection Bill [Lords], continued

Scottish Parliamentary Corporate Body (Crown Status) Order 1999 (S.I. 1999/677)

188H For article 7 of the Scottish Parliamentary Corporate Body (Crown Status) Order 1999 substitute—

““72 Data Protection Act 2018

“(4) The Parliamentary corporation is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.

“(4) The Parliamentary corporation is to be treated as a government department for the purposes of the following provisions—

“(a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),

“(a) section 202 (application to the Crown),

“(a) paragraph 6 of Schedule 1 (statutory etc and government purposes),

“(a) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and

“(a) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).

“(4) In the provisions mentioned in paragraph (4)—

“(a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Parliamentary corporation, and

“(a) references to a person in the service of the Crown are to be treated as including a person so employed.

“(4) The provisions are—

“(a) section 24(3) (exemption for certain data relating to employment under the Crown), and

“(a) section 202(6) (application of certain provisions to a person in the service of the Crown).

“(4) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

Data Protection Bill [Lords], continued

Northern Ireland Assembly Commission (Crown Status) Order 1999 (S.I. 1999/3145)

188I For article 9 of the Northern Ireland Assembly Commission (Crown Status) Order 1999 substitute—

““92 Data Protection Act 2018

“(4) The Commission is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.

“(4) The Commission is to be treated as a government department for the purposes of the following provisions—

“(a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),

“(a) section 202 (application to the Crown),

“(a) paragraph 6 of Schedule 1 (statutory etc and government purposes),

“(a) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and

“(a) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).

“(4) In the provisions mentioned in paragraph (4)—

“(a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Commission, and

“(a) references to a person in the service of the Crown are to be treated as including a person so employed.

“(4) The provisions are—

“(a) section 24(3) (exemption for certain data relating to employment under the Crown), and

“(a) section 202(6) (application of certain provisions to a person in the service of the Crown).

“(4) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341)

188J The Representation of the People (England and Wales) Regulations 2001 are amended as follows.

188K In regulation 3(1) (interpretation), at the appropriate places insert—

““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

Data Protection Bill [Lords], continued

- 188L In regulation 26(3)(a) (applications for registration), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188M In regulation 26A(2)(a) (application for alteration of register in respect of name under section 10ZD), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188N In regulation 32ZA(3)(f) (annual canvass), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188O In regulation 61A (conditions on the use, supply and inspection of absent voter records or lists), for paragraph (a) (but not the final “or”) substitute—
 ““1(a) Article 89 GDPR purposes;”.
- 188P(1) Regulation 92(2) (interpretation and application of Part VI etc) is amended as follows.
- (2) After sub-paragraph (b) insert—
 ““2a(a) “relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards.”
- (3) Omit sub-paragraphs (c) and (d).
- 188Q In regulation 96(2A)(b)(i) (restriction on use of the full register), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.
- 188R In regulation 97(5) and (6) (supply of free copy of full register to the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188S In regulation 97A(7) and (8) (supply of free copy of full register to the National Library of Wales and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188T In regulation 99(6) and (7) (supply of free copy of full register etc to Statistics Board and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188U In regulation 109A(9) and (10) (supply of free copy of full register to public libraries and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188V In regulation 119(2) (conditions on the use, supply and disclosure of documents open to public inspection), for sub-paragraph (i) (but not the final “or”) substitute—
 ““9(a) Article 89 GDPR purposes;”.

Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497)

- 188W The Representation of the People (Scotland) Regulations 2001 are amended as follows.

Data Protection Bill [Lords], continued

- 188X In regulation 3(1) (interpretation), at the appropriate places, insert—
 ““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
 ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.
- 188Y In regulation 26(3)(a) (applications for registration), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188Z In regulation 26A(2)(a) (application for alteration of register in respect of name under section 10ZD), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AA In regulation 32ZA(3)(f) (annual canvass), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AB In regulation 61(3) (records and lists kept under Schedule 4), for paragraph (a) (but not the final “or”) substitute—
 ““1(a) Article 89 GDPR purposes;”.
- 188AC In regulation 61A (conditions on the use, supply and inspection of absent voter records or lists), for paragraph (a) (but not the final “or”) substitute—
 ““1(a) Article 89 GDPR purposes;”.
- 188AD(1) Regulation 92(2) (interpretation of Part VI etc) is amended as follows.
 (2) After sub-paragraph (b) insert—
 ““2a(a) “relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards.”
- (3) Omit sub-paragraphs (c) and (d).
- 188AE In regulation 95(3)(b)(i) (restriction on use of the full register), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.
- 188AF In regulation 96(5) and (6) (supply of free copy of full register to the National Library of Scotland and the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AG In regulation 98(6) and (7) (supply of free copy of full register etc to Statistics Board and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AH In regulation 108A(9) and (10) (supply of full register to statutory library authorities and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AI In regulation 119(2) (conditions on the use, supply and disclosure of documents open to public inspection), for sub-paragraph (i) (but not the final “or”) substitute—
 ““9(a) Article 89 GDPR purposes;”.

Data Protection Bill [Lords], continued
Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188)

188AJ(1) Article 9 of the Financial Services and Markets 2000 (Disclosure of Confidential Information) Regulations 2001 (disclosure by regulators or regulator workers to certain other persons) is amended as follows.

(2) In paragraph (2B), for sub-paragraph (a) substitute—

““1(a) the disclosure is made in accordance with Chapter V of the GDPR;”.

(3) After paragraph (5) insert—

““6(4) In this article, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

Nursing and Midwifery Order 2001 (S.I. 2002/253)

188AK The Nursing and Midwifery Order 2001 is amended as follows.

188AL(1) Article 3 (the Nursing and Midwifery Council and its Committees) is amended as follows.

(2) In paragraph (18), after “enactment” insert “or the GDPR”.

(3) After paragraph (18) insert—

“19 “(3) In this paragraph, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

188AM(1) Article 25 (the Council’s power to require disclosure of information) is amended as follows.

(2) In paragraph (3), after “enactment” insert “or the GDPR”.

(3) In paragraph (6)—

(a) for “paragraph (5),” substitute “paragraph (3)—”, and

(b) at the appropriate place insert—

““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

188AN In article 39B (European professional card), after paragraph (2) insert—

““3(4) For the purposes of Schedule 2B, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”

188AO In article 40(6) (Directive 2005/36/EC: designation of competent authority etc), at the appropriate place insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

188AP(1) Schedule 2B (Directive 2005/36/EC: European professional card) is amended as follows.

Data Protection Bill [Lords], continued

(2) In paragraph 8(1) (access to data) for “Directive 95/46/EC” substitute “the GDPR”.

(3) In paragraph 9 (processing data), omit sub-paragraph (2) (deeming the Society to be the controller for the purposes of Directive 95/46/EC).

188AQ(1) The table in Schedule 3 (functions of the Council under Directive 2005/36) is amended as follows.

(2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

(3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

188AR In Schedule 4 (interpretation), omit the definition of “Directive 95/46/EC”.

Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002/2013)

188AS Regulation 3 of the Electronic Commerce (EC Directive) Regulations 2002 (exclusions) is amended as follows.

188AT In paragraph (1)(b) for “the Data Protection Directive and the Telecommunications Data Protection Directive” substitute “the GDPR”.

188AU In paragraph (3)—

- (a) omit the definitions of “Data Protection Directive” and “Telecommunications Data Protection Directive”, and

Data Protection Bill [Lords], continued

(b) at the appropriate place insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.”

Member’s explanatory statement

This amendment makes consequential amendments to secondary legislation, including to the Scottish Parliamentary Corporate Body (Crown Status) Order 1999 and the Northern Ireland Assembly Commission (Crown Status) Order 1999.

Margot James

217

★ Schedule 18, page 244, line 1, at end insert—

“(d) for “data controller” substitute “controller”, and

(e) after “in the context of” insert “the activities of”.

Pupils’ Educational Records (Scotland) Regulations 2003 (S.S.I. 2003/581)

191A The Pupils’ Educational Records (Scotland) Regulations 2003 are amended as follows.

191B(1) Regulation 2 (interpretation) is amended as follows.

(2) Omit the definition of “the 1998 Act”.

(3) At the appropriate place insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

191C(1) Regulation 6 (circumstances where information should not be disclosed) is amended as follows.

(2) After “any information” insert “to the extent that any of the following conditions are satisfied”.

(3) For paragraphs (a) to (c) substitute—

““1a(a) the pupil to whom the information relates would have no right of access to the information under the GDPR;

“1b(a) the information is personal data described in Article 9(1) or 10 of the GDPR (special categories of personal data and personal data relating to criminal convictions and offences);”.

(4) In paragraph (d), for “to the extent that its disclosure” substitute “the disclosure of the information”.

(5) In paragraph (e), for “that” substitute “the information”.

191D In regulation 9 (fees), for paragraph (1) substitute—

“1A“(3) In complying with a request made under regulation 5(2), the responsible body may only charge a fee where Article 12(5) or Article 15(3) of the GDPR would permit the charging of a fee if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.

Data Protection Bill [Lords], continued

(1B) =1>BWhere paragraph (1A) permits the charging of a fee, the responsible body may not charge a fee that—

“(a) exceeds the cost of supply, or

“(a) exceeds any limit in regulations made under section 12 of the Data Protection Act 2018 that would apply if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.”

European Parliamentary Elections (Northern Ireland) Regulations 2004 (S.I. 2004/1267)

191E Schedule 1 to the European Parliamentary Elections (Northern Ireland) Regulations 2004 (European Parliamentary elections rules) is amended as follows.

191F(1) Paragraph 74(1) (interpretation) is amended as follows.

(2) Omit the definitions of “relevant conditions” and “research purposes”.

(3) At the appropriate places insert—

““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

191G In paragraph 77(2)(b) (conditions on the use, supply and disclosure of documents open to public inspection), for “research purposes” substitute “Article 89 GDPR purposes”.

Member’s explanatory statement

This amendment makes consequential amendments to secondary legislation, including to the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003. The amendment to that Order is consequential on amendment 183, and also changes the reference in article 11(4) of that Order to a “data controller” to a “controller”.

Margot James

218

★ Schedule 18, page 244, line 13, leave out from “GDPR” to “(see” in line 14 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in the Environmental Information Regulations 2004 references to a provision of Chapter 2 of Part 2 of the bill include that provision as applied by Chapter 3 of Part 2 of the bill.

Margot James

219

★ Schedule 18, page 246, line 31, leave out from “GDPR” to “(see” in line 32 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in the Environmental Information (Scotland) Regulations 2004 references to a provision of Chapter 2 of Part 2 of the bill include that provision as applied by Chapter 3 of Part 2 of the bill.

Data Protection Bill [Lords], continued

Margot James

220

★ Schedule 18, page 247, line 40, at end insert—

“Licensing Act 2003 (Personal Licences) Regulations 2005 (S.I. 2005/41)

199A(1) Regulation 7 of the Licensing Act 2003 (Personal Licences) Regulations 2005 (application for grant of a personal licence) is amended as follows.

(2) In paragraph (1)(b)—

(a) for paragraph (iii) (but not the final “, and”) substitute—

““9ii(a) the results of a request made under Article 15 of the GDPR or section 45 of the Data Protection Act 2018 (rights of access by the data subject) to the National Identification Service for information contained in the Police National Computer”, and

(b) in the words following paragraph (iii), omit “search”.

(3) After paragraph (2) insert—

““3(4) In this regulation, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

Education (Pupil Information) (England) Regulations 2005 (S.I. 2005/1437)

199B The Education (Pupil Information) (England) Regulations 2005 are amended as follows.

199C In regulation 3(5) (meaning of educational record) for “section 1(1) of the Data Protection Act 1998” substitute “section 3(4) of the Data Protection Act 2018”.

199D(1) Regulation 5 (disclosure of curricular and educational records) is amended as follows.

(2) In paragraph (4)—

(a) in sub-paragraph (a), for “the Data Protection Act 1998” substitute “the GDPR”, and

(b) in sub-paragraph (b), for “that Act or by virtue of any order made under section 30(2) or section 38(1) of the Act” substitute “the GDPR”.

(3) After paragraph (6) insert—

““7(4) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.””

Member’s explanatory statement*This amendment makes consequential amendments to secondary legislation.*

Data Protection Bill [Lords], continued

Margot James

221

- ★ Schedule 18, page 248, line 37, leave out from “GDPR” to “(see” in line 38 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

Member’s explanatory statement

This amendment makes clear that in regulation 45 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 references to a provision of Chapter 2 of Part 2 of the bill include that provision as applied by Chapter 3 of Part 2 of the bill.

Margot James

222

- ★ Schedule 18, page 249, line 1, at end insert—

“Register of Judgments, Orders and Fines Regulations 2005 (S.I. 2005/3595)

200A In regulation 3 of the Register of Judgments, Orders and Fines Regulations 2005 (interpretation)—

- (a) for the definition of “data protection principles” substitute—
 ““data protection principles” means the principles set out in Article 5(1) of the GDPR;”, and
- (b) at the appropriate place insert—
 ““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);”.

Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 (S.S.I. 2005/494)

200B The Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 are amended as follows.

200C(1) Regulation 39 (sensitive information) is amended as follows.

- (2) In paragraph (1)(d)—
- (a) omit “, within the meaning of section 1(1) of the Data Protection Act 1998”, and
- (b) for “(2) or (3)” substitute “(1A), (1B) or (1C)”.

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

- (3) After paragraph (1) insert—
- “1A(4) The condition in this paragraph is that the disclosure of the information to a member of the public—
- “(a) would contravene any of the data protection principles, or
 - “(a) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.
- “1B(4) The condition in this paragraph is that the disclosure of the information to a member of the public would contravene—
- “(a) Article 21 of the GDPR (general processing: right to object to processing), or
 - “(a) section 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).
- “1C(4) The condition in this paragraph is that—
- “(a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018,
 - “(a) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section, or
 - “(a) on a request under section 94(1)(b) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.
- “1D(4) In this regulation—
- “the data protection principles” means the principles set out in—
 - (a) Article 5(1) of the GDPR,
 - (b) section 34(1) of the Data Protection Act 2018, and
 - (c) section 85(1) of that Act;
 - “data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 - “the GDPR” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);
 - “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).
- “1E(4) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph

Data Protection Bill [Lords], continued

(disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

- (4) Omit paragraphs (2) to (4).

National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236)

200D(1) Paragraph 14 of Schedule 1 to the National Assembly for Wales (Representation of the People) Order 2007 (absent voting at Assembly elections: conditions on the use, supply and inspection of absent vote records or lists) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).
- (3) For paragraph (a) of that sub-paragraph (but not the final “or”) substitute—
““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”.
- (4) After that sub-paragraph insert—

“2 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Mental Capacity Act 2005 (Loss of Capacity during Research Project) (England) Regulations 2007 (S.I. 2007/679)

200E In regulation 3 of the Mental Capacity Act 2005 (Loss of Capacity during Research Project) (England) Regulations 2007 (research which may be carried out despite a participant’s loss of capacity), for paragraph (b) substitute—
““2(a) any material used consists of or includes human cells or human DNA,”.

Data Protection Bill [Lords], continued

National Assembly for Wales Commission (Crown Status) Order 2007 (S.I. 2007/1118)

200F For article 5 of the National Assembly for Wales Commission (Crown Status) Order 2007 substitute—

““52 Data Protection Act 2018

“(4) The Assembly Commission is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.

“(4) The Assembly Commission is to be treated as a government department for the purposes of the following provisions—

“(a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),

“(a) section 202 (application to the Crown),

“(a) paragraph 6 of Schedule 1 (statutory etc and government purposes),

“(a) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and

“(a) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).

“(4) In the provisions mentioned in paragraph (4)—

“(a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Assembly Commission, and

“(a) references to a person in the service of the Crown are to be treated as including a person so employed.

“(4) The provisions are—

“(a) section 24(3) (exemption for certain data relating to employment under the Crown), and

“(a) section 202(6) (application of certain provisions to a person in the service of the Crown).

“(4) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007 (S.I. 2007/837 (W.72))

200G In regulation 3 of the Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007 (research which may be carried out despite a participant’s loss of capacity) —

(a) in the English language text, for paragraph (c) substitute—

““3(a) any material used consists of or includes human cells or human DNA; and”, and

(b) in the Welsh language text, for paragraph (c) substitute—

““3(a) os yw unrhyw ddeunydd a ddefnyddir yn gelloedd dynol neu’n DNA dynol neu yn eu cynnwys; ac”.

Data Protection Bill [Lords], continued*Representation of the People (Absent Voting at Local Elections) (Scotland) Regulations 2007 (S.S.I. 2007/170)*

- 200H(1) Regulation 18 of the Representation of the People (Absent Voting at Local Elections) (Scotland) Regulations 2007 (conditions on the supply and inspection of absent voter records or lists) is amended as follows.
- (2) In paragraph (1), for sub-paragraph (a) (but not the final “or”) substitute—
- ““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”.
- (3) After paragraph (1) insert—
- ““2(4) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 (S.S.I. 2007/264)

- 200I In regulation 5 of the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 (conditions on the use, supply and disclosure of documents open to public inspection)—
- (a) in paragraph (2), for sub-paragraph (i) (but not the final “or”) substitute—
- ““9(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and
- (b) after paragraph (3) insert—
- “4 “(3) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Education (Pupil Records and Reporting) (Transitional) Regulations (Northern Ireland) 2007 (S.R. (N.I.) 2007 No. 43)

- 200J The Education (Pupil Records and Reporting) (Transitional) Regulations (Northern Ireland) 2007 is amended as follows.
- 200K In regulation 2 (interpretation), at the appropriate place insert—
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 200L In regulation 10(2) (duties of Boards of Governors), for “documents which are the subject of an order under section 30(2) of the Data Protection Act 1998” substitute “information to which the pupil to whom the information relates would have no right of access under the GDPR”.

Data Protection Bill [Lords], continued
Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741)

- 200M In regulation 118 of the Representation of the People (Northern Ireland) Regulations 2008 (conditions on the use, supply and disclosure of documents open to public inspection)—
- (a) in paragraph (2), for “research purposes within the meaning of that term in section 33 of the Data Protection Act 1998” substitute “purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics)”, and
 - (b) after paragraph (3) insert—
- “4 “(3) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008 (S.I. 2008/3122)

- 200N In paragraph 1(c) of the Schedule to the Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008 (modifications with which Chapter 1 of Part 28 of the Companies Act 2006 extends to the Isle of Man), for “the Data Protection Act 1998 (c 29)” substitute “the data protection legislation”.

Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 (S.I. 2008/3239 (W.286))

- 200O The Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 are amended as follows.
- 200P In regulation 2(1) (interpretation)—
- (a) at the appropriate place in the English language text insert—

““the GDPR” (“y GDPR”) and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);”, and
 - (b) at the appropriate place in the Welsh language text insert—

“mae i “y GDPR” a chyfeiriadau at Atodlen 2 i Ddeddf Diogelu Data 2018 yr un ystyr ag a roddir i “the GDPR” a chyfeiriadau at yr Atodlen honno yn Rhannau 5 i 7 o’r Ddeddf honno (gweler adran 3(10), (11) a (14) o’r Ddeddf honno);”.
- 200Q(1) Regulation 25 (duty to co-operate by disclosing information as regards relevant persons) is amended as follows.
- (2) In paragraph (7)—
 - (a) in the English language text, at the end insert “or the GDPR”, and
 - (b) in the Welsh language text, at the end insert “neu’r GDPR”.
 - (3) For paragraph (8)—
 - (a) in the English language text substitute—

““8(4) In determining for the purposes of paragraph (7) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the

Data Protection Bill [Lords], continued

data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”, and

(b) in the Welsh language text substitute—

““8(4) Wrth benderfynu at ddibenion paragraff (7) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

200R(1) Regulation 26 (responsible bodies requesting additional information be disclosed about relevant persons) is amended as follows.

(2) In paragraph (6)—

(a) in the English language text, at the end insert “or the GDPR”, and

(b) in the Welsh language text, at the end insert “neu’r GDPR”.

(3) For paragraph (7)—

(a) in the English language text substitute—

““7(4) In determining for the purposes of paragraph (6) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”, and

(b) in the Welsh language text substitute—

““7(4) Wrth benderfynu at ddibenion paragraff (6) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

200S(1) Regulation 29 (occurrence reports) is amended as follows.

(2) In paragraph (3)—

(a) in the English language text, at the end insert “or the GDPR”, and

(b) in the Welsh language text, at the end insert “neu’r GDPR”.

(3) For paragraph (4)—

(a) in the English language text substitute—

““4(4) In determining for the purposes of paragraph (3) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”, and

(b) in the Welsh language text substitute—

““4(4) Wrth benderfynu at ddibenion paragraff (3) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

Data Protection Bill [Lords], continued

Energy Order 2003 (Supply of Information) Regulations (Northern Ireland) 2008 (S.R. (N.I.) 2008 No. 3)

200T(1) Regulation 5 of the Energy Order 2003 (Supply of Information) Regulations (Northern Ireland) 2008 (information whose disclosure would be affected by the application of other legislation) is amended as follows.

(2) In paragraph (3)—

- (a) omit “within the meaning of section 1(1) of the Data Protection Act 1998”, and
- (b) for the words from “where” to the end substitute “if the condition in paragraph (3A) or (3B) is satisfied”.

(3) After paragraph (3) insert—

““3A(4) The condition in this paragraph is that the disclosure of the information to a member of the public—

“(a) would contravene any of the data protection principles, or

“(a) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

“3B(4) The condition in this paragraph is that the disclosure of the information to a member of the public would contravene—

“(a) Article 21 of the GDPR (general processing: right to object to processing), or

“(a) section 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).”

(4) After paragraph (4) insert—

““5(4) In this regulation—

“the data protection principles” means the principles set out in—

- (a) Article 5(1) of the GDPR,
- (b) section 34(1) of the Data Protection Act 2018, and
- (c) section 85(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

Companies (Disclosure of Address) Regulations 2009 (S.I. 2009/214)

200U(1) Paragraph 6 of Schedule 2 to the Companies (Disclosure of Address) Regulations 2009 (conditions for permitted disclosure to a credit reference agency) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—

““2(ii) for the purposes of ensuring that it complies with its data protection obligations;”.

(4) In paragraph (c) of that sub-paragraph—

- (a) omit “or” at the end of sub-paragraph (i), and

Data Protection Bill [Lords], continued

- (b) at the end insert “; or
 “3(ii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice);”.
- (5) After paragraph (c) of that sub-paragraph insert—
 “4(a) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”
- (6) After sub-paragraph (1) insert—
 “2 “(3) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means—
 “(a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);
 “(a) where the agency carries on business in a EEA State other than the United Kingdom, obligations under—
 “(ii) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),
 “(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and
 “(ii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

Overseas Companies Regulations 2009 (S.I. 2009/1801)

- 200V(1) Paragraph 6 of Schedule 2 to the Overseas Companies Regulations 2009 (conditions for permitted disclosure to a credit reference agency) is amended as follows.
- (2) The existing text becomes sub-paragraph (1).
- (3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—
 “2(ii) for the purposes of ensuring that it complies with its data protection obligations;”.
- (4) In paragraph (c) of that sub-paragraph—
 (a) omit “or” at the end of sub-paragraph (i), and
 (b) at the end insert “; or
 “3(ii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice);”.
- (5) After paragraph (c) of that sub-paragraph insert—
 “4(a) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”

Data Protection Bill [Lords], continued

(6) After sub-paragraph (1) insert—

“2 “(3) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means—

“(a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);

“(a) where the agency carries on business in a EEA State other than the United Kingdom, obligations under—

“(ii) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

“(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and

“(ii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

Provision of Services Regulations 2009 (S.I. 2009/2999)

200W In regulation 25 of the Provision of Services Regulations 2009 (derogations from the freedom to provide services), for paragraph (d) substitute—

““4(a) matters covered by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.”

Member’s explanatory statement

This amendment makes consequential amendments to secondary legislation including to the National Assembly for Wales Commission (Crown Status) Order 2007.

Margot James

223

★ Schedule 18, page 249, line 32, at end insert—

“INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440)

201A(1) Regulation 10 of the INSPIRE (Scotland) Regulations 2009 (public access to spatial data sets and spatial data services) is amended as follows.

(2) In paragraph (2)—

(a) omit “or” at the end of sub-paragraph (a),

(b) for sub-paragraph (b) substitute—

““2(a) Article 21 of the GDPR (general processing: right to object to processing), or

“(a) section 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).”, and

(c) omit the words following sub-paragraph (b).

(3) After paragraph (6) insert—

““7(4) In this regulation—

“the data protection principles” means the principles set out in—

(a) Article 5(1) of the GDPR,

Data Protection Bill [Lords], continued

(b) section 34(1) of the Data Protection Act 2018, and

(c) section 85(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).

“(4) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 (S.R (N.I.) 2009 No. 225)

201B The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 are amended as follows.

201C In regulation 2(2) (interpretation), at the appropriate place insert—

““the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);””

201D(1) Regulation 25 (duty to co-operate by disclosing information as regards relevant persons) is amended as follows.

(2) In paragraph (7), at the end insert “or the GDPR”.

(3) For paragraph (8) substitute—

““8(4) In determining for the purposes of paragraph (7) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”

201E(1) Regulation 26 (responsible bodies requesting additional information be disclosed about relevant persons) is amended as follows.

(2) In paragraph (6), at the end insert “or the GDPR”.

(3) For paragraph (7) substitute—

““7(4) In determining for the purposes of paragraph (6) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”

201F(1) Regulation 29 (occurrence reports) is amended as follows.

(2) In paragraph (3), at the end insert “or the GDPR”.

(3) For paragraph (4) substitute—

““4(4) In determining for the purposes of paragraph (3) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the

Data Protection Bill [Lords], continued

data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”

Pharmacy Order 2010 (S.I. 2010/231)

201G The Pharmacy Order 2010 is amended as follows.

201H In article 3(1) (interpretation), omit the definition of “Directive 95/46/EC”.

201I (1) Article 9 (inspection and enforcement) is amended as follows.

(2) For paragraph (4) substitute—

““4(4) If a report that the Council proposes to publish pursuant to paragraph (3) includes personal data, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure of the personal data is required by paragraph (3) of this article.”

(3) After paragraph (4) insert—

““5(4) In this article, “personal data” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

201J In article 33A (European professional card), after paragraph (2) insert—

““3(4) In Schedule 2A, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”

201K(1) Article 49 (disclosure of information: general) is amended as follows.

(2) In paragraph (2)(a), after “enactment” insert “or the GDPR”.

(3) For paragraph (3) substitute—

“3 “(3) In determining for the purposes of paragraph (2)(a) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by paragraph (1) of this article.”

(4) After paragraph (5) insert—

“6 “(3) In this article, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

201L(1) Article 55 (professional performance assessments) is amended as follows.

(2) In paragraph (5)(a), after “enactment” insert “or the GDPR”.

(3) For paragraph (6) substitute—

“6 “(3) In determining for the purposes of paragraph (5)(a) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by paragraph (4) of this article.”

Data Protection Bill [Lords], continued

- (4) After paragraph (8) insert—
- “9 “(3) In this article, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 201M In article 67(6) (Directive 2005/36/EC: designation of competent authority etc.), after sub-paragraph (a) insert—
- ““1a(a) “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 201N(1) Schedule 2A (Directive 2005/36/EC: European professional card) is amended as follows.
- (2) In paragraph 8(1) (access to data), for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In paragraph 9 (processing data)—
- (a) omit sub-paragraph (2) (deeming the Council to be the controller for the purposes of Directive 95/46/EC), and
- (b) after sub-paragraph (2) insert—
- “3 “(3) In this paragraph, “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act).”
- 201O(1) The table in Schedule 3 (Directive 2005/36/EC: designation of competent authority etc.) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

National Employment Savings Trust Order 2010 (S.I. 2010/917)

- 201P The National Employment Savings Trust Order 2010 is amended as follows.
- 201Q In article 2 (interpretation)—
- (a) omit the definition of “data” and “personal data”, and
- (b) at the appropriate place insert—
- ““personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”
- 201R(1) Article 10 (disclosure of requested data to the Secretary of State) is amended as follows.
- (2) In paragraph (1)—
- (a) for “disclosure of data” substitute “disclosure of information”, and
- (b) for “requested data” substitute “requested information”.
- (3) In paragraph (2)—
- (a) for “requested data” substitute “requested information”,
- (b) for “those data are” substitute “the information is”, and
- (c) for “receive those data” substitute “receive that information”.
- (4) In paragraph (3), for “requested data” substitute “requested information”.
- (5) In paragraph (4), for “requested data” substitute “requested information”.

Data Protection Bill [Lords], continued

Local Elections (Northern Ireland) Order 2010 (S.I. 2010/2977)

- 201S(1) Schedule 3 to the Local Elections (Northern Ireland) Order 2010 (access to marked registers and other documents open to public inspection after an election) is amended as follows.
- (2) In paragraph 1(1) (interpretation and general)—
- (a) omit the definition of “research purposes”, and
- (b) at the appropriate places insert—
- ““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.
- (3) In paragraph 5(3) (restrictions on the use, supply and disclosure of documents open to public inspection), for “research purposes” substitute “Article 89 GDPR purposes”.

Pupil Information (Wales) Regulations 2011 (S.I. 2011/1942 (W.209))

- 201T(1) Regulation 5 of the Pupil Information (Wales) Regulations 2011 (duties of head teacher - educational records) is amended as follows.
- (2) In paragraph (5)—
- (a) in the English language text, for “documents which are subject to any order under section 30(2) of the Data Protection Act 1998” substitute “information—
- “1(a) which the head teacher could not lawfully disclose to the pupil under the GDPR, or
- “(a) to which the pupil would have no right of access under the GDPR.”, and
- (b) in the Welsh language text, for “ddogfennau sy’n ddarostyngedig i unrhyw orchymyn o dan adran 30(2) o Ddeddf Diogelu Data 1998” substitute “wybodaeth—
- “1(a) na allai’r pennaeth ei datgelu’n gyfreithlon i’r disgybl o dan y GDPR, neu
- “(a) na fyddai gan y disgybl hawl mynediad ati o dan y GDPR.”
- (3) After paragraph (5)—
- (a) in the English language text insert—
- ““6(4) In this regulation, “the GDPR” (“y *GDPR*”) means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”, and
- (b) in the Welsh language text insert—
- ““6(4) Yn y rheoliad hwn, ystyr “y *GDPR*” (“*the GDPR*”) yw Rheoliad (EU) 2016/679 Senedd Ewrop a’r Cyngor dyddiedig 27 Ebrill 2016 ar ddiogelu personau naturiol o ran prosesu data personol a rhyddid

Data Protection Bill [Lords], continued

symud data o'r fath (y Rheoliad Diogelu Data Cyffredinol), fel y'i darllenir ynghyd â Phennod 2 o Ran 2 o Ddeddf Diogelu Data 2018.”

Debt Arrangement Scheme (Scotland) Regulations 2011 (S.S.I. 2011/141)

201U In Schedule 4 to the Debt Arrangement Scheme (Scotland) Regulations 2011 (payments distributors), omit paragraph 2.

Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917)

201V The Police and Crime Commissioner Elections Order 2012 is amended as follows.

201W(1) Schedule 2 (absent voting in Police and Crime Commissioner elections) is amended as follows.

(2) In paragraph 20 (absent voter lists: supply of copies etc)—

(a) in sub-paragraph (8), for paragraph (a) (but not the final “or”) substitute—

““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and

(b) after sub-paragraph (10) insert—

“11 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

(3) In paragraph 24 (restriction on use of absent voter records or lists or the information contained in them)—

(a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute—

““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and

(b) after that sub-paragraph insert—

“4 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

201X(1) Schedule 10 (access to marked registers and other documents open to public inspection after an election) is amended as follows.

(2) In paragraph 1(2) (interpretation), omit paragraphs (c) and (d) (but not the final “and”).

(3) In paragraph 5 (restriction on use of documents or of information contained in them)—

(a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute—

““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and

Data Protection Bill [Lords], continued

(b) after sub-paragraph (4) insert—

“5 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Neighbourhood Planning (Referendums) Regulations 2012 (S.I. 2012/2031)

201Y Schedule 6 to the Neighbourhood Planning (Referendums) Regulations 2012 (registering to vote in a business referendum) is amended as follows.

201Z(1) Paragraph 29(1) (interpretation of Part 8) is amended as follows.

(2) At the appropriate places insert—

““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

(3) For the definition of “relevant conditions” substitute—

““relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards;”.

(4) Omit the definition of “research purposes”.

201AA In paragraph 32(3)(b)(i), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.

201AB In paragraph 33(6) and (7) (supply of copy of business voting register to the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AC In paragraph 34(6) and (7) (supply of copy of business voting register to the Office of National Statistics and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AD In paragraph 39(8) and (97) (supply of copy of business voting register to public libraries and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AE In paragraph 45(2) (conditions on the use, supply and disclosure of documents open to public inspection), for paragraph (a) (but not the final “or”) substitute—

““1(a) Article 89 GDPR purposes (as defined in paragraph 29),”.

Controlled Drugs (Supervision of Management and Use) Regulations 2013 (S.I. 2013/373)

201AF(1) Regulation 20 of the Controlled Drugs (Supervision of Management and Use) Regulations 2013 (information management) is amended as follows.

Data Protection Bill [Lords], continued

- (2) For paragraph (4) substitute—
- ““4(4) Where a CDAO, a responsible body or someone acting on their behalf is permitted to share information which includes personal data by virtue of a function under these Regulations, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this regulation.”
- (3) In paragraph (5), after “enactment” insert “or the GDPR”.
- (4) After paragraph (6) insert—
- ““7(4) In this regulation, “the GDPR”, “personal data” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (10), (11) and (14) of that Act).”

Communications Act 2003 (Disclosure of Information) Order 2014 (S.I. 2014/1825)

201AG(1) Article 3 of the Communications Act 2003 (Disclosure of Information) Order 2014 (specification of relevant functions) is amended as follows.

- (2) The existing text becomes paragraph (1).
- (3) In that paragraph, in sub-paragraph (a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) After that paragraph insert—
- “2 “(3) In this article, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).””

Member’s explanatory statement

This amendment makes consequential amendments to secondary legislation.

Margot James

224

- ★ Schedule 18, page 250, line 7, at end insert—

“Companies (Disclosure of Date of Birth Information) Regulations 2015 (S.I. 2015/1694)

204A(1) Paragraph 6 of Schedule 2 to the Companies (Disclosure of Date of Birth Information) Regulations 2015 (conditions for permitted disclosure to a credit reference agency) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).
- (3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—
- ““2(ii) for the purposes of ensuring that it complies with its data protection obligations;”.
- (4) In paragraph (c) of that sub-paragraph—
- (a) omit “or” at the end of sub-paragraph (i), and
- (b) at the end insert “; or
- “3(ii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice);”.
- (5) After paragraph (c) of that sub-paragraph insert—
- ““4(a) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances

Data Protection Bill [Lords], continued

described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”

(6) After sub-paragraph (1) insert—

“2 “(3) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means—

“(a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);

“(a) where the agency carries on business in a EEA State other than the United Kingdom, obligations under—

“(ii) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

“(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and

“(ii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

Small and Medium Sized Business (Credit Information) Regulations 2015 (S.I. 2015/1945)

204B The Small and Medium Sized Business (Credit Information) Regulations 2015 are amended as follows.

204C(1) Regulation 12 (criteria for the designation of a credit reference agency) is amended as follows.

(2) In paragraph (1)(b), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After paragraph (2) insert—

“3 “(3) In this regulation, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

204D(1) Regulation 15 (access to and correction of information for individuals and small firms) is amended as follows.

(2) For paragraph (1) substitute—

““1(4) Section 13 of the Data Protection Act 2018 (rights of the data subject under the GDPR: obligations of credit reference agencies) applies in respect of a designated credit reference agency which is not a credit reference agency within the meaning of section 145(8) of the Consumer Credit Act 1974 as if it were such an agency.”

(3) After paragraph (3) insert—

““4(4) In this regulation, the reference to section 13 of the Data Protection Act 2018 has the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)

204E The European Union (Recognition of Professional Qualifications) Regulations 2015 are amended as follows.

204F(1) Regulation 2(1) (interpretation) is amended as follows.

Data Protection Bill [Lords], continued

(2) Omit the definition of “Directive 95/46/EC”.

(3) At the appropriate place insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

204G In regulation 5(5) (functions of competent authorities in the United Kingdom) for “Directives 95/46/EC” substitute “the GDPR and Directive”.

204H In regulation 45(3) (processing and access to data regarding the European Professional Card), for “Directive 95/46/EC” substitute “the GDPR”.

204I In regulation 46(1) (processing and access to data regarding the European Professional Card), for “Directive 95/46/EC” substitute “the GDPR”.

204J In regulation 48(2) (processing and access to data regarding the European Professional Card), omit paragraph (2) (deeming the relevant designated competent authorities to be controllers for the purposes of Directive 95/46/EC).

204K In regulation 66(3) (exchange of information), for “Directives 95/46/EC” substitute “the GDPR and Directive”.

Scottish Parliament (Elections etc) Order 2015 (S.S.I. 2015/425)

204L The Scottish Parliament (Elections etc) Order 2015 is amended as follows.

204M(1) Schedule 3 (absent voting) is amended as follows.

(2) In paragraph 16 (absent voting lists: supply of copies etc)—

(a) in sub-paragraph (4), for paragraph (a) (but not the final “or”) substitute—

““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and

(b) after sub-paragraph (10) insert—

“11 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

(3) In paragraph 20 (restriction on use of absent voting lists)—

(a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute—

““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and

(b) after that sub-paragraph insert—

“4 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

204N(1) Schedule 8 (access to marked registers and other documents open to public inspection after an election) is amended as follows.

Data Protection Bill [Lords], continued

- (2) In paragraph 1(2) (interpretation), omit paragraphs (c) and (d) (but not the final “and”).
- (3) In paragraph 5 (restriction on use of documents or of information contained in them)—
- (a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute—
- ““1(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and
- (b) after sub-paragraph (4) insert—
- “5 “(3) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

Recall of MPs Act 2015 (Recall Petition) Regulations 2016 (S.I. 2016/295)

- 204O In paragraph 1(3) of Schedule 3 to the Recall of MPs Act 2015 (Recall Petition) Regulations 2016 (access to marked registers after a petition), omit the definition of “relevant conditions”.

Register of People with Significant Control Regulations 2016 (S.I. 2016/339)

- 204P Schedule 4 to the Register of People with Significant Control Regulations 2016 (conditions for permitted disclosure) is amended as follows.
- 204Q(1) Paragraph 6 (disclosure to a credit reference agency) is amended as follows.
- (2) In sub-paragraph (b), for paragraph (ii) (together with the final “; and”) substitute—
- ““2(ii) for the purposes of ensuring that it complies with its data protection obligations;”.
- (3) In sub-paragraph (c)—
- (a) omit “or” at the end of paragraph (ii), and
- (b) at the end insert “; or
- “4(ii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice); and”.
- (4) After sub-paragraph (c) insert—
- ““4(a) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in sub-paragraph (c)(iii), other than a penalty notice that has been cancelled.”
- 204R In paragraph 12A (disclosure to a credit institution or a financial institution), for sub-paragraph (b) substitute—
- ““2(a) for the purposes of ensuring that it complies with its data protection obligations.”
- 204S(1) In Part 3 (interpretation), after paragraph 13 insert—
- ““143 In this Schedule, “data protection obligations”, in relation to a credit reference agency, a credit institution or a financial institution, means—
- “(a) where the agency or institution carries on business in the United Kingdom, obligations under the data protection

Data Protection Bill [Lords], continued

legislation (as defined in section 3 of the Data Protection Act 2018);

“(a) where the agency or institution carries on business in a EEA State other than the United Kingdom, obligations under—

“(ii) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

“(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and

“(ii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696)

204T The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 are amended as follows.

204U In regulation 2(1) (interpretation), omit the definition of “the 1998 Act”.

204V In regulation 3(3) (supervision), omit “under the 1998 Act”.

204W For Schedule 2 substitute—

N=2:“SCHEDULE “2

INFORMATION COMMISSIONER’S ENFORCEMENT POWERS

Provisions applied for enforcement purposes

“13 For the purposes of enforcing these Regulations and the eIDAS Regulation, the following provisions of Parts 5 to 7 of

Data Protection Bill [Lords], continued

the Data Protection Act 2018 apply with the modifications set out in paragraphs 2 to 24—

- “1(a) section 140 (publication by the Commissioner);
- “(a) section 141 (notices from the Commissioner);
- “(a) section 143 (information notices);
- “(a) section 144 (information notices: restrictions);
- “(a) section 145 (false statements made in response to an information notice);
- “(a) section 146 (assessment notices);
- “(a) section 147 (assessment notices: restrictions);
- “(a) section 148 (enforcement notices);
- “(a) section 149 (enforcement notices: supplementary);
- “(a) section 151 (enforcement notices: restrictions);
- “(a) section 152 (enforcement notices: cancellation and variation);
- “(a) section 153 and Schedule 15 (powers of entry and inspection);
- “(a) section 154 and Schedule 16 (penalty notices);
- “(a) section 155(4)(a) (penalty notices: restrictions);
- “(a) section 156 (maximum amount of penalty);
- “(a) section 158 (amount of penalties: supplementary);
- “(a) section 159 (guidance about regulatory action);
- “(a) section 160 (approval of first guidance about regulatory action);
- “(a) section 161 (rights of appeal);
- “(a) section 162 (determination of appeals);
- “(a) section 179(1), (2), (5), (7) and (12) (regulations and consultation);
- “(a) section 189 (penalties for offences);
- “(a) section 190 (prosecution);
- “(a) section 195 (proceedings in the First-tier Tribunal: contempt);
- “(a) section 196 (Tribunal Procedure Rules).

General modification of references to the Data Protection Act 2018

- “3 The provisions listed in paragraph 1 have effect as if—
- “(a) references to the Data Protection Act 2018 were references to the provisions of that Act as applied by these Regulations;
- “(a) references to a particular provision of that Act were references to that provision as applied by these Regulations.

Modification of section 143 (information notices)

- “(3) Section 143 has effect as if subsections (9) and (10) were omitted.

Data Protection Bill [Lords], continued

(1B) In that section, subsection (1) has effect as if—

- “(a) in paragraph (a)—
 - “(ii) for “controller or processor” there were substituted “trust service provider”;
 - “(ii) for “the data protection legislation” there were substituted “the eIDAS Regulation and the EITSET Regulations”;
- “(a) paragraph (b) were omitted.

Modification of section 144 (information notices: restrictions)

“(3) Section 144 has effect as if subsections (1) and (9) were omitted.

(1B) In that section—

- “(a) subsections (3)(b) and (4)(b) have effect as if for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”;
- “(a) subsection (7)(a) has effect as if for “this Act” there were substituted “section 145 or paragraph 15 of Schedule 15”;
- “(a) subsection (8) has effect as if for “this Act (other than an offence under section 145)” there were substituted “paragraph 15 of Schedule 15”.

Modification of section 146 (assessment notices)

“(3) Section 146 has effect as if subsection (10) were omitted.

(1B) In that section—

- “(a) subsection (1) has effect as if—
 - “(ii) for “controller or processor” (in both places) there were substituted “trust service provider”;
 - “(ii) for “the data protection legislation” there were substituted “the eIDAS requirements”;
- “(a) subsection (2) has effect as if paragraphs (g) and (h) were omitted;
- “(a) subsections (7), (8) and (9) have effect as if for “controller or processor” (in each place) there were substituted “trust service provider”.

Modification of section 147 (assessment notices: restrictions)

“(3) Section 147 has effect as if subsections (5) and (6) were omitted.

(1B) In that section, subsections (2)(b) and (3)(b) have effect as if for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”.

Modification of section 148 (enforcement notices)

“(3) Section 148 has effect as if subsections (2) to (5) and (7) to (9) were omitted.

Data Protection Bill [Lords], continued

(1B) In that section—

“(a) subsection (1) has effect as if—

“(ii) for “as described in subsection (2), (3), (4) or (5)” there were substituted “to comply with the eIDAS requirements”;

“(ii) for “sections 149 and 150” there were substituted “section 149”;

“(a) subsection (6) has effect as if the words “given in reliance on subsection (2), (3) or (5)” were omitted.

Modification of section 149 (enforcement notices: supplementary)

“(3) Section 149 has effect as if subsection (3) were omitted.

(1B) In that section, subsection (2) has effect as if the words “in reliance on section 148(2)” and “or distress” were omitted.

Modification of section 151 (enforcement notices: restrictions)

“3 Section 151 has effect as if subsections (1), (2) and (4) were omitted.

Withdrawal notices

“3 The provisions listed in paragraph 1 have effect as if after section 152 there were inserted—

*“Withdrawal notices***“152A2 Withdrawal notices**

“1(a)The Commissioner may, by written notice (a “withdrawal notice”), withdraw the qualified status from a trust service provider, or the qualified status of a service provided by a trust service provider, if—

1(a)the Commissioner is satisfied that the trust service provider has failed to comply with an information notice or an enforcement notice, and

1(a)the condition in subsection (2) or (3) is met.

“2(a)The condition in this subsection is met if the period for the trust service provider to appeal against the information notice or enforcement notice has ended without an appeal having been brought.

“3(a)The condition in this subsection is met if an appeal against the information notice or enforcement notice has been brought and—

3(a)the appeal and any further appeal in relation to the notice has been decided or has otherwise ended, and

3(a)the time for appealing against the result of the appeal or further appeal has ended without another appeal having been brought.

“4(a)A withdrawal notice must—

4(a)state when the withdrawal takes effect, and

4(a)provide information about the rights of appeal under section 161.”

Modification of Schedule 15 (powers of entry and inspection)

“(3) Schedule 15 has effect as if paragraph 3 were omitted.

Data Protection Bill [Lords], continued

- (1B) Paragraph 1(1) of that Schedule (issue of warrants in connection with non-compliance and offences) has effect as if for paragraph (a) (but not the final “and”) there were substituted—
- “1(a) there are reasonable grounds for suspecting that—
- “(ii) a trust service provider has failed or is failing to comply with the eIDAS requirements, or
- “(ii) an offence under section 145 or paragraph 15 of Schedule 15 has been or is being committed.”
- (1B) Paragraph 2 of that Schedule (issue of warrants in connection with assessment notices) has effect as if—
- “(a) in sub-paragraph (1) and (2), for “controller or processor” there were substituted “trust service provider”;
- “(a) in sub-paragraph (2), for “the data protection legislation” there were substituted “the eIDAS requirements”.
- (1B) Paragraph 5 of that Schedule (content of warrants) has effect as if—
- “(a) in sub-paragraph (1)(c), for “the processing of personal data” there were substituted “the provision of trust services”;
- “(a) in sub-paragraph (2)(c)—
- “(ii) for “controller or processor” there were substituted “trust service provider”;
- “(ii) for “as described in section 148(2)” there were substituted “to comply with the eIDAS requirements”;
- “(a) in sub-paragraph (3)(a) and (c)—
- “(ii) for “controller or processor” there were substituted “trust service provider”;
- “(ii) for “the data protection legislation” there were substituted “the eIDAS requirements”.
- (1B) Paragraph 11 of that Schedule (privileged communications) has effect as if, in sub-paragraphs (1)(b) and (2)(b), for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”.

Modification of section 154 (penalty notices)

- “(3) Section 154 has effect as if subsections (1)(a), (2)(a), (3)(g), (3A) and (5) to (7) were omitted.
- (1B) Subsection (2) of that section has effect as if—
- “(a) the words “Subject to subsection (3A),” were omitted;
- “(a) in paragraph (b), the words “to the extent that the notice concerns another matter,” were omitted.

Data Protection Bill [Lords], continued

(1B) Subsection (3) of that section has effect as if—

- “(a) for “controller or processor”, in each place, there were substituted “trust services provider”;
- “(a) in paragraph (c), the words “or distress” were omitted;
- “(a) in paragraph (c), for “data subjects” there were substituted “relying parties”;
- “(a) in paragraph (d), for “section 57, 66, 103 or 107” there were substituted “Article 19(1) of the eIDAS Regulation”.

Modification of Schedule 16 (penalties)

- “3 Schedule 16 has effect as if paragraphs 3(2)(b) and 5(2)(b) were omitted.

Modification of section 156 (maximum amount of penalty)

- “3 Section 156 has effect as if subsections (1) to (3) and (6) were omitted.

Modification of section 158 (amount of penalties: supplementary)

- “3 Section 158 has effect as if—
- “(a) in subsection (1), the words “Article 83 of the GDPR and” were omitted;
 - “(a) in subsection (2), the words “Article 83 of the GDPR” and “and section 157” were omitted.

Modification of section 159 (guidance about regulatory action)

- “(3) Section 159 has effect as if subsections (4) and (10) were omitted.
- (1B) In that section, subsection (3)(e) has effect as if for “controllers and processors” there were substituted “trust service providers”.

Modification of section 161 (rights of appeal)

- “(3) Section 161 has effect as if subsection (5) were omitted.
- (1B) In that section, subsection (1) has effect as if, after paragraph (c), there were inserted—
- “100a(a) a withdrawal notice;”.

Modification of section 162 (determination of appeals)

- “3 Section 162 has effect as if subsection (7) were omitted.

Modification of section 179 (regulations and consultation)

- “3 Section 179 has effect as if subsections (3), (4), (6), (8) to (11) and (13) were omitted.

Modification of section 189 (penalties for offences)

- “(3) Section 189 has effect as if subsections (3) to (5) were omitted.

Data Protection Bill [Lords], continued

(1B) In that section—

“(a) subsection (1) has effect as if the words “section 119 or 173 or” were omitted;

“(a) subsection (2) has effect as if for “section 132, 145, 170, 171 or 181” there were substituted “section 145”.

Modification of section 190 (prosecution)

“3 Section 190 has effect as if subsections (3) to (6) were omitted.

Modification of section 195 (proceedings in the First-tier Tribunal: contempt)

“3 Section 195 has effect as if in subsection (1)(a), for subparagraphs (i) and (ii) there were substituted “on an appeal under section 161”.

Modification of section 196 (Tribunal Procedure Rules)

“3 Section 196 has effect as if—

“(a) in subsection (1), for paragraphs (a) and (b) there were substituted “the exercise of the rights of appeal conferred by section 161”;

“(a) in subsection (2)(a) and (b), for “the processing of personal data” there were substituted “the provision of trust services”.

Approval of first guidance about regulatory action

“(3) This paragraph applies if the first guidance produced under section 159(1) of the Data Protection Act 2018 and the first guidance produced under that provision as applied by this Schedule are laid before Parliament as a single document (“the combined guidance”).

(1B) Section 160 of that Act (including that section as applied by this Schedule) has effect as if the references to “the guidance” were references to the combined guidance, except in subsections (2)(b) and (4).

(1B) Nothing in subsection (2)(a) of that section (including as applied by this Schedule) prevents another version of the combined guidance being laid before Parliament.

(1B) Any duty under subsection (2)(b) of that section (including as applied by this Schedule) may be satisfied by producing another version of the combined guidance.

Interpretation

“3 In this Schedule—

“the eIDAS requirements” means the requirements of Chapter III of the eIDAS Regulation;

“the EITSET Regulations” means these Regulations;

“withdrawal notice” has the meaning given in section 146A of the Data Protection Act 2018 (as inserted in that Act by this Schedule).”

Data Protection Bill [Lords], continued
Court Files Privileged Access Rules (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 123)

- 204X The Court Files Privileged Access Rules (Northern Ireland) 2016 are amended as follows.
- 204Y In rule 5 (information that may released) for “Schedule 1 of the Data Protection Act 1998” substitute “—
 “1(a) Article 5(1) of the GDPR, and
 “(a) section 34(1) of the Data Protection Act 2018.”
- 204Z In rule 7(2) (provision of information) for “Schedule 1 of the Data Protection Act 1998” substitute “—
 “1(a) Article 5(1) of the GDPR, and
 “(a) section 34(1) of the Data Protection Act 2018.”

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692)

- 204AA The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 are amended as follows.
- 204AB In regulation 3(1) (interpretation), at the appropriate places insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
 ““the GDPR” and references to provisions of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);”.
- 204AC In regulation 16(8) (risk assessment by the Treasury and Home Office), for “the Data Protection Act 1998 or any other enactment” substitute “—
 “1(a) the Data Protection Act 2018 or any other enactment, or
 “(a) the GDPR.”
- 204AD In regulation 17(9) (risk assessment by supervisory authorities), for “the Data Protection Act 1998 or any other enactment” substitute “—
 “1(a) the Data Protection Act 2018 or any other enactment, or
 “(a) the GDPR.”
- 204AE For regulation 40(9)(c) (record keeping) substitute—
 ““3(a) “data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 “(a) “personal data” has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”
- 204AF(1) Regulation 41 (data protection) is amended as follows.
- (2) Omit paragraph (2).
 - (3) In paragraph (3)(a), after “Regulations” insert “or the GDPR”.
 - (4) Omit paragraphs (4) and (5).
 - (5) After those paragraphs insert—
 “6 “(3) Before establishing a business relationship or entering into an occasional transaction with a new customer, as well as providing the customer with the information required under Article 13 of the GDPR (information to be provided where personal data are collected from the data subject), relevant persons must provide the

Data Protection Bill [Lords], continued

customer with a statement that any personal data received from the customer will be processed only—

“(a) for the purposes of preventing money laundering or terrorist financing, or

“(a) as permitted under paragraph (3).

(1B) In Article 6(1) of the GDPR (lawfulness of processing), the reference in point (e) to processing of personal data that is necessary for the performance of a task carried out in the public interest includes processing of personal data in accordance with these Regulations that is necessary for the prevention of money laundering or terrorist financing.

(1B) In the case of sensitive processing of personal data for the purposes of the prevention of money laundering or terrorist financing, section 10 of, and Schedule 1 to, the Data Protection Act 2018 make provision about when the processing meets a requirement in Article 9(2) or 10 of the GDPR for authorisation under the law of the United Kingdom (see, for example, paragraphs 9, 10 and 10A of that Schedule).

(1B) In this regulation—

“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“personal data” and “processing” have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4) and (14) of that Act);

“sensitive processing” means the processing of personal data described in Article 9(1) or 10 of the GDPR (special categories of personal data and personal data relating to criminal convictions and offences etc).”

204AG(1) Regulation 84 (publication: the Financial Conduct Authority) is amended as follows.

(2) In paragraph (10), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) For paragraph (11) substitute—

“11 “(3) For the purposes of this regulation, “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

204AH(1) Regulation 85 (publication: the Commissioners) is amended as follows.

(2) In paragraph (9), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) For paragraph (10) substitute—

“10 “(3) For the purposes of this regulation, “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

204AI For regulation 106(a) (general restrictions) substitute—

““1(a) a disclosure in contravention of the data protection legislation; or”.

204AJ After paragraph 27 of Schedule 3 (relevant offences) insert—

““27A3 An offence under the Data Protection Act 2018, apart from an offence under section 173 of that Act.”

Data Protection Bill [Lords], continued

Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694)

204AK(1) Paragraph 6 of Schedule 5 to the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (conditions for permitted disclosure to a credit institution or a financial institution) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) For paragraph (b) of that sub-paragraph substitute—

“2(a) for the purposes of ensuring that it complies with its data protection obligations.”

(4) After sub-paragraph (1) insert—

“2 “(3) In this paragraph, “data protection obligations”, in relation to a relevant institution, means—

“(a) where the institution carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);

“(a) where the institution carries on business in a EEA State other than the United Kingdom, obligations under—

“(ii) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

“(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and

“(ii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).

National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 (S.S.I. 2018/66)

204AL The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 are amended as follows.

204AM(1) Regulation 1 (citation and commencement) is amended as follows.

(2) In paragraph (2), omit “Subject to paragraph (3).”.

(3) Omit paragraph (3).

204AN In regulation 3(1) (interpretation)—

(a) omit the definition of “the 1998 Act”,

(b) at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”, and

(c) omit the definition of “GDPR”.

204AO(1) Schedule 6 (other contractual terms) is amended as follows.

(2) In paragraph 63(2) (interpretation: general), for “the 1998 Act or any directly applicable EU instrument relating to data protection” substitute “—

“1(a) the data protection legislation, or

“(a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection.”

(3) For paragraph 64 (meaning of data controller etc.) substitute—

Data Protection Bill [Lords], continued*“Meaning of controller etc.*

“64A3 For the purposes of this Part—

“controller” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);

“data protection officer” means a person designated as a data protection officer under the data protection legislation;

“personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2), (4) and (14) of that Act).”

(4) In paragraph 65(2)(b) (roles, responsibilities and obligations: general), for “data controllers” substitute “controllers”.

(5) In paragraph 69(2)(a) (processing and access of data), for “the 1998 Act, and any directly applicable EU instrument relating to data protection;” substitute “—

1(a) the data protection legislation, and

(a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.

(6) In paragraph 94(4) (variation of a contract: general)—

(a) omit paragraph (b), and

(b) after paragraph (d) (but before the final “and”) insert—

““4a(a) the data protection legislation;

“4b(a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.

National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 (S.S.I. 2018/67)

204AP The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 are amended as follows.

204AQ(1) Regulation 1 (citation and commencement) is amended as follows.

(2) In paragraph (2), omit “Subject to paragraph (3).”.

(3) Omit paragraph (3).

204AR In regulation 3(1) (interpretation)—

(a) omit the definition of “the 1998 Act”, and

(b) at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”, and

(c) omit the definition of “GDPR”.

204AS(1) Schedule 1 (content of agreements) is amended as follows.

(2) In paragraph 34 (interpretation)—

(a) in sub-paragraph (1)—

(i) omit “Subject to sub-paragraph (3).”.

Data Protection Bill [Lords], continued

- (ii) before paragraph (a) insert—
 - ““26a(a) “controller” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);
 - “26b(a) “data protection officer” means a person designated as a data protection officer under the data protection legislation;”, and
- (iii) for paragraph (d) substitute—
 - ““5(a) “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2), (4) and (14) of that Act).”;
- (b) omit sub-paragraphs (2) and (3),
- (c) in sub-paragraph (4), for “the 1998 Act and any directly applicable EU instrument relating to data protection” substitute “—
 - “1(a) the data protection legislation, or
 - “(a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection.”; and
- (d) in sub-paragraph (6)(b), for “data controllers” substitute “controllers”.
- (3) In paragraph 37(2)(a) (processing and access of data), for “the 1998 Act, and any directly applicable EU instrument relating to data protection;” substitute “—
 - 1(a) the data protection legislation, and
 - (a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.
- (4) In paragraph 61(3) (variation of agreement: general)—
 - (a) omit paragraph (b), and
 - (b) after paragraph (d) (but before the final “and”) insert—
 - ““4a(a) the data protection legislation;
 - “4b(a) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.

PART 3

MODIFICATIONS

Introduction

- 204AT(1) Unless the context otherwise requires, legislation described in sub-paragraph (2) has effect on and after the day on which this Part of this Schedule comes into force as if it were modified in accordance with this Part of this Schedule.
- (2) That legislation is—
 - (a) subordinate legislation made before the day on which this Part of this Schedule comes into force;
 - (b) primary legislation that is passed or made before the end of the Session in which this Act is passed.
 - (3) In this Part of this Schedule—
 - “primary legislation” has the meaning given in section 204(7);
 - “references” includes any references, however expressed.

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

- 204AU(1)References to a particular provision of, or made under, the Data Protection Act 1998 have effect as references to the equivalent provision or provisions of, or made under, the data protection legislation.
- (2) Other references to the Data Protection Act 1998 have effect as references to the data protection legislation.
 - (3) References to disclosure, use or other processing of information that is prohibited or restricted by an enactment which include disclosure, use or other processing of information that is prohibited or restricted by the Data Protection Act 1998 have effect as if they included disclosure, use or other processing of information that is prohibited or restricted by the GDPR or the applied GDPR.

Specific modification of references to terms used in the Data Protection Act 1998

- 204AV(1)References to personal data, and to the processing of such data, as defined in the Data Protection Act 1998, have effect as references to personal data, and to the processing of such data, as defined for the purposes of Parts 5 to 7 of this Act (see section 3(2), (4) and (14)).
- (2) References to processing as defined in the Data Protection Act 1998, in relation to information, have effect as references to processing as defined in section 3(4).
 - (3) References to a data subject as defined in the Data Protection Act 1998 have effect as references to a data subject as defined in section 3(5).
 - (4) References to a data controller as defined in the Data Protection Act 1998 have effect as references to a controller as defined for the purposes of Parts 5 to 7 of this Act (see section 3(6) and (14)).
 - (5) References to the data protection principles set out in the Data Protection Act 1998 have effect as references to the principles set out in—
 - (a) Article 5(1) of the GDPR and the applied GDPR, and
 - (b) sections 34(1) and 85(1) of this Act.
 - (6) References to direct marketing as defined in section 11 of the Data Protection Act 1998 have effect as references to direct marketing as defined in section 123 of this Act.
 - (7) References to a health professional within the meaning of section 69(1) of the Data Protection Act 1998 have effect as references to a health professional within the meaning of section 197 of this Act.
 - (8) References to a health record within the meaning of section 68(2) of the Data Protection Act 1998 have effect as references to a health record within the meaning of section 198 of this Act.

PART 4

SUPPLEMENTARY

Definitions

204AW Section 3(14) does not apply to this Schedule.”

Member’s explanatory statement

This amendment makes consequential amendments to secondary legislation including to the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (the EITSET Regulations) and to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. It also inserts two new Parts into Schedule 18. New

Data Protection Bill [Lords], continued

Part 3 contains consequential modifications of provisions in certain legislation not amended by Parts 1 and 2 of Schedule 18. New Part 4 contains supplementary provision.

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).

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

155

Clause 205, page 120, line 38, at end insert—

“(ca) section 183 (4A) to (4C);”

Member's explanatory statement

This amendment would create a collective redress mechanism whereby a not-for-profit body, organisation or association can represent multiple individuals for infringement of their rights under the General Data Protection Regulation.

Margot James

225

★ Clause 205, page 121, line 4, at end insert—

“() Regulations under this section may make different provision for different areas.”

Member's explanatory statement

This amendment enables regulations under clause 205 bringing provisions of the bill into force to make different provision for different areas.

Brendan O'Hara
Stuart C. McDonald

138

Clause 207, page 121, line 12, after “subsections” insert “(1A),”

Member's explanatory statement

This amendment is a paving amendment for Amendment 139.

Margot James

73

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

Member's explanatory statement

See the explanatory statement for Amendment 74.

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

Margot James

226

- ★ Clause 207, page 121, line 12, leave out “and (3)” and insert “, (3) and (3A)”
Member’s explanatory statement
See the explanatory statement for amendment 227.

Brendan O’Hara
Stuart C. McDonald

139

- Clause 207, page 121, line 13, at end insert—
 “(1A) Sections 168 and 169 extend to England and Wales only.”
Member’s explanatory statement
This amendment would ensure that Clauses 168 and 169 would only extend to England and Wales and not apply in Scotland.

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

227

- ★ Clause 207, page 121, line 15, after “extent” insert “in the United Kingdom”
Member’s explanatory statement
This amendment and amendments 226, 228 and 229 clarify that amendments of enactments made by the bill have the same extent in the United Kingdom as the enactment amended and that certain amendments also extend to the Isle of Man.

Margot James

228

- ★ Clause 207, page 121, line 16, leave out “(ignoring extent by virtue of an Order in Council)”
Member’s explanatory statement
See the explanatory statement for amendment 227.

Margot James

229

- ★ Clause 207, page 121, line 17, at end insert—
 “(3A) This subsection and the following provisions also extend to the Isle of Man—
 (a) paragraphs 200N and 205 of Schedule 18;
 (b) sections 204(1), 205(1) and 206, so far as relating to those paragraphs.”
Member’s explanatory statement
See the explanatory statement for amendment 227. Paragraph 200N in amendment 222 amends the Competition Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008.
-

Data Protection Bill [Lords], continued

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.*

Data Protection Bill [Lords], continued

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;
 - (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

Data Protection Bill [Lords], continued

- 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.
- (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.

Data Protection Bill [Lords], continued

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

NC3

To move the following Clause—

“Data protection impact assessment: intelligence services processing

- (1) Where a type of processing proposed under section 103(1) may result in a risk to the rights and freedoms of individuals, the controller must, prior to the processing, carry out a data protection impact assessment.
- (2) A data protection impact assessment is an assessment of the impact of the envisaged processing operations on the protection of personal data.
- (3) A data protection impact assessment must include the following—
 - (a) a general description of the envisaged processing operations;
 - (b) an assessment of the risks to the rights and freedoms of data subjects;
 - (c) the measures envisaged to address those risks;
 - (d) safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Part, taking into account the rights and legitimate interests of the data subjects and other persons concerned.
- (4) In deciding whether a type of processing could result in a risk to the rights and freedoms of individuals, the controller must take into account the nature, scope, context and purposes of the processing.”

Louise Haigh
Liam Byrne
Chris Elmore
Darren Jones

NC4

To move the following Clause—

“Prior consultation with the Commissioner: intelligence services processing

- (1) This section applies where a controller proposes that a particular type of processing of personal data be carried out under section 103(1).
- (2) The controller must consult the Commissioner prior to the processing if a data protection impact assessment prepared under section [Data protection impact assessment: intelligence services processing] indicates that the processing of the data could result in a risk to the rights and freedoms of individuals (in the absence of measures to mitigate the risk).
- (3) Where the controller is required to consult the Commissioner under subsection (2), the controller must give the Commissioner—
 - (a) the data protection impact assessment prepared under section [Data protection impact assessment: intelligence services processing], and
 - (b) any other information requested by the Commissioner to enable the Commissioner to make an assessment of the compliance of the processing with the requirements of this Part.
- (4) Where the Commissioner is of the opinion that the intended processing referred to in subsection (1) would infringe any provision of this Part, the Commissioner

Data Protection Bill [Lords], continued

must provide written advice to the controller and, where the controller is using a processor, to the processor.

- (5) The written advice must be provided before the end of the period of 6 weeks beginning with receipt of the request for consultation by the controller or the processor.
- (6) The Commissioner may extend the period of 6 weeks by a further period of one month, taking into account the complexity of the intended processing.
- (7) If the Commissioner extends the period of 6 weeks, the Commissioner must—
 - (a) inform the controller and, where applicable, the processor of any such extension before the end of the period of one month beginning with receipt of the request for consultation, and
 - (b) provide reasons for the delay.
- (8) If the Commissioner is not satisfied that the controller or processor (where the controller is using a processor) has taken sufficient steps to remedy the failing in respect of which the Commissioner gave advice under subsection (4), the Commissioner may exercise powers of enforcement available to the Commissioner under Part 6 of this Act.”

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC5

To move the following Clause—

“Bill of Data Rights in the Digital Environment

Schedule [*Bill of Data Rights in the Digital Environment*] shall have effect.”

Member’s explanatory statement

This new clause would introduce a Bill of Data Rights in the Digital Environment.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC6

To move the following Clause—

“Bill of Data Rights in the Digital Environment (No. 2)

- (1) The Secretary of State shall, by regulations, establish a Bill of Data Rights in the Digital Environment.
- (2) Before making regulations under this section, the Secretary of State shall—
 - (a) consult—
 - (i) the Commissioner,
 - (ii) trade associations,
 - (iii) data subjects, and

Data Protection Bill [Lords], continued

- (iv) persons who appear to the Commissioner or the Secretary of State to represent the interests of data subjects; and
- (b) publish a draft of the Bill of Rights.
- (3) The Bill of Data Rights in the Digital Environment shall enshrine—
 - (a) a right for a data subject to have privacy from commercial or personal intrusion,
 - (b) a right for a data subject to own, curate, move, revise or review their identity as founded upon personal data (whether directly or as a result of processing of that data),
 - (c) a right for a data subject to have their access to their data profiles or personal data protected, and
 - (d) a right for a data subject to object to any decision made solely on automated decision-making, including a decision relating to education and employment of the data subject.
- (4) Regulations under this section are subject to the affirmative resolution procedure.”

Member’s explanatory statement

This new clause would empower the Secretary of State to introduce a Bill of Data Rights in the Digital Environment.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC7

To move the following Clause—

“Application of Equality Act (Services and public functions)

- (1) Part 3 (Services and public functions) of the Equality Act 2010 (‘the Equality Act’) shall apply to the processing of personal data by an algorithm or automated system in making or supporting a decision under this section.
- (2) A ‘decision’ in this section means a decision or any part of a decision that engages a data subject (D)’s rights, freedoms or legitimate interests concerning—
 - (a) the provision of services to the public and
 - (b) the exercise of public functions by a service-provider.
- (3) Nothing in this section detracts from other rights, freedoms or legitimate interests in this Act, the Equality Act or in any other primary or secondary legislation relating to D’s personal data, employment, social security or social protection.”

Member’s explanatory statement

This new clause would apply Part 3 of the Equality Act 2010 to the processing of personal data by an algorithm or automated system or supporting a decision under this new clause.

Data Protection Bill [Lords], continued

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

NC8

To move the following Clause—

“Application of the Equality Act (Employment)

- (1) Part 5 (Employment) of the Equality Act (‘the Equality Act’) shall apply to the processing of personal data by an algorithm or automated system in making or supporting a decision under this section.
- (2) A ‘decision’ in this section means a decision that engages a data subject (D)’s rights, freedoms or legitimate interests concerning—
 - (a) recruitment,
 - (b) the terms and conditions of employment,
 - (c) access to opportunities for promotion, transfer or training, and
 - (d) dismissal.
- (3) Nothing in this section detracts from other rights, freedoms or legitimate interests in this Act, the Equality Act or in any other primary or secondary legislation relating to D’s personal data, employment, social security or social protection.

Member’s explanatory statement

This new clause would apply Part 5 of the Equality Act 2010 to the processing of personal data by an algorithm or automated system or supporting a decision under this new clause.

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

NC9

To move the following Clause—

“Right to algorithmic fairness at work

- (1) A person (“P”) has the right to fair treatment in the processing of personal data by an algorithm or automated system in making a decision under this section.
- (2) A “decision” in this section means a decision in which an algorithm or automated system is deployed to support or make a decision or any part of that decision that engages P’s rights, freedoms or legitimate interests concerning—
 - (a) recruitment,
 - (b) the terms and conditions of employment,
 - (c) access to opportunities for promotion, transfer or training, and
 - (d) dismissal.
- (3) “Fair treatment” in this section means equal treatment between P and other data subjects relevant to the decision made under subsection (2) insofar as that is reasonably practicable with regard to the purpose for which the algorithm or automated system was designed or applied.
- (4) In determining whether treatment of P is “fair” under this section the following factors shall be taken into account—

Data Protection Bill [Lords], continued

- (a) the application of rights and duties under equality and other legislation in relation to any protected characteristics or trade union membership and activities,
 - (b) whether the algorithm or automated system has been designed and trained with due regard to equality of outcome,
 - (c) the extent to which the decision is automated,
 - (d) the factors and weighting of factors taken into account in determining the decision,
 - (e) whether consent has been sought for the obtaining, recording, using or disclosing of any personal data including data gathered through the use of social media, and
 - (f) any guidance issued by the Centre for Data Ethics and Innovation.
- (5) “Protected characteristics” in this section shall be the protected characteristics defined in section 4 of the Equality Act 2010.”

Member’s explanatory statement

This new clause would create a right to fair treatment in the processing of personal data by an algorithm or automated system in making a decision regarding recruitment, terms and conditions of employment, access to opportunities for promotion etc. and dismissal.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC10

To move the following Clause—

“Employer’s duty to undertake an Algorithmic Impact Assessment

- (1) An employer, prospective employer or agent must undertake an assessment to review the impact of deploying the algorithm or automated system in making a decision to which subsection (1) of section [*Application of Equality Act (Employment)*] applies [an ‘Algorithmic Impact Assessment’].
- (2) The assessment undertaken under subsection (1) must—
 - (a) identify the purpose for which the algorithm or automated system was designed or applied,
 - (b) test for potential discrimination or other bias by the algorithm or automated system,
 - (c) consider measures to advance fair treatment of data subjects relevant to the decision, and
 - (d) take into account any tools for Algorithmic Impact Assessment published by the Centre for Data Ethics and Innovation.”

Member’s explanatory statement

This new clause would impose a duty upon employers to undertake an Algorithmic Impact Assessment.

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

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

NC11

To move the following Clause—

“Right to an explanation

- (1) A person (“P”) may request and is entitled to be provided with a written statement from an employer, prospective employer or agent giving the following particulars of a decision to which subsection (1) of section [*Right to algorithmic fairness at work*] applies—
 - (a) any procedure for determining the decision,
 - (b) the purpose and remit of the algorithm or automated system deployed in making the decision,
 - (c) the criteria or other meaningful information about the logic involved in determining the decision, and
 - (d) the factors and weighting of factors taken into account in determining the decision.
- (2) P is entitled to a written statement within 14 days of a request made under subsection (1).
- (3) A complaint may be presented to an employment tribunal on the grounds that—
 - (a) a person or body has unreasonably failed to provide a written statement under subsection (1),
 - (b) the particulars given in purported compliance with subsection (1) are inadequate,
 - (c) an employer or agent has failed to comply with its duties under section [*Employer’s duty to undertake an Algorithmic Impact Assessment*],
 - (d) P has not been treated fairly under section [*Right to algorithmic fairness at work*].
- (4) Where an employment tribunal finds a complaint under this section well-founded the tribunal may—
 - (a) make a declaration giving particulars of unfair treatment,
 - (b) make a declaration giving particulars of any failure to comply with duties under section [*Employer’s duty to undertake an Algorithmic Impact Assessment*] or section [*Right to algorithmic fairness at work*],
 - (c) make a declaration as to the measures that ought to have been undertaken or considered so as to comply with the requirements of subsection (1) or section [*Employer’s duty to undertake an Algorithmic Impact Assessment*] or section [*Right to algorithmic fairness at work*],
 - (d) make an award of compensation as may be just and equitable.
- (5) An employment tribunal shall not consider a complaint presented under subsection (3) in a case where the decision to which the reference relates was made—
 - (a) before the end of the period of 3 months, or
 - (b) within such further period as the employment tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the application to be made before the end of that period of 3 months.

Data Protection Bill [Lords], continued

- (6) Nothing in this section detracts from other rights, freedoms or legitimate interests in this Bill or any other primary or secondary legislation relating to P’s personal data, employment, social security or social protection.”

Member’s explanatory statement

This new clause would create a right to an explanation in writing from an employer, prospective employer or agent giving the particulars of a decision to which the Right to algorithmic fairness at work applies.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC12

To move the following Clause—

“Right to protection of personal data

- (1) A person (“P”) has the right to protection of personal data concerning him or her.
- (2) Personal data must be processed fairly for specified purposes as set out in the GDPR, and in accordance with the provisions, exceptions and derogations of this Act; and on the basis of the consent of P or some other legitimate basis.
- (3) The Information Commissioner shall be responsible for ensuring compliance with the rights contained within this section.”

Member’s explanatory statement

This new clause would incorporate Article 8 of the Charter of Fundamental Rights of the European Union (Protection of personal data) into the Bill.

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC13

To move the following Clause—

“Review of Electronic Commerce (EC Directive) Regulations

- (1) The Secretary of State shall lay before both Houses of Parliament a review of the application and operation of the Electronic Commerce (EC Directive) Regulations 2002 in relation to the processing of personal data.
- (2) A review under subsection (1) shall be laid before Parliament by 31 January 2019.”

Member’s explanatory statement

This new clause would order the Secretary of State to review the application and operation of the Electronic Commerce (EC Directive) Regulations 2002 in relation to the processing of data and lay that review before Parliament before 31 January 2019.

Data Protection Bill [Lords], continued

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

NC14

To move the following Clause—

“Subsequent transfers

- (1) Where personal data is transferred in accordance with section 109, the transferring controller must make it a condition of the transfer that the data is not to be further transferred to a third country or international organisation without the authorisation of the transferring controller.
- (2) A transferring controller may give an authorisation under subsection (1) only where the further transfer is necessary for the purposes in subsection (2).
- (3) In deciding whether to give the authorisation, the transferring controller must take into account (among any other relevant factors)—
 - (a) the seriousness of the circumstances leading to the request for authorisation,
 - (b) the purpose for which the personal data was originally transferred, and
 - (c) the standards for the protection of personal data that apply in the third country or international organisation to which the personal data would be transferred.”

Member’s explanatory statement

This new clause would place meaningful safeguards on the sharing of data by the intelligence agencies.

Liam Byrne
 Louise Haigh
 Chris Elmore
 Darren Jones

NC15

To move the following Clause—

“Automated number plate recognition

- (1) The Secretary of State shall issue a code of practice in connection with the operation by the police of automated number plate recognition systems.
- (2) Any code of practice under subsection (1) shall conform to section 67 of the Police and Criminal Evidence Act 1984.”

Member’s explanatory statement

This new clause requires the Secretary of State to issue a code of practice in connection with the operation by the police of automated number plate recognition systems.

Data Protection Bill [Lords], continued

Liam Byrne
Louise Haigh
Chris Elmore
Darren Jones

NC16

To move the following Clause—

“Code on processing personal data in education

- (1) The Commissioner must consult on, prepare and publish a code of practice on standards to be followed in relation to the collection, processing, publication and other dissemination of personal data concerning children and pupils in connection with the provision of education services, which relates to the rights of data subjects, appropriate to their capacity and stage of education.
- (2) Before preparing a code or amendments under this section the Commissioner must consult the Secretary of State and such other persons as the Commissioner considers appropriate as set out in Clause 124 (3).
- (3) In preparing a code or amendments under this section, the Commissioner must have regard—
 - (a) that children have different capacity independent of age, including pupils who may be in provision up to the age of 25, and
 - (b) to the United Kingdom’s obligations under the United Nations Convention on the Rights of the Child, and United Nations Convention on the Rights of Persons with Disabilities.
- (4) For the purposes of subsection (1), “the rights of data subjects” must include—
 - (a) measures related to Articles 24(3) (responsibility of the controller), 25 (data protection by design and by default) and 32(3) (security of processing) of the GDPR;
 - (b) safeguards and suitable measures with regard to Articles 22(2)(b) (automated individual decision-making, including profiling), Recital 71 (data subject rights on profiling as regard a child) and 23 (restrictions) of the GDPR;
 - (c) the rights of data subjects to object to or restrict the processing of their personal data collected during their education, under Articles 8 (child’s consent to Information Society Services), 21 (right to object to automated individual decision making, including profiling) and 18(2) (right to restriction of processing) of the GDPR;
 - (d) where personal data are biometric or special categories of personal data as described in Article 9(1) of the GDPR, the code should set out obligations on the controller and processor to register processing of this category of data with the Commissioner where it concerns a child, or pupil in education; and
 - (e) matters related to the understanding and exercising of rights relating to personal data and the provision of education services.”

Member’s explanatory statement

This new clause would require the Information Commissioner to consult on, prepare and publish a code of practice on standards to be followed in relation to the collection, processing, publication and other dissemination of personal data concerning children and pupils in connection with the provision of education services.

Data Protection Bill [Lords], continued

Darren Jones
Liam Byrne

NC17

☆ To move the following Clause—

“Personal data ethics advisory board and ethics code of practice

- (1) The Secretary of State must appoint an independent Personal Data Ethics Advisory Board (“the board”).
- (2) The board’s functions, in relation to the processing of personal data to which the GDPR and this Act applies, are—
 - (a) to monitor further technical advances in the use and management of personal data and their implications for the rights of data subjects;
 - (b) to monitor the protection of the individual and collective rights and interests of data subjects in relation to their personal data;
 - (c) to ensure that trade-offs between the rights of data subjects and the use of management of personal data are made transparently, inclusively, and with accountability;
 - (d) to seek out good practices and learn from successes and failures in the use and management of personal data;
 - (e) to enhance the skills of data subjects and controllers in the use and management of personal data.
- (3) The board must work with the Commissioner to prepare a data ethics code of practice for data controllers, which must—
 - (a) include a duty of care on the data controller and the processor to the data subject;
 - (b) provide best practice for data controllers and processors on measures, which in relation to the processing of personal data—
 - (i) reduce vulnerabilities and inequalities;
 - (ii) protect human rights;
 - (iii) increase the security of personal data; and
 - (iv) ensure that the access, use and sharing personal data is transparent, and the purposes of personal data processing are communicated clearly and accessibly to data subjects.
- (4) The code must also include guidance in relation to the processing of personal data in the public interest and the substantial public interest.
- (5) Where a data controller or processor does not follow the code under this section, the data controller or processor is subject to a fine to be determined by the Commissioner.
- (6) The board must report annually to the Secretary of State.
- (7) The report in subsection (6) may contain recommendations to the Secretary of State and the Commissioner relating to how they can improve the processing of personal data and the protection of data subjects’ rights by improving methods of—
 - (a) monitoring and evaluating the use and management of personal data;
 - (b) sharing best practice and setting standards for data controllers; and
 - (c) clarifying and enforcing data protection rules.
- (8) The Secretary of State must lay the report made under subsection (6) before both Houses of Parliament.
- (9) The Secretary of State must, no later than one year after the day on which this Act receives Royal Assent, lay before both Houses of Parliament draft regulations in relation to the functions of the Personal Data Ethics Advisory Board as listed in subsections (2), (3), (4), (6) and (7) of this section.

Data Protection Bill [Lords], continued

(10) Regulations under this section are subject to the affirmative resolution procedure.

Member's explanatory statement

This new clause would establish a statutory basis for a Data Ethics Advisory Board.

Liam Byrne
Louise Haigh
Chris Elmore

NC18

☆ To move the following Clause—

“Targeted dissemination disclosure notice for third parties and others

In Schedule 19B of the Political Parties, Elections and Referendums Act 2000 (Power to require disclosure), after paragraph 10 (documents in electronic form) insert—

1 “(3) This paragraph applies to the following organisations and individuals—

- “(a) a recognised third party (within the meaning of Part 6);
- “(a) a permitted participant (within the meaning of Part 7);
- “(a) a regulated donee (within the meaning of Schedule 7);
- “(a) a regulated participant (within the meaning of Schedule 7A);
- “(a) a candidate at an election (other than a local government election in Scotland);
- “(a) the election agent for such a candidate;
- “(a) an organisation or a person notified under subsection 2 of this section;
- “(a) an organisation or individual formerly falling within any of paragraphs (a) to (g); or
- “(a) the treasurer, director, or another officer of an organisation to which this paragraph applies, or has been at any time in the period of five years ending with the day on which the notice is given.

(1B) An organisation or a person may also be notified in writing by the Electoral Commission that they are subject to an investigation under this paragraph if both—

- “(a) the Commission has determined that their activities were intended to have the effect, or were likely to have the effect, of influencing public opinion in any part of the United Kingdom ahead of a specific election or referendum; and
- “(a) the Secretary of State for Foreign and Commonwealth Affairs has notified the Commission in writing that that organisation or person may reasonably be supposed to be in receipt of funds intended to have such effect, directly or indirectly, from companies domiciled outside the United Kingdom or from the government of any other country.

(1B) The power to notify a person or organisation under subparagraph 2 shall not be available in respect of registered parties or their

Data Protection Bill [Lords], continued

officers, save where they separately and independently fall into one or more of categories (a) to (i) of subparagraph (1).

- (1B) The Commission may under this paragraph issue at any time a targeted dissemination disclosure notice, requiring disclosure of any settings used to disseminate material which it believes were intended to have the effect, or were likely to have the effect, of influencing public opinion in any part of the United Kingdom, ahead of a specific election or referendum, where the platform for dissemination allows for targeting based on demographic or other information about individuals, including information gathered by information society services.
- (1B) The Commission may supply to the Information Commissioner a copy of any settings disclosed as a result of a targeted dissemination disclosure notice made under subparagraph (4), and the Information Commissioner shall, in relation to any such material, have recourse to the powers available to him or her under Part 6 of the Data Protection Act 2018.
- (1B) A person or organisation to whom such a targeted dissemination disclosure notice is given shall comply with it within such time as is specified in the notice.””

Member’s explanatory statement

This new clause would amend the Political Parties, Elections and Referendums Act 2000 to allow the Electoral Commission to require disclosure of settings used to disseminate material where the platform for dissemination allows for targeting based on demographic or other information about individuals.

Liam Byrne
Louise Haigh
Chris Elmore

NC19

- ☆ To move the following Clause—

“Use of personal data to identify recipients of electoral material

In section 143 of the Political Parties, Elections and Referendums Act 2000 (Details to appear on electoral material), leave out subsection (6) and insert—

- ““6(4) The Secretary of State shall, after consulting the Commission, by regulations make provision for and in connection with the imposition of requirements as to the inclusion in material falling within subsection (1)(b) of the following details, namely—
- “(a) the name and address of the promoter of the material; and
- “(a) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).””

Member’s explanatory statement

This new clause amends the Political Parties, Elections and Referendums Act 2000 to empower the Secretary of State to require the inclusion of the name and address of any person on behalf of whom electoral material is being published and who is not the promoter.

Data Protection Bill [Lords], continued

Liam Byrne
Louise Haigh
Chris Elmore

NS1

☆ To move the following Schedule—

“BILL OF DATA RIGHTS IN THE DIGITAL ENVIRONMENT

The UK recognises the following Data Rights:

Article 1 — Equality of Treatment

Every data subject has the right to fair and equal treatment in the processing of his or her personal data.

Article 2 — Security

Every data subject has the right to security and protection of their personal data and information systems.

Access requests by government must be for the purpose of combating serious crime and subject to independent authorisation.

Article 3 — Free Expression

Every data subject has the right to deploy his or her personal data in pursuit of their fundamental rights to freedom of expression, thought and conscience.

Article 4 — Equality of Access

Every data subject has the right to access and participate in the digital environment on equal terms.

Internet access should be open.

Article 5 — Privacy

Every data subject has right to respect for their personal data and information systems and as part of his or her fundamental right to private and family life, home and communications.

Article 6 — Ownership and Control

Every data subject is entitled to know the purpose for which personal data is being processed to exercise his or her right to ownership. Government, corporations and data controllers must obtain meaningful consent for use of people’s personal data.

Every data subject has the right to own and control his or her personal data.

Every data subject is entitled to proportionate share of income or other benefit derived from his or her personal data as part of the right to own.

Data Protection Bill [Lords], continued

Article 7 — Algorithms

Every data subject has the right to transparent and equal treatment in the processing of his or her personal data by an algorithm or automated system.

Every data subject is entitled to meaningful human control in making significant decisions – algorithms and automated systems must not be deployed to make significant decisions.

Article 8 — Participation

Every data subject has the right to deploy his or her personal data and information systems to communicate in pursuit of the fundamental right to freedom of association.

Article 9 — Protection

Every data subject has the right to safety and protection from harassment and other targeting through use of personal data whether sexual, social or commercial.

Article 10 — Removal

Every data subject is entitled to revise and remove their personal data.

Compensation

Breach of any right in this Bill will entitle the data subject to fair and equitable compensation under existing enforcement provisions. If none apply, the Centre for Data Ethics will establish and administer a compensation scheme to ensure just remedy for any breaches.

Application to Children

The application of these rights to a person less than 18 years of age must be read in conjunction with the rights set out in the United Nations Convention on the Rights of the Child.

Where an information society service processes data of persons less than 18 years of age it must do so under the age appropriate design code.”

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

Data Protection Bill [Lords], continued

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.
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.
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ORDER OF THE COMMITTEE [13 MARCH 2018]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 13 March) meet—
 - (a) at 2.00 pm on Tuesday 13 March;
 - (b) at 11.30 am and 2.00 pm on Thursday 15 March;
 - (c) at 9.25 am and 2.00 pm on Tuesday 20 March;
 - (d) at 11.30 am and 2.00 pm on Thursday 22 March;
 - (e) at 9.25 am and 2.00 pm on Tuesday 27 March.
 - (2) the proceedings shall be taken in the following order: Clauses 1 to 10; Schedule 1; Clauses 11 to 15; Schedules 2 to 4; Clauses 16 and 17; Schedule 5; Clauses 18 to 22; Schedule 6; Clauses 23 to 30; Schedule 7; Clauses 31 to 35; Schedule 8; Clauses 36 to 86; Schedules 9 and 10; Clauses 87 to 112; Schedule 11; Clauses 113 and 114; Schedule 12; Clauses 115 and 116; Schedule 13; Clauses 117 and 118; Schedule 14; Clauses 119 to 153; Schedule 15; Clause 154; Schedule 16; Clauses 155 to 181; Schedule 17; Clauses 182 to 204; Schedule 18; Clauses 205 to 208; new Clauses; new Schedules; remaining proceedings on the Bill;
 - (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 27 March.
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